



## **DEPARTMENT OF TRANSPORTATION**

### **Pipeline and Hazardous Materials Safety Administration**

**[Docket No. PHMSA-2023-0116]**

### **Pipeline Safety: Random Drug Testing Rate; Multi-Factor Authentication; and Operator and Contractor Management Information System Reporting**

**AGENCY:** Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

**ACTION:** Notice of Calendar Year 2024 Minimum Annual Percentage Rate for Random Drug Testing; Multi-Factor Authentication (MFA) for Drug and Alcohol (D&A) Management Information System (DAMIS) Reports, Pipeline Operator DAMIS Reporting, and Contractor DAMIS Reporting.

**SUMMARY:** PHMSA has determined that the minimum random drug testing rate for covered employees will remain at 25 percent during calendar year 2024. For calendar year 2023 reporting, DOT is introducing MFA login procedures for submitting D&A testing data into the DAMIS database. This notice also explains how pipeline operators and contractors will obtain MFA login information.

**DATES:** Applicable January 1, 2024, through December 31, 2024.

**FOR FURTHER INFORMATION CONTACT:** Wayne Lemoi, Drug & Alcohol Program Manager, Office of Pipeline Safety, by phone at 909-937-7232 or by email at [wayne.lemoi@dot.gov](mailto:wayne.lemoi@dot.gov).

## **SUPPLEMENTARY INFORMATION:**

### **Notice of Calendar Year 2024 Minimum Annual Percentage Rate for Random Drug Testing**

Operators of gas, hazardous liquid, and carbon dioxide pipeline facilities; liquefied natural gas (LNG) plants; and underground natural gas storage facilities must randomly select and test a percentage of all covered employees for prohibited drug use in accordance with 49 Code of Federal Regulations part 199. Pursuant to 49 CFR 199.105(c)(1), the minimum annual random drug testing rate for all covered employees is 50 percent. However, the Administrator can adjust this random drug testing rate based on the reported positive rate in the industry's random drug tests, which is submitted in operators' annual MIS reports as required by § 199.119(a). In accordance with § 199.105(c)(3), if the reported positive drug test rate is below 1.0 percent for two consecutive calendar years, the Administrator can lower the random drug testing rate to 25 percent of all covered employees.

Pursuant to § 199.105(c)(3), the Administrator is maintaining the PHMSA minimum annual random drug testing rate for all covered employees at 25 percent in calendar year 2024 because the random drug test positive rate for the pipeline industry was reported at less than 1.0 percent in the consecutive calendar years of 2021 and 2022.

### **Multi-Factor Authentication for DAMIS Reports**

In calendar year 2024, DOT will begin using Multi-Factor Authentication (MFA) to limit and control access to DOT's DAMIS database. MFA is not unique to PHMSA or to DAMIS. It is a Federal Government initiative being implemented to protect the integrity and security of Federal Government databases from cybersecurity attacks and other risks. MFA login procedures for "primary pipeline" operators and contractors are explained in the applicable sections below.

### **Pipeline Operator DAMIS Reporting**

To collect more accurate pipeline industry DOT D&A test data and to avoid duplicate reporting of D&A test data, PHMSA is limiting the DAMIS reporting to "primary operators" and

contractors only. The term “primary operator” is not used in the D&A testing regulations in part 199; however, the term “primary operator” as used herein has the same meaning as the term “primary entity” as used in § 191.22 and § 195.64. Moreover, a “primary operator” can be a large or small operator as explained below.

Pipeline operators either have a D&A program that includes only one pipeline operator (i.e., one OPID) or an “umbrella” type shared D&A program that includes multiple pipeline operators (i.e., more than one OPID). For DAMIS reporting purposes the operator of the single operator D&A program is the “primary pipeline operator”. For shared D&A programs, the “primary operator” must be identified to PHMSA through Safety Program Relationship (SPR) data before submitting a DAMIS report. Operators are reminded to review their D&A program records to check the SPR status of their D&A program. If changes are needed to properly align the SPR data with the operator’s D&A program, the operator must make a written notification to PHMSA.

The PHMSA regulations governing DAMIS reporting (§§ 199.119 and 199.229) are based on whether the primary operator is a large operator or a small operator. Pursuant to §§199.119(a) and 199.229(a), a large operator is an operator with more than 50 covered employees. Large operators are required to submit a DAMIS report each calendar year. Pursuant to §§ 199.119(a) and 199.229(a), a small operator is an operator with 50 or fewer covered employees. Small operators are only required to submit a DAMIS report if the operator receives a “written notice” from PHMSA requesting a report. PHMSA transmits written notices as messages in the PHMSA Portal in late December each calendar year.

