



Operator: <b>Petrogas West, LLC</b>
Date(s) of Inspection: <b>7/7/2020</b>

**U. S. Department of Transportation  
Pipeline and Hazardous Materials  
Safety Administration**

## **PHMSA**

### **Anti-Drug and Alcohol Misuse Programs**

### **Inspection Protocol Form**

**Form No.: 4.1**

**Revision 1**

**January 1, 2020**

## **Using This Inspection Form**

### **Plan or Policy**

Pipeline operators and service agents often use the terms “*policy*” and “*plan*” interchangeably, but these terms have different meanings in the PHMSA Drug and Alcohol (D&A) Testing regulations in 49 CFR Part 199.

While the word *policy* is not defined in the regulations, PHMSA's long-term established practice is that if a term is not defined in the code, it should be used in its ordinary sense or in accordance with its commonly understood dictionary meaning [see 35 FR 13250, August 19, 1970].

Accordingly, with regards to D&A testing, *policy* generally means a statement of a pipeline operator's anti-drug and alcohol misuse program goals. An operator's policy statement may include both DOT and non-DOT items but the operator must differentiate between the two. Policies are typically published, displayed, and distributed so that they are widely accessible to all covered employees and supervisors. Policies are not plans.

Conversely, the word *plan* is defined in Part 199. The regulations require a pipeline operator to have a written Anti-Drug Plan [§199.101] and a written Alcohol Misuse Plan [§199.202]. PHMSA allows operators to have a single combined written D&A plan. Plans are not policies but may contain policies.

While there are some differences between the required Anti-Drug Plan and Alcohol Misuse Plan, both plans must include “*methods and procedures*” for compliance with Parts 199 and 40. PHMSA's intent is for the operator's written D&A plans to supplement the D&A regulations in Parts 199 and 40 with company specific methods and procedures. Plans need not, and should not, regurgitate or paraphrase the D&A regulations.

For example, PHMSA already knows that the selection of employees for random drug testing shall be made by a scientifically valid method, such as a random number table or a computer-based random number generator – it's in the code! What should be in the written drug plan is the operator's specific computer-based random number generator (by name) so that the inspector can evaluate whether that specific method works as required.

### **Process**

This inspection form repeatedly asks, “*Does the operator have a process to...?*” A process can be a written method or procure in the operator's written D&A plans or it can be another acceptable mechanism for achieving the desired result. For example, many operators have a training group that provides all required training to company employees. The operator need not have supervisor training methods and procedures in its D&A plans, if it can demonstrate through records or other means that it has a process to ensure this training is properly completed and recorded.

### **Purpose**

This PHMSA Anti-Drug and Alcohol Misuse Programs Inspection Protocol Form is a guidance document intended for the use of PHMSA pipeline safety inspectors and pipeline safety inspectors working for State Agencies which have assumed safety authority over intrastate gas and pipelines, hazardous liquid pipelines and underground natural gas storage through certifications and agreements with PHMSA under 49 U.S.C. §§ 60105 – 60106. These State Agencies are commonly referred to as PHMSA State Partners. This form is U.S. Government property used by the PHMSA and State Partner pipeline safety inspectors assessing a pipeline operator's compliance with the D&A testing regulations in 49 CFR Part 199.

This form is not a regulation and creates no new legal obligations. The regulation is controlling and nothing in this form is intended to diminish or otherwise affect the authority of PHMSA or a State Partner from carrying out their statutory, regulatory, or other official functions or to commit PHMSA or a State Partner to taking any action that is subject to its discretion. Nothing in this document is intended to and does not create any legal or equitable right or benefit, substantive or procedural, enforceable at law by any person or organization against PHMSA, its personnel, State Agencies or officers carrying out programs authorized under Federal law.

Decisions about specific investigations and enforcement cases are made according to the specific facts and circumstances at hand. Investigations and compliance determinations often require careful legal and technical analysis of complicated issues. Although this guidance document serves as a reference for the staff responsible for investigations and enforcement, no set of procedures or policies can replace the need for active and ongoing consultation with supervisors, colleagues, and the Office of Chief Counsel in enforcement matters.

<b>Lead Inspector</b>			
Name	<b>Anthony Dorrough</b>	Email	<b>anthony.dorrough@utc.wa.gov</b>
Title	<b>Pipeline Safety Engineer</b>	Phone	
Agency	<b>WUTC</b>	Cell	<b>(360) 481-4035</b>

<b>Government Representatives Participating in Inspection</b>			
Name		Email	
Title		Phone	
Agency		Cell	
Name		Email	
Title		Phone	
Agency		Cell	
Name		Email	
Title		Phone	
Agency		Cell	
Name		Email	
Title		Phone	
Agency		Cell	
Name		Email	
Title		Phone	
Agency		Cell	

<b>Company Representatives Participating in Inspection</b>			
Name	<b>Gary McSpadden</b>	Email	<b>gmcsadden@petrogascorp.com</b>
Title	<b>Facility Manager</b>	Phone	<b>360-384-1701</b>
Company	<b>Petrogas West LLC</b>	Cell	<b>360-333-2631</b>
Name	<b>Gatlin McConnell</b>	Email	<b>gmconnell@petrogascorp.com</b>
Title	<b>HSSE Manager</b>	Phone	<b>360-384-1701</b>
Company	<b>Petrogas West LLC</b>	Cell	<b>360-815-0864</b>
Name	<b>Michael Evans Jr</b>	Email	<b>mevans@petrogascorp.com</b>
Title	<b>PSM/Training Supervisor</b>	Phone	<b>360-384-1701</b>
Company	<b>Petrogas West LLC</b>	Cell	<b>360-201-3913</b>
Name	<b>Cody Treloar</b>	Email	<b>ctreloar@petrogascorp.com</b>
Title	<b>PSM Field Specialist</b>	Phone	<b>360-384-1701</b>
Company	<b>Petrogas West LLC</b>	Cell	

<b>Operator Profile</b>	
Company Name	<b>Petrogas West, LLC</b>
Doing Business As (DBA) (if applicable)	
Operator Identification Number (OPID)	<b>39663</b>
List all other OPIDs covered under this Substance Abuse Program (if any)	
Mailing Address	<b>4100 Unick Road Ferndale, WA 98248</b>
Official Address (if different)	

<b>Regulated Facility Type (check-off all that apply)</b>			
<input type="checkbox"/>	Gas Transmission Pipeline		<input checked="" type="checkbox"/> Hazardous Liquid Pipeline
<input type="checkbox"/>	Gas Distribution Pipeline		<input type="checkbox"/> Carbon Dioxide Pipeline
<input type="checkbox"/>	Gas Gathering Pipeline		<input type="checkbox"/> Liquefied Natural Gas (LNG) Facility

