

FTA RESEARCH

FEDERAL TRANSIT ADMINISTRATION

Implementation Guidelines for Drug and Alcohol Regulations in Public Transportation

FEBRUARY 2019

FTA Report No. 0127
Federal Transit Administration

PREPARED BY
Lori DeCoste
Volpe Center



U.S. Department of Transportation
Federal Transit Administration

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Federal Transit Administration
Office of Transit Safety and Oversight
U.S. Department of Transportation
1200 New Jersey Avenue, SE
Washington, DC 20590

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Metric Conversion Table

SYMBOL	WHEN YOU KNOW	MULTIPLY BY	TO FIND	SYMBOL
LENGTH				
in	inches	25.4	millimeters	mm
ft	feet	0.305	meters	m
yd	yards	0.914	meters	m
mi	miles	1.61	kilometers	km
VOLUME				
fl oz	fluid ounces	29.57	milliliters	mL
gal	gallons	3.785	liter	L
ft³	cubic feet	0.028	cubic meters	m ³
yd³	cubic yards	0.765	cubic meters	m ³
NOTE: volumes greater than 1000 L shall be shown in m ³				
MASS				
oz	ounces	28.35	grams	g
lb	pounds	0.454	kilograms	kg
T	short tons (2000 lb)	0.907	megagrams (or "metric ton")	Mg (or "t")
TEMPERATURE (exact degrees)				
°F	Fahrenheit	5 (F-32)/9 or (F-32)/1.8	Celsius	°C

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ABSTRACT

These updated guidelines are intended to help transit employers develop their own drug and alcohol testing programs that comply with regulations of the Federal Transit Administration (FTA). These regulations were first published in the *Federal Register* on February 15, 1994, as “Prevention of Prohibited Drug Use in Transit Operations” (49 CFR Part 653) and “Prevention of Alcohol Misuse in Transit Operations” (49 CFR Part 654) and later revised and combined into one regulation (49 CFR Part 655) on August 1, 2001. These guidelines are directed to transit employers receiving federal funding under sections 5307, 5309, 5311, and 5339 of the Federal Transit Act and section 103(e)(4) of Title 23 of the US Code. In addition, these guidelines will assist state agencies that receive FTA funding and contractors who perform safety-sensitive services for transit employers.

These guidelines are intended to provide transit employers with the knowledge and resources needed to develop, implement, and manage a drug and alcohol testing program that complies with FTA and US Department of Transportation rules. These guidelines explain the various elements of a compliant program and contain examples of documents, checklists, and forms that may be used by individual transit employers to implement their own programs.

EXECUTIVE SUMMARY

This document provides updated guidance on the *Implementation Guidelines for Drug and Alcohol Regulations in Public Transportation* last revised in October 2009. These up-to-date guidelines will assist transit employers in establishing their own drug and alcohol testing program that complies with Federal Transit Administration (FTA) regulations.

FTA drug and alcohol testing regulations (49 CFR Part 655), “Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations,” and Office of Drug and Alcohol Policy and Compliance (ODAPC) rules (49 CFR Part 40), “Procedures for Transportation Workplace Drug and Alcohol Testing Programs,” can be viewed at <http://transit-safety.fta.dot.gov>.

As a condition of receiving FTA funding, transit employers must develop, implement, and manage their own alcohol and drug testing program. Each section of these updated guidelines offers current resources and best practices for helping transit employers improve the effectiveness of their regulatory management. Compliance tips offer valuable elements of a compliant program to help reduce violations.

Major subjects are streamlined to highlight key processes and steps. The following important updates and guidance are included:

- Policy development and communication for required information, including a listing of required elements.
- Training and education requirements for employees and supervisors.
- Testing categories for six required tests, from pre-employment to follow-up, and other general testing requirements.
- Drug and alcohol testing procedures, presented in easy-to-follow steps. Employer responsibilities and actions are readily identified.
- Roles and responsibilities of service agents working within the US Department of Transportation (DOT) drug and alcohol testing program.
- Recordkeeping and reporting requirements, including a records retention checklist.

FTA recognizes that prohibited drug use and alcohol misuse affect everyone in the United States. A robust testing program is the best tool employers have to deter illegal drug and alcohol use in the workplace. It prevents injuries and saves lives and reduces employer liability. These guidelines aim to equip transit employers with the knowledge and resources needed to establish their own successful drug and alcohol program that complies with FTA and US DOT regulations.

ACRONYMS

ASD	Alcohol Screening Device
ATF	Alcohol Testing Form
BAT	Breath Alcohol Technician
C/TPA	Consortium or Third-Party Administrator
CCF	Custody and Control Form
CDL	Commercial Driver's License
DAPM	Drug and Alcohol Program Manager
DER	Designated Employer Representative
EBT	Evidential Breath Testing
eCCF	Electronic Custody and Control Form
FMCSA	Federal Motor Carrier Safety Administration
FRA	Federal Railroad Administration
FTA	Federal Transit Administration
HHS	United States Department of Health and Human Services
MIS	Management Information System
MRO	Medical Review Officer
NHTSA	National Highway Traffic Safety Administration
NLCP	National Laboratory Certification Program
ODAPC	Office of Drug and Alcohol Policy and Compliance
PCP	Phencyclidine
PIE	Public Interest Exclusion
SAP	Substance Abuse Professional
STT	Screening Test Technician
THC	Tetrahydrocannabinol
TPA	Third-Party Administrator
USCG	United States Coast Guard
US DOT	United States Department of Transportation

Introduction

In 1991, the US Congress recognized the need for a drug and alcohol-free transportation industry and passed the Omnibus Transportation Employee Testing Act. This Act required all US Department of Transportation (DOT) agencies to implement drug and alcohol testing of safety-sensitive employees.