To calculate the number of D&A covered employees to determine whether an operator is a large or small primary operator, include all covered employees of the primary operator plus all covered employees of any business units included in the DAMIS report under a shared D&A program. If your covered employees are in a random drug testing pool managed by a consortium, count only your own covered employees. If you have any covered employees subject to D&A

testing under more than one DOT agency, count only those employees who were D&A tested under PHMSA, which is the agency selected on the Federal Drug Testing Custody and Control Form (CCF) or on the Alcohol Testing Form. While contractor employees are covered employees requiring D&A testing, contractor employees are not used to calculate whether a “primary pipeline operator” is a large or small operator. Therefore, do not include contractor employees in the above calculations.

Pipeline operators are no longer required to “accept” contractor reports. Instead, an operator will simply list the contractor and the contractor’s DAMIS report automatically becomes part of the operator’s report once the contractor has submitted its report to DAMIS. Furthermore, operators will not be able to view contractor data reports through DAMIS, but can get the report directly from the contractor, if they so desire.

For each contractor listed by a primary operator, DAMIS will show if a *Login.gov invitation* has been generated for the contractor. If no *Login.gov invitation* has been created for the contractor or if the *Login.gov invitation* was created for the wrong email address, the primary operator can generate a new *Login.gov invitation* by entering a new email address for the contractor. This email address cannot already be in use to access DAMIS for a primary operator or a different contractor.

Primary Operator MFA Login: In September 2023, PHMSA communicated by email with primary operators to confirm the email address of the person who will submit the primary operator’s DAMIS report. These confirmed email addresses will be loaded into DAMIS by the end of calendar year 2023. In early January 2024, DAMIS will generate a one-time/one-use *Login.gov* invitation for the confirmed email addresses. PHMSA will also make *Login.gov* invitations available in the PHMSA Portal.

### **Contractor DAMIS Reporting**

Because contractors do not have OPIDs, PHMSA uses a Business Tax Identification Number (BTIN) to track contractors in the DAMIS database.

A contractor may perform D&A covered functions for one pipeline operator or multiple operators. Additionally, a contractor may be local, regional, or nationwide, and/or may operate from a single location or from multiple locations. Regardless, the clear intent is for PHMSA and DOT to collect contractor D&A test data that is complete, accurate, and nonrepetitive.

Accordingly, each contractor must prepare a single, complete, and accurate DAMIS report that includes all its D&A covered employees and all their DOT D&A test data. A contractor does not prepare or submit a separate and distinct DAMIS report for each pipeline operator or for a contractor's separate offices or locations unless those offices are distinct and separate under their own BTIN. Moreover, a contractor must not report the same covered employees and the same D&A tests in more than one BTIN. If a contractor has more than one BTIN, the contractor must allocate individual employees and their D&A tests results among the BTINs for which they actually worked, or report all the contractor's employees and test results under one BTIN.

PHMSA does not need or require a DAMIS report from each BTIN. PHMSA requires a valid set of contractor D&A test data that reflects the complete and accurate picture of who the contractor D&A tested and what the results of those tests were. PHMSA does not want covered employees or D&A tests to be reported more than once. If test results can be reported under one BTIN, that is acceptable.

PHMSA also recognizes that some pipeline operators perform D&A covered functions for other PHMSA regulated pipeline operators. While this may take place under a contract, pipeline operators with an OPID must never be listed as a contractor by any other pipeline operator in a DAMIS report.

Contractor MFA Login: MFA will allow access for contractors to enter their D&A testing data directly into DAMIS. In September 2023, PHMSA communicated by email with contractors to confirm the email address of the person who will submit the contractor DAMIS report. These confirmed email addresses will be loaded into DAMIS by the end of calendar year 2023. In early January 2024, DAMIS will generate a one-time/one-use *Login.gov invitation* for the confirmed

email address. Contractors can also request a new *Login.gov invitation* for a new email address by sending a request to PHMSAPipelineDAMIS@dot.gov.

Any primary operator can generate a new *Login.gov invitation* for a contractor by entering an email address that is not already established with *Login.gov* access to DAMIS.

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**Alan K. Mayberry,**  
*Associate Administrator for Pipeline Safety.*

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