<b>DER or Substance Abuse Program Manager</b>			
Name	<b>Bruce Thompson &amp; Gatlin McConnell</b>	Email	<b>bthompson@petrogascorp.com</b>
Title	<b>General Manager, Health Safety Environment</b>	Phone	<b>403-441-2148</b>
Mailing Address	<b>205 5th Ave S.W. Suite 3900- Calgary, AB T2P 2V7</b>	Cell	<b>403-808-3633</b>

<b>Consortium or Third-Party Administrator (C/TPA)</b>			
Company	<b>DISA Global Solutions</b>	Web or Email	<b>www.disa.com</b>
Mailing Address	<b>10900 Corporate Center Drive Suite 250, Houston TX 77067</b>	Phone	<b>(281) 673-2400</b>
C/TPA Point of Contact			
Name	<b>Donnie Martinez</b>	Email	<b>donnie.martinez@disa.com</b>
Mailing Address		Phone	
		Cell	

**Written Anti-Drug Plan and Alcohol Misuse Plan**

PHMSA regulated pipeline operators must have a written Anti-Drug Plan and a written Alcohol Misuse Plan to conduct drug and alcohol (D&A) tests in accordance with PHMSA’s Drug & Alcohol Testing regulations in Part 199 and the DOT’s Procedures for Transportation Workplace Drug and Alcohol Testing programs in Part 40. However,

PHMSA allows operators to have one combined written D&A Plan.

The operator has a written PHMSA Anti-Drug Plan [§199.101]

The operator has a written PHMSA Alcohol Misuse Plan [§199.202]

The operator has a combined written PHMSA Anti-Drug and Alcohol Misuse Plan

Note: Operators may have a written plan that covers more than one DOT agency. If so, the plan must be inspected for all required PHMSA items while non-PHMSA items should not be inspected by PHMSA inspectors.

**Documents Reviewed During Inspection**

Document Number	Rev	Date	Document Title
<b>PHMSA 1</b>	<b>3</b>		<b>Petrogas Drug and Alcohol Misuse</b>

Notes: **Last review: Tuesday, June 09, 2020**

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## Protocol Area A – General Drug & Alcohol (D&A) Program Requirements

<b>A-1: Designated Employer Representative (DER)</b>	
<input checked="" type="checkbox"/>	Has the operator appointed a Designated Employer Representative (DER)? [§40.3, §40.15(d), §40.355(k)]
<input type="checkbox"/>	Verify that a service agent is not used to fulfill the function of a DER. [§40.3, §40.15(d), §40.355(k)]
<input checked="" type="radio"/>	No Issue Identified
<input type="radio"/>	Potential Issue Identified
Notes: <b>3.1.3 Designated Employer Representative- Appendix B</b> <b>[Bruce Thompson &amp; Gatlin McConnell]</b>	

<b>A-2: Employer Responsibilities for Officials, Representatives, and Service Agents</b>	
<input checked="" type="checkbox"/>	Does the operator’s D&A program have a <u>process</u> to ensure the operator remains responsible for all actions of its officials, representatives, and service agents, including a Consortium/Third Party Administrator (C/TPA), to ensure compliance when these officials, representatives, and service agents carry out the requirements of Parts 199 and 40? [§40.11(b), §40.15(c), §40.341]
<input checked="" type="radio"/>	No Issue Identified
<input type="radio"/>	Potential Issue Identified
Notes:	

<b>A-3: Qualification Requirements</b>	
Verify the operator’s D&A program positions and/or service agents meet the applicable qualification requirements of Part 40 and Part 199.	
<input checked="" type="checkbox"/>	Medical Review Officer (MRO) [§40.121 and §199.109(b)]
<input checked="" type="checkbox"/>	Urine Specimen Collector [§40.33]
<input checked="" type="checkbox"/>	Substance Abuse Professional (SAP) [§40.281]
<input checked="" type="checkbox"/>	Laboratories certified by the Department of Health and Human Services (HHS) National Laboratory Certification program (NLCP) [§40.81(a) and §199.107(a)]
<input checked="" type="checkbox"/>	Screening Test Technician [§40.213]
<input checked="" type="checkbox"/>	Breath Alcohol Technician [§40.213]
<input type="checkbox"/>	



<input checked="" type="radio"/> No Issue Identified	<input type="radio"/> Potential Issue Identified
Notes: <b>Appointed Positions identified in Appendix B 3.3.3.4- Alcohol Testing Personnel 3.3.4- Laboratory</b>	

#### A-4: Service Agent Limitations

Verify the operator's D&A program ensures its service agents	
<input checked="" type="checkbox"/>	Do not require an employee to sign a consent, release, waiver of liability, or indemnification agreement with respect to any part of the DOT D&A testing process (including, but not limited to, collections, laboratory testing, MRO, and SAP services). [§40.355(a)]
<input checked="" type="checkbox"/>	Do not act as an intermediary in the transmission of laboratory drug test results direct from the laboratory to the MRO, operator, or to another service agent, or in the transmission of alcohol test results of 0.02 or higher direct from the STT or BAT to the DER. [§40.355(b-d)]
<input checked="" type="checkbox"/>	Do not make decisions to test an employee based upon reasonable suspicion/cause, post-accident, return-to-duty, and follow-up determination criteria. While a service agent may provide advice and information, these are duties the operator cannot delegate to a C/TPA. [§40.355(g)] (see §40.355(h) for exceptions)
<input checked="" type="checkbox"/>	Do not make determinations that an employee has refused a drug or alcohol test. While a service agent may provide advice and information, these are duties the operator cannot delegate to a C/TPA. [§40.355(i)] (see §40.355(j) for exceptions)
<input checked="" type="checkbox"/>	Do not impose conditions or requirements on the operator, such as the DOT D&A testing of non-covered employees, that DOT regulations do not authorize. [§40.355(m)]
<input checked="" type="checkbox"/>	Do not intentionally delay the transmission of drug or alcohol testing-related documents concerning actions the service agent performed because of a payment dispute or other reasons. [§40.355(n)]

<input checked="" type="radio"/> No Issue Identified	<input type="radio"/> Potential Issue Identified
Notes: <b>3.3 Third-Party Service Providers</b> <b>3.3.1 "Administrators are prohibited from performing many functions. These prohibited tasks are detailed in 49 CFR 40.355 [What limitations apply to the activities of service agents]"</b>	

#### A-5: Supervisory Personnel Training

<input checked="" type="checkbox"/>	Does the operator require a 60-minute period of training on the specific, contemporaneous physical, behavioral, and performance indicators of probable drug use under the EAP for supervisory personnel who will determine whether an employee must be drug tested based on reasonable cause? [§199.113(c)]
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<input checked="" type="checkbox"/>	Does the operator require a 60-minute period of training on the physical, behavioral, speech, and performance indicators of probable alcohol misuse for supervisors designated to determine whether reasonable suspicion exists to require a covered employee to undergo alcohol testing? [§199.241]		
<input checked="" type="radio"/>	No Issue Identified	<input type="radio"/>	Potential Issue Identified
Notes: <b>10.0 Training</b> <b>10.1 Supervisor</b>			

<b>A-6: Covered Employees</b>			
<input checked="" type="checkbox"/>	Does the operator have a <u>process</u> to ensure the operator properly identifies the covered employees who are required to be DOT tested for the presence of prohibited drugs and alcohol? [§199.3]		
<input checked="" type="checkbox"/>	Verify the operator does <u>not</u> conduct DOT tests for the presence of prohibited drugs and/or alcohol on any individual who is not a covered employee. [§199.1, §199.3 and §40.347(b)(2)]		
<input checked="" type="radio"/>	No Issue Identified	<input type="radio"/>	Potential Issue Identified
Notes: <b>2.0 Definition- Covered function, Covered Employee Appendix</b> <b>A- List of covered employees</b>			

<b>A-7: Employee DOT D&amp;A Testing Record Checks</b>	
For an employee seeking to perform covered functions for the first time (i.e., a new hire or an employee transferring into a safety-sensitive position)	
<input checked="" type="checkbox"/>	Does the operator obtain the employee's written consent prior to requesting DOT D&A testing information from prior DOT regulated employers? [§40.25(a), §40.27, §40.321(b), §40.351(d)] Note: a wet ink signature and separate request is required for each prior employer.
<input checked="" type="checkbox"/>	Does the operator request DOT D&A testing information from each DOT regulated employer who has employed the employee during any period during the two years before the date of the employee's application or transfer? [§40.25(b)]
<input checked="" type="checkbox"/>	Verify the operator does not permit an employee to perform a covered function after 30 days from the date on which the employee first performed a covered function, unless the operator has obtained, or made and documented, a good faith effort to obtain the DOT D&A testing information from prior DOT regulated employers. [§40.25(d)]

<input checked="" type="checkbox"/>	Verify the operator does not permit an employee who has violated any DOT agency D&A regulation to perform a covered function unless the operator also obtains information that the employee subsequently complied with the return-to-duty requirements in Part 40, Subpart O and PHMSA's drug and alcohol regulations. [§40.25(e)]		
<input checked="" type="radio"/>	No Issue Identified	<input type="radio"/>	Potential Issue Identified
Notes: 4.3 History Check Requirement 4.3.1 Information Request 4.3.2 Violation Consequences			

<b>A-8: DOT vs. Non-DOT Tests</b>			
If a pipeline operator has a non-DOT drug and alcohol testing program			
<input checked="" type="checkbox"/>	Does the operator have a <u>process</u> to ensure that all DOT D&A tests are completely separate from all non-DOT D&A tests in all respects? [§40.13]		
<input checked="" type="checkbox"/>	Does the operator have a <u>process</u> to ensure that all DOT D&A tests take priority and must be conducted and completed before a non-DOT test is begun? [§40.13(b)]		
<input checked="" type="radio"/>	No Issue Identified	<input type="radio"/>	Potential Issue Identified
Notes: 1.3 Scope and Applicability			

<b>A-9: Contractor Anti-Drug and Alcohol Misuse Prevention Programs</b>			
If a pipeline operator allows contractors who perform covered functions on the operator's regulated pipeline or LNG facility to conduct their own D&A Programs			
<input checked="" type="checkbox"/>	Does the operator have a <u>process</u> to oversee contractors to ensure they comply with Parts 199 and 40? [§199.115 & §199.245]		
<input checked="" type="checkbox"/>	Do the contractors allow access to property and records by the operator, PHMSA, and a representative of a state agency (if applicable) to allow for the monitoring the operator's compliance with Part 199? [§199.115(b)].		
<input checked="" type="radio"/>	No Issue Identified	<input type="radio"/>	Potential Issue Identified
Notes: 3.2 Contractors Employed by Company 12.1 Reporting, Contractor Reporting for MIS 11.2 Monitoring Contractor Employees			

## Protocol Area B – Anti-Drug Program

<b>B-1: Written Anti-Drug Plan</b>			
<input checked="" type="checkbox"/>	Does the operator maintain and follow a written Anti-Drug Plan that conforms to the requirements of Part 199 and Part 40? [§199.101(a)]		
Ensure the Anti-Drug Plan contains, at a minimum, the following:			
<input checked="" type="checkbox"/>	Methods and procedures for compliance with all the requirements of Part 199, including the Employee Assistance Program (EAP) [§199.101(a)(1)]		
<input checked="" type="checkbox"/>	The name and address of each laboratory that analyzes the specimens collected for drug testing [§199.101(a)(2)]		
<input checked="" type="checkbox"/>	The name and address of the operator’s Medical Review Officer (MRO), and Substance Abuse Professional (SAP) [§199.101(a)(3)]		
<input checked="" type="checkbox"/>	Procedures for notifying employees of the coverage and provisions of the plan [§199.101(a)(4)]		
<input checked="" type="radio"/>	No Issue Identified	<input type="radio"/>	Potential Issue Identified
Notes: Anti-Drug Plan 1.4 Regulatory Context 9.0 Employee Assistance Program Appedix B- Designated Personnel and Service Agents			

<b>B-2: Prohibited Drugs</b>			
Does the operator conduct DOT drug tests only for the “prohibited drugs” specified in Part 40? [§§199.1-5, §199.105, and §§40.1-3]			
<input checked="" type="checkbox"/>	Marijuana		
<input checked="" type="checkbox"/>	Cocaine		
<input checked="" type="checkbox"/>	Amphetamines		
<input checked="" type="checkbox"/>	Phencyclidine (PCP)		
<input checked="" type="checkbox"/>	Opioids		
<input checked="" type="radio"/>	No Issue Identified	<input type="radio"/>	Potential Issue Identified
Notes: 6.2 Drug Testing Laboratory, Drugs Tested			

### B-3a: Pre-Employment Drug Testing

Does the operator have a process to ensure it does not hire or contract for the use of any person as a covered employee (e.g. new hire or transferred employee) to perform a covered function unless that person first passes a DOT drug test or is covered by an anti-drug program that conforms to Part 199? [§199.105(a)]

Note: The anti-drug programs of the other DOT agencies and the USCG meet the requirements for an anti-drug program that conforms to Part 199.

Does the operator have a process to ensure that a covered employee removed from the random drug test pool (for any length of time) passes a pre-employment DOT drug test before being placed back into the random drug test pool? [§199.105(a)]

No Issue Identified       Potential Issue Identified

Notes: 5.1 Pre-Employment Testing  
5.2 Random Testing

### B-3b: Post-Accident Drug Testing

Does the operator have a process to ensure it completes a DOT post-accident drug test as soon as possible but no later than 32 hours after an accident of each surviving covered employee whose performance of a covered function either contributed to the accident or cannot be completely discounted as a contributing factor to the accident? [§199.105(b)(1)]

If the operator did not administer a DOT drug test within the 32 hours following an accident, does the operator have a process to ensure it ceases attempts to administer a drug test and states in the record the reasons for not promptly administering the test? [§199.105(b)(2)]

If the operator decides not to conduct a post-accident drug test of a covered employee, does the operator have a process to ensure it makes that decision based on specific information that the covered employee's performance had no role in the cause(s) or severity of the accident? [§199.105(b)(1)]

If the operator decided not to conduct a post-accident drug test of a covered employee, does the operator have a process to ensure that it documents the decision and keeps that record for at least 3 years? [§199.117(a)(5)]

No Issue Identified       Potential Issue Identified

Notes: 5.3 Post- Accident Testing  
5.5 Reasonable Cause Testing

### B-3c: Random Drug Testing

<input checked="" type="checkbox"/>	Does the operator use a scientifically valid selection method, such as a random number table or a computer-based random number generator that is matched with employees' Social Security numbers, payroll identification numbers, or other comparable identifying numbers? [§199.105(c)(5)]		
<input checked="" type="checkbox"/>	Does the operator's selection method ensure that each covered employee has an equal chance of being selected each time selections are made? [§199.105(c)(5)]		
<input checked="" type="checkbox"/>	Does the operator have a <u>process</u> to ensure it selects a sufficient number of covered employees for random drug testing during each calendar year to equal an annual rate not less than the required minimum annual percentage rate? [§199.105(c)(6)].		
<input checked="" type="checkbox"/>	Does the operator have a <u>process</u> to ensure that random drug tests are unannounced and that the dates for administering the tests are spread reasonably throughout the calendar year? [§199.105(c)(7)]  Note: Do not confuse random selection dates with test dates. For example, an operator may select once each calendar quarter (i.e. 4 days a year) but the drug tests themselves must be reasonable spread throughout the calendar year.		
<input checked="" type="radio"/>	No Issue Identified	<input type="radio"/>	Potential Issue Identified

Notes: 5.2 Random Testing  
DISA manages all aspects of company's random program  
25% covered employees

### B-3e: Return-to-Duty Drug Testing

<input checked="" type="checkbox"/>	Does the operator have a <u>process</u> to ensure that a covered employee who refuses to take a drug test, or has a positive drug test, does not return to duty in any covered function until the covered employee completes a SAP evaluation, referral, and education/treatment process? [§199.105(e) & Part 40, Subpart O]		
<input checked="" type="checkbox"/>	Does the operator have a <u>process</u> to ensure that a covered employee who refuses to take or has a positive drug test does not return to duty in any covered function until the covered employee successfully completes a return-to-duty drug test? [§40.285(a), §40.289(b), §40.305(a) and §199.105(e)].		
<input checked="" type="checkbox"/>	Does the operator have a <u>process</u> to ensure that all return-to-duty drug testing is performed under direct observation? [§40.67(b)]		
<input checked="" type="radio"/>	No Issue Identified	<input type="radio"/>	Potential Issue Identified

Notes: 8.0 Return to Duty & Follow Up

### B-3f: Follow-Up Drug Testing



Does the operator have a process to ensure that a SAP establishes a follow-up testing plan for a covered employee who refused to take a drug test, or had a positive drug test, before allowing the covered employee to return to duty? [§40.307, §40.309, and §199.105(f)].



Does the operator have a process to ensure that follow-up testing is performed on an unannounced basis, at a frequency established by the SAP, for a period of not more than 60 months and that at least six tests must be conducted within the first 12 months following the covered employee's return to duty? [§40.307, §40.309, and §199.105(f)].



Does the operator have a process to ensure that all follow-up drug testing is performed under direct observation? [§40.67(b)]



No Issue Identified



Potential Issue Identified

Notes: 8.2 Follow-Up Testing

### B-4: Laboratory Drug Test Result Reports



Does the laboratory report drug test results directly, and only, to the MRO at his or her place of business? Lab test results must not be reported to or through the DER or a service agent such as a C/TPA. [§40.97(b)]



Does the laboratory transmit an aggregate statistical summary, by operator, of the drug test data listed in Part 40, Appendix B to the operator on a semi-annual basis?



No Issue Identified



Potential Issue Identified

Notes: 6.4 Laboratory Specimen Handling and Reporting  
6.5.3 Semi-Annual Reports

### B-5: MRO Review of Drug Testing Results



Does the operator have a process to ensure its MRO provides quality assurance reviews of the drug testing process, including ensuring the review of the Custody and Control Form (CCF) on all specimen collections for the purposes of determining whether there is a problem that may cause a test to be canceled? [§199.109 and §40.123(b)].



Does the operator have a process to ensure its MRO performs the review functions required by §40.127 for negative drug test results received from a laboratory, prior to verifying the result and reporting it to the operator's Designated Employer Representative (DER)? [§199.109 and §40.163].

<input checked="" type="checkbox"/>	Does the operator have a <u>process</u> to ensure its MRO performs the review functions required by §40.129 for confirmed positive, adulterated, substituted, or invalid drug test results received from a laboratory, prior to verifying the result and reporting it to the DER? [§199.109 and §40.163].		
<input checked="" type="checkbox"/>	Does the operator have a <u>process</u> to ensure that when its MRO has verified a drug test as positive for a drug or drug metabolite, or as a refusal to test because of adulteration or substitution, the MRO notifies the employee of his or her right to have the split specimen tested and how to request the test? [§199.109 and §40.153]		
<input checked="" type="radio"/>	No Issue Identified	<input type="radio"/>	Potential Issue Identified
Notes: 7.1 MRO Review of Results 3.3.3 Critical Service Agent Positions			

<b>B-6: MRO Drug Test Reports to the Operator</b>			
<input type="checkbox"/>	Does the operator have a <u>process</u> to ensure its MRO reports all drug test results to the DER in accordance with the requirements in §40.163, §40.165, §40.167, and §199.109(d)?  These requirements include: <ul style="list-style-type: none"> <li>- reporting all drug test results to the DER, except in the circumstances provided for in §40.345, when a C/TPA may act as an intermediary [§40.165(a)];</li> <li>- reporting the results in a confidential manner [§40.167(a)]; and,</li> <li>- reporting the results within the required time constraints. [§40.167(b) and (c)]</li> </ul>		
<input type="checkbox"/>	Does the operator have a <u>process</u> to ensure its MRO reports all drug test results to the DER unless the operator elects to receive drug test results through a C/TPA, acting as an intermediary, in which case the MRO reports the drug test results through the designated C/TPA? [§199.109(d), §40.165 & §40.345]		
<input checked="" type="radio"/>	No Issue Identified	<input type="radio"/>	Potential Issue Identified
Notes: 7.1 MRO Review of Results 7.1.1 Results 7.1.2 Reports 3.3.3 Critical Service Agent Positions			

<b>B-7: Drug Regulation Violations</b>	
<input checked="" type="checkbox"/>	Verify that the operator does not stand down an employee based on laboratory tests results before the Medical Review Officer (MRO) completes the drug test verification process unless an approved waiver has been granted. [§199.7 and §40.21]



<input checked="" type="checkbox"/>	Does the operator have a <u>process</u> to ensure that a “covered employee” who violates a PHMSA/DOT drug regulation is removed from performing “covered functions?” [§199.103 and §40.23]
<input checked="" type="checkbox"/>	Does the operator have a <u>process</u> to ensure it provides a listing of Substance Abuse Professionals (SAPs) that are readily available to an employee who violates a PHMSA/DOT drug regulation? [§40.287]
Note: A verified positive DOT drug test result or a refusal to test (including adulterating or substituting a urine specimen) constitutes a violation of a PHMSA/DOT drug regulation. [§40.285(b) and §199.103(a)]	
<input checked="" type="radio"/>	No Issue Identified
<input type="radio"/>	Potential Issue Identified
Notes: 1.4.3 Stand-Down Waiver (NA for Company) 4.3.2 Violation Consequences 7.3 Violation Consequences 9.0 Employee Assistance Program	

<b>B-8: Employee Assistance Program (EAP)</b>	
<input checked="" type="checkbox"/>	Does the operator have an EAP for its employees and supervisory personnel who will determine whether an employee must be drug tested based on reasonable cause? The operator may establish the EAP as a part of its internal personnel services or the operator may contract with an entity that provides EAP services. [§199.113(a)].
<input checked="" type="checkbox"/>	Does the education under the EAP include at least the following elements: display and distribution of informational material; display and distribution of a community service hot-line telephone number for employee assistance; and display and distribution of the operator's policy regarding the use of prohibited drugs? [§199.113(b)]
<input checked="" type="radio"/>	No Issue Identified
<input type="radio"/>	Potential Issue Identified
Notes: 9.0 Employee Assistance Program 10.1 Supervisor 10.2 Employee Awareness 7.3.2 Consequences	

## Protocol Area C – Alcohol Misuse Prevention program

### C-1: Written Alcohol Misuse Plan

Does the operator maintain and follow a written Alcohol Misuse Plan that conforms to the requirements of Part 199 and Part 40 and which contains methods and procedures for compliance with required alcohol testing, recordkeeping, reporting, education and training elements? [§199.202]

No Issue Identified       Potential Issue Identified

Notes: 1.4 Regulatory Context  
5.6 Drug Test Specimen Collection Procedures  
10.0 Training  
12.0 Reporting and Recordkeeping

### C-2: Alcohol Misuse Program Educational Materials

Does the operator have a process to provide educational materials that explain alcohol misuse requirements and the operator's policies and procedures with respect to meeting those requirements? [§199.239(a)]

Does the operator provide a copy of these materials to each covered employee prior to the start of alcohol testing and to each person subsequently hired or transferred into a covered position? [§199.239(a)(1)]

Does the operator provide written notice to representatives of employee organizations of the availability of this information? [§199.239(a)(2)]

No Issue Identified       Potential Issue Identified

Notes: 9.0 Employee Assistance Program  
10.2 Employee Awareness

### C-3: Alcohol Misuse Program Educational Materials Content

Does the operator ensure educational materials are made available to covered employees and that the materials include detailed discussion of at least the following? [§199.239(b)]

The identity of the person designated by the operator to answer covered employee questions about the materials.

The categories of employees who are subject to the alcohol testing regulations in Part 199, Subpart C.

<input checked="" type="checkbox"/>	Sufficient information about the covered functions performed by those employees to make clear what period of the work day the covered employee is required to be in compliance with Part 199, Subpart C.
<input checked="" type="checkbox"/>	Specific information concerning covered employee conduct that is prohibited by Part 199, Subpart C.
<input checked="" type="checkbox"/>	The circumstances under which a covered employee will be tested for alcohol under Part 199, Subpart C.
<input checked="" type="checkbox"/>	The procedures that will be used to test for the presence of alcohol, protect the covered employee and the integrity of the breath testing process, safeguard the validity of the test results, and ensure that those results are attributed to the correct employee.
<input checked="" type="checkbox"/>	The requirement that a covered employee submit to alcohol tests administered in accordance with this Part 199, Subpart C.
<input checked="" type="checkbox"/>	An explanation of what constitutes a refusal to submit to an alcohol test and the attendant consequences.
<input checked="" type="checkbox"/>	The consequences for covered employees found to have violated the prohibitions under Part 199, Subpart C, including the requirement that the employee be removed immediately from covered functions, and the procedures under §199.243.
<input checked="" type="checkbox"/>	The consequences for covered employees found to have an alcohol concentration of 0.02 or greater but less than 0.04.
<input checked="" type="checkbox"/>	Information concerning the effects of alcohol misuse on an individual's health, work, and personal life; signs and symptoms of an alcohol problem (the employee's or a coworker's); and including intervening evaluating and resolving problems associated with the misuse of alcohol including intervening when an alcohol problem is suspected, confrontation, referral to any available EAP, and/or referral to management.
<input checked="" type="radio"/>	No Issue Identified
<input type="radio"/>	Potential Issue Identified
Notes: 3.1.3 Designated Employer Representative 3.1.4 Employees 9.0 Employee Assistance Program 10.2 Employee Awareness Appendix B Designated Personnel and Service Agents	

<b>C-4: Alcohol-Related Prohibited Conduct</b>	
Does the operator have a <u>process</u> to ensure that a covered employee is not permitted to perform covered functions if the employee has engaged in conduct prohibited by §§199.215 through 199.223 as shown below or an alcohol misuse rule of another DOT agency? [§199.233]	
Prohibited conduct includes:	
<input checked="" type="checkbox"/>	Alcohol Concentration - having an alcohol concentration of 0.04 or greater while on duty. [§199.215, §40.23(c) and §40.285]
<input checked="" type="checkbox"/>	On-Duty Use - using alcohol while performing covered functions. [§199.217]

<input checked="" type="checkbox"/>	Pre-Duty Use - using alcohol within 4 hours prior to performing covered functions, or, if an employee is called to duty to respond to an emergency, within the time period after the employee has been notified to report for duty. [§199.219]		
<input checked="" type="checkbox"/>	Use Following an Accident - a covered employee who has actual knowledge of an accident in which his or her performance of covered functions has not been discounted by the operator as a contributing factor to the accident, is prohibited from using alcohol for 8 hours following the accident, unless he or she has been given a post-accident test under §199.225(a), or the operator has determined that the employee's performance could not have contributed to the accident. [§199.221]		
<input checked="" type="checkbox"/>	Refusal to Submit to a Required Alcohol Test - the refusal of a covered employee to submit to a post-accident alcohol test required under §199.225(a), a reasonable suspicion alcohol test required under §199.225(b), or a follow-up alcohol test required under §199.225(d). [§199.223 and §40.285]		
<input checked="" type="radio"/>	No Issue Identified	<input type="radio"/>	Potential Issue Identified
Notes: 7.3.1 Violations			

<b>C-5: Available Resources for Employees</b>			
<input checked="" type="checkbox"/>	Does the operator have a <u>process</u> to ensure that each covered employee who has engaged in conduct prohibited by §§199.215 through 199.223 shall be advised of the resources available to the covered employee in evaluating and resolving problems associated with the misuse of alcohol? This includes the names, addresses, and telephone numbers of substance abuse professionals and counseling and treatment programs. [§40.285(b) and §199.243(a)]		
<input checked="" type="radio"/>	No Issue Identified	<input type="radio"/>	Potential Issue Identified
Notes: 3.3.3.2 Substance Abuse Professional 8.0 Return to Duty And Follow Up 9.0 Employee Assistance Program			

<b>C-6: Alcohol Concentration of 0.02 or Greater</b>			
<input checked="" type="checkbox"/>	Does the operator have a <u>process</u> to ensure that a covered employee is prohibited from performing or continuing to perform covered functions when found to have an alcohol concentration of 0.02 or greater but less than 0.04, until the employee's alcohol concentration measures less than 0.02 in accordance with a test administered under §199.225(e) or the start of the employee's next regularly scheduled duty period, but not less than 8 hours following administration of the test? [§40.23(c) and §199.237(a)]		

<input checked="" type="radio"/> No Issue Identified	<input type="radio"/> Potential Issue Identified
Notes: 7.3 Violations and Consequences	

<b>C-7: Alcohol Screening Test Devices</b>	
<input checked="" type="checkbox"/>	Does the operator use only Alcohol Screening Devices (ASDs) listed on ODAPC's web page for "Approved Screening Devices to Measure Alcohol in Bodily Fluids" or Evidential Breath Testing Devices (EBTs) listed on ODAPC's web page for "Approved Evidential Breath Measurement Devices" to conduct alcohol screening tests? [§40.229]
<input checked="" type="checkbox"/>	Does the operator use ASDs only for screening tests for alcohol and must not be used for alcohol confirmation tests? [§40.229]  Note: an ASD can only be used for DOT alcohol screening tests if there are instructions for its use in Part 40.
<input checked="" type="checkbox"/>	With respect to breath ASDs, verify the operator follows the device's use and care requirements listed in §40.233. [§40.235]
<input checked="" type="radio"/>	<input type="radio"/> Potential Issue Identified
Notes: 5.7.1 Personnel and Testing Devices 5.7 Alcohol Test Procedures	

<b>C-8: Alcohol Confirmation Test Devices</b>	
<input checked="" type="checkbox"/>	Does the operator use only Evidential Breath Testing Devices (EBTs) listed on ODAPC's web page for "Approved Evidential Breath Measurement Devices" to conduct alcohol confirmation tests? [§40.231]
<input checked="" type="checkbox"/>	Does the operator ensure that the inspection, maintenance, and calibration of the EBTs are performed by its manufacturer or a maintenance representative certified either by the manufacturer or by a state health agency or other appropriate state agency? [§40.233]
<input checked="" type="checkbox"/>	Does the operator perform external calibration checks at the intervals and using the methods specified in the manufacturer's instructions for any EBT used for DOT required alcohol confirmation testing? [§40.233]
<input checked="" type="radio"/>	<input type="radio"/> Potential Issue Identified

Notes: 5.7.1 Personnel and Testing Devices  
5.7 Alcohol Test Procedures

### C-9a: Pre-Employment Alcohol Testing (not required)

If the operator chooses to conduct pre-employment alcohol testing:

<input checked="" type="checkbox"/>	Does the operator have a <u>process</u> to ensure it conducts a pre-employment alcohol test before the first performance of a covered function by every covered employee (whether a new employee or someone who has transferred to a position involving the performance of covered functions)? [§199.209(b)(1)]		
<input checked="" type="checkbox"/>	Does the operator have a <u>process</u> to ensure it treats all covered employees the same with regards to pre-employment alcohol testing (i.e. must not test some covered employees and not others)? [§199.209(b)(2)]		
<input checked="" type="checkbox"/>	Does the operator have a <u>process</u> to ensure it conducts the pre-employment test only after making a contingent offer of employment or transfer, subject to the employee passing the pre-employment alcohol test? [§199.209(b)(3)]		
<input checked="" type="radio"/>	No Issue Identified	<input type="radio"/>	Potential Issue Identified

Notes: 5.1.2 Alcohol Testing (Not conducted)

### C-9b: Post-Accident Alcohol Testing

<input checked="" type="checkbox"/>	Does the operator have a <u>process</u> to ensure it completes a DOT post-accident alcohol test as soon as practicable following an accident of each surviving covered employee whose performance of a covered function either contributed to the accident or cannot be completely discounted as a contributing factor to the accident? [§199.225(a)(1)]
<input checked="" type="checkbox"/>	If the operator did not administer a DOT alcohol test within 2 hours following an accident, does the operator have a <u>process</u> to ensure it prepares and maintains on file a record stating the reasons the test was not promptly administered? [§199.225(a)(2)(i)]
<input checked="" type="checkbox"/>	If the operator does not administer a DOT alcohol test within 8 hours following an accident, does the operator have a <u>process</u> to ensure it ceases attempts to administer the test and prepares and maintains on file a record stating the reasons the test was not administered? [§199.225(a)(2)(i)]
<input checked="" type="checkbox"/>	If the operator decides not to conduct a post-accident alcohol test of a covered employee, does the operator have a <u>process</u> to ensure it makes that decision based on specific information that the covered employee's performance had no role in the cause(s) or severity of the accident? [§199.225(a)(1)]

<input checked="" type="checkbox"/>	If the operator decided not to conduct a post-accident drug test of a covered employee, does the operator have a <u>process</u> to ensure it documents the decision and keeps that record for at least 3 years? §199.227(b)(4)]		
<input checked="" type="radio"/>	No Issue Identified	<input type="radio"/>	Potential Issue Identified
Notes: 3.3.3.4 Alcohol Testing Personnel 5.3 Post Accident Testing 12.2 Recordkeeping 7.3 Violations and Consequences			

<b>C-9c: Reasonable Suspicion Alcohol Testing</b>	
<input checked="" type="checkbox"/>	Does the operator have a <u>process</u> to ensure that DOT alcohol tests are performed when there is reasonable suspicion to believe the employee has violated the alcohol use prohibitions in Part 199, Subpart C? [§199.225(b)].
<input checked="" type="checkbox"/>	Does the operator have a <u>process</u> to ensure the operator's determination that reasonable suspicion exists is based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of the employee and that the observations must be made during, just preceding, or just after the period of the work day the employee is required to be in compliance with Part 199, Subpart C? [§199.225(b)(2)&(3)].
<input checked="" type="checkbox"/>	Does the operator have a <u>process</u> to ensure that a covered employee is directed by the operator to undergo reasonable suspicion testing for alcohol only while the employee is performing covered functions; just before the employee is to perform covered functions; or just after the employee has ceased performing covered functions? [§199.225(b)(3)].
<input checked="" type="checkbox"/>	If the operator does not administer a DOT alcohol test within 2 hours following the determination of reasonable suspicion, does the operator have a <u>process</u> to ensure that it prepares and maintains on file a record stating the reasons the test was not promptly administered? [§199.225(b)(4)(i)]
<input checked="" type="checkbox"/>	If the operator does not administer a DOT alcohol test within 8 hours following the determination of reasonable suspicion, does the operator have a <u>process</u> to ensure that it ceases attempts to administer the test and prepares and maintains on file a record stating the reasons the test was not administered? [§199.225(b)(4)(i)]
<input checked="" type="checkbox"/>	Regardless of whether or not a reasonable suspicion alcohol test is conducted, verify the operator does not permit a covered employee to report for duty or remain on duty performing covered functions while the employee is under the influence of, or impaired by alcohol, as shown by the behavioral, speech, or performance indicators of alcohol misuse. [§199.225(b)(4)(iii)]

Regardless of whether or not a reasonable suspicion alcohol test is conducted, verify the operator does not permit a covered employee to perform or continue to perform a covered function while the employee is under the influence of, or impaired by alcohol, as shown by the behavioral, speech, or performance indicators of alcohol misuse until

- an alcohol test is administered and the employee's alcohol concentration measures less than 0.02. [§199.225(b)(4)(iii)(A)]

OR

- the start of the employee's next regularly scheduled duty period, but not less than 8 hours following the determination that there is reasonable suspicion to believe the employee has violated the alcohol misuse prohibitions in Part 199, Subpart C. [§199.225(b)(4)(iii)(B)]

Does the operator have a process to ensure it does not take any action under Part 199, Subpart C, against a covered employee based solely on the employee's behavior and appearance in the absence of an alcohol test? [§199.225(b)(4)(iv)]

Note: This does not prohibit an operator from taking any action under its own authority and otherwise consistent with the law.

No Issue Identified       Potential Issue Identified

Notes: 3.3.3.4 Alcohol Testing Personnel  
 5.5 Reasonable Cause Testing  
 7.2 Refusal to test  
 12.2 Recordkeeping  
 7.3 Violations and Consequences

**C-9d: Return-to-Duty Process and Alcohol Testing**

Does the operator have a process to ensure that a covered employee who engages in conduct prohibited by §199.215 through §199.223 may not return to duty to perform a covered function until the employee has complied with the SAP's evaluation, referral, and education/treatment process? [§40.285(a), §40.305(a)]

Does the operator have a process to ensure that a covered employee who engages in conduct prohibited by §199.215 through §199.223 does not return to duty to perform a covered function until the employee undergoes a return-to-duty alcohol test with a result indicating an alcohol concentration of less than 0.02? [§40.305(a), §199.225(c), and §199.243(c)]

Does the operator have a process to ensure that all return-to-duty testing is performed under direct observation? [§40.67(b)]

No Issue Identified       Potential Issue Identified

Notes: 3.3.3.2 Substance Abuse Professional  
 7.3 Violations and Consequences  
 5.6.6 Drug Tests that Require Direct Observation  
 8.1 Return to Duty Testing  
 8.2 Follow-Up Testing



### C-9e: Follow-Up Process & Alcohol Testing

<input checked="" type="checkbox"/>	Does the operator have a <u>process</u> to ensure the SAP has established a written follow-up testing plan after the SAP determined that the employee successfully complied with the SAP's return-to-duty recommendations for education and/or treatment and that a copy of the follow-up testing plan is presented directly to the DER? [§40.307(a)&(b)]		
<input checked="" type="checkbox"/>	Does the operator have a <u>process</u> to ensure that follow-up testing is conducted on an unannounced basis, at a frequency established by the SAP, for a period of not more than 60 months? At least six tests must be conducted within the first 12 months following the covered employee's return to duty. [§40.307, §40.309, §199.225(d) and §199.243(c)(2)(ii)]		
<input checked="" type="checkbox"/>	Does the operator have a <u>process</u> to ensure that follow-up testing is conducted when the covered employee is performing covered functions; just before the employee is to perform covered functions; or just after the employee has ceased performing such functions? [§199.225(d)]		
<input checked="" type="radio"/>	No Issue Identified	<input type="radio"/>	Potential Issue Identified

Notes: 8.0 Return to Duty and Follow-Up  
8.2 Follow-Up testing  
8.4 Substance Abuse Professional Process

### C-10: BAT Alcohol Test Reports to the Operator

<input checked="" type="checkbox"/>	Does the BAT or STT transmit alcohol screening test results to the DER in a confidential manner for concentrations of less than 0.02 using the DOT procedures described in §40.247 (refer to the code for specific requirements)? [§40.247]		
<input checked="" type="checkbox"/>	Does the BAT immediately transmit alcohol confirmation test results directly to the DER in a confidential manner using the DOT procedures described in §40.255 (refer to the code for specific requirements)? [§40.247]		
<input checked="" type="radio"/>	No Issue Identified	<input type="radio"/>	Potential Issue Identified

Notes: 5.7.4 Alcohol Screening Tests  
5.7.4.2 Results  
5.7.5.2 Results

## Protocol Area D – Drug and Alcohol Test Reporting

<b>D: Reporting of Drug and Alcohol Test Results to PHMSA</b>	
<input checked="" type="checkbox"/>	If the operator has more than 50 covered employees, verify that it submits an annual MIS report of its anti-drug and alcohol testing results in accordance with the form and instructions located in Part 40, Appendix H, not later than March 15 of each year for the prior calendar year. [§40.26, §199.119(a) and §199.229(a)]
<input checked="" type="checkbox"/>	If the operator has 50 or fewer covered employees (includes contractor employees), verify that it submits an annual MIS report of its anti-drug and alcohol testing results in accordance with the form and instructions located in Part 40, Appendix H, not later than March 15 of each year for the prior calendar year when requested to so by PHMSA notice. [§40.26, §199.119(a) and §199.229(a)]
<input checked="" type="checkbox"/>	Does the operator have a <u>process</u> to ensure it identifies all contractors who performed covered functions for the operator in a given calendar year; and, if required by either mandated annual or PHMSA written request, submitted a MIS report for each of these contractors? [§40.26, §199.119(a) and §199.229(a)]
<input checked="" type="checkbox"/>	If a service agent (e.g., C/TPA) prepares the MIS report on behalf of an operator, verify that each report is certified by the operator's anti-drug manager/alcohol misuse prevention manager or designated representative for accuracy and completeness. [§199.119(f) and §199.229(d)]
<input checked="" type="radio"/>	No Issue Identified
<input type="radio"/>	Potential Issue Identified
Notes: Petrogas has less than 50 employees	
12.1 Reporting	
12.2 Recordkeeping	

## Protocol Area E – Drug and Alcohol Program Records

<b>E-1: Drug and Alcohol Program Recordkeeping</b>	
<input checked="" type="checkbox"/>	Does the operator maintain the required drug and alcohol program records in a secure location with controlled access? [§199.227(a) and §40.333(c)]
<input checked="" type="checkbox"/>	If the operator allows a service agent to maintain its required drug and alcohol program records, verify that the operator can produce these records at its principal place of business upon request by PHMSA or by a representative of a state agency. [§199.117(b) and §40.333(d)]
<input checked="" type="checkbox"/>	If the operator stores records electronically, ensure the records are easily accessible, legible, formatted and stored in an organized manner. [§40.333(e)] Note: if electronic records do not meet these criteria, the operator must convert them to printed documentation in a rapid and readily auditable manner, at the request of PHMSA or by a representative of a state agency. [§40.333(e)]
<input checked="" type="checkbox"/>	Verify that upon a signed written request from an employee that the operator provides to the employee all records of drug and alcohol use, testing results, and rehabilitation. [§199.117(b) and §199.231(b)].
<input checked="" type="radio"/>	No Issue Identified
<input type="radio"/>	Potential Issue Identified
Notes: 12.1 Reporting 12.2 Recordkeeping 12.2.3 Employee Request for Records	

<b>E-2: Required Drug Test Records</b>	
Retention period - Five years	
<input checked="" type="checkbox"/>	Records of verified positive drug test results. [§40.333(a)(1) and §199.117(a)(2)]
<input checked="" type="checkbox"/>	Documentation of refusals to take required drug tests (including substituted or adulterated drug test results). [§40.333(a)(1)]
<input checked="" type="checkbox"/>	SAP reports and records that demonstrate compliance with SAP recommendations. [§40.333(a)(1) and §199.117(a)(2)]
<input checked="" type="checkbox"/>	All follow-up drug test results and schedules for follow-up drug tests. [§40.333(a)(1)]
<input checked="" type="checkbox"/>	MIS annual report data – regardless of whether or not an annual MIS report was submitted. [§199.117(a)(2)]
Retention period - Three years	
<input checked="" type="checkbox"/>	Information obtained from previous operators under §40.25 concerning drug test results of employees. [§40.333(a)(2)]

<input checked="" type="checkbox"/>	Records that demonstrate the collection process conforms to Part 199. [§199.117(a)(1)]		
<input checked="" type="checkbox"/>	Records confirming that supervisors and employees have been trained as required by Part 199. [§199.117(a)(4)]		
<input checked="" type="checkbox"/>	Records of decisions not to administer post-accident employee drug tests. [§199.117(a)(5)]		
Retention period - One year			
<input checked="" type="checkbox"/>	Records of negative and cancelled drug test results. [§40.333(a)(4) and §199.117(a)(3)]		
<input checked="" type="radio"/>	No Issue Identified	<input type="radio"/>	Potential Issue Identified
Notes: 12.1 Reporting 12.2 Recordkeeping 12.2.2 Records and Retention Periods			

<b>E-3: Required Alcohol Test Records</b>	
Retention period - Five years	
<input checked="" type="checkbox"/>	Records of alcohol test results indicating an alcohol concentration of 0.02 or greater. [§40.333(a)(1) and §199.227(b)(1)]
<input checked="" type="checkbox"/>	Documentation of refusals to take required alcohol tests. [§40.333(a)(1) and §199.227(b)(1)]
<input checked="" type="checkbox"/>	SAP reports, employee evaluations and referrals. [§40.333(a)(1) and §199.227(b)(1)]
<input checked="" type="checkbox"/>	All follow-up alcohol test results and schedules for follow-up alcohol tests. [§40.333(a)(1)]
<input checked="" type="checkbox"/>	MIS annual report data – regardless of whether or not an annual MIS report was submitted. [§199.227(b)(1)]
<input checked="" type="checkbox"/>	Calibration Documentation – supersedes the DOT two-year requirement found in §40.333(a)(3). [§199.227(b)(1)]
Retention period - Three years	
<input checked="" type="checkbox"/>	Information obtained from previous operators under §40.25 concerning alcohol test results of employees. [§40.333(a)(2)]
<input checked="" type="checkbox"/>	Records of decisions not to administer post-accident employee alcohol tests. [§199.227(b)(4)]

Retention period - Two years			
<input checked="" type="checkbox"/>	Records confirming that supervisors and employees have been trained as required by Part 199. [§199.227(b)(2)]		
<input checked="" type="checkbox"/>	Records related to the collection process (except calibration of EBT devices). [§199.227(b)(2)]		
Retention period - One year			
<input checked="" type="checkbox"/>	Records of all test results with a concentration below 0.02 as defined in Part 40. [§40.333(a)(4) and §199.227(b)(3)]		
<input checked="" type="radio"/>	No Issue Identified	<input type="radio"/>	Potential Issue Identified
Notes: 12.1 Reporting 12.2 Recordkeeping 12.2.2 Records and Retention Periods			