Within DOT, the Office of Drug and Alcohol Policy and Compliance (ODAPC) publishes rules on how to conduct those tests, what procedures to use when testing, and how to return an employee to safety-sensitive duties after a drug or alcohol rule violation. These rules are found in 49 CFR Part 40, Procedures for Transportation Workplace Drug and Alcohol Testing Programs.

Each DOT agency and the US Coast Guard writes industry-specific rules describing who is subject to testing, when, and in what situations. Federal Transit Administration (FTA) drug and alcohol testing regulations are found in 49 CFR Part 655, Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations.

Current versions of Part 40 and Part 655 can be viewed in their entirety at <http://transit-safety.fta.dot.gov/drugandalcohol/regulations>.

Compliance with these regulations is a condition of FTA funding. Failure to implement drug and alcohol programs pursuant to the regulations may result in suspension or termination of FTA funding.

Implementation Guidelines

These guidelines are intended to provide employers with the knowledge and resources needed to develop, implement, and manage a drug and alcohol testing program complying with FTA and DOT rules. Employers with well-established drug and alcohol testing programs also can use these guidelines to assess their level of compliance, validate policies and procedures, and identify areas that require modification. These guidelines explain the various elements of a compliant program and contain examples of documents, checklists, and forms that may be used by individual transit employers to implement their own programs.

Each major subject is discussed in a separate section. Corresponding reference documents, checklists, and forms are included in the appendices. The following subjects are discussed:

- Policy development
- Employee and supervisor education and training
- Testing categories
- Drug testing procedures
- Alcohol testing procedures
- Service agent roles and responsibilities
- Recordkeeping and reporting requirements

Section numbers from the regulations also are used to more clearly define regulatory requirements. For example, §655.4 means this regulation is specifically mentioned in 49 CFR Part 655 Section 4. Similarly, §40.25 references 49 CFR Part 40 Section 25.

In addition, compliance tips and best practices are found throughout the document. Compliance tips are highlighted in blue boxes, and best practices are identified in green boxes throughout the text.

Additional Resources

Although every attempt has been made to ensure that these guidelines are complete, FTA and ODAPC have produced additional manuals, training aids, and informational reports to further assist employers in the successful implementation of a compliant program. ODAPC also publishes procedural guidelines for service agents, including collection site personnel, medical review officers (MROs), and substance abuse professionals (SAPs). Where appropriate, these additional resources are identified. Appendix E also provides a list of available resources and how to access them.

SECTION
2

Applicability: Who Must Participate?

Any recipient or subrecipient of federal financial assistance under 49 United States Code (U.S.C.) 5307, 5309, 5311, or 5339 must comply with these rules. The regulations also apply, with limited exception, to any contractor who performs safety-sensitive functions for a recipient or subrecipient of this funding.

Some transit employers could be affected by drug and alcohol testing regulations of more than one DOT modal agency. These include transit employers operating ferry boats, commuter railroads, or vehicles requiring operators to hold commercial driver's licenses (CDLs). In those cases, FTA has coordinated responsibility with other modal agencies to minimize overlapping requirements:

- **Ferry boat operators** – Ferry boat operators are in compliance with FTA drug and alcohol regulations when they comply with US Coast Guard (USCG) chemical and alcohol testing requirements (USCG does follow Part 40). However, ferry boat operators also must be subject to FTA random alcohol testing, as the USCG does not have a similar requirement.
- **Commuter railroad operators** – FTA-funded railroad operators are exempt from FTA regulations, but must certify to FTA that they are in full compliance with Federal Railroad Administration (FRA) regulations.
- **Operators with CDLs** – Transit agencies with safety-sensitive employees holding CDLs are subject to FTA drug and alcohol regulations. However, individual CDL holders still remain subject to Federal Motor Carrier Safety Administration (FMCSA) sanctions and other ramifications for FMCSA rule violations.

Safety-Sensitive Functions

Employees of FTA funding recipients, subrecipients, and contractors who perform safety-sensitive functions must be included in an FTA-compliant drug and alcohol program. FTA defines a “safety-sensitive function” as:

- Operating a revenue service vehicle, including when not in revenue service
- Operating a non-revenue service vehicle, when required to be operated by a CDL holder
- Controlling dispatch or movement of a revenue service vehicle

You must determine if employees you identify as “dispatchers” actually control the movement of a vehicle (i.e., do they actually tell the driver where to go, or do they simply hand out an assignment sheet telling the driver who to pick up at what time?).

- Maintaining (including repairs, overhaul, and rebuilding) a revenue service vehicle or equipment used in revenue service
- Carrying a firearm for security purposes

Since job titles and corresponding duties vary from employer to employer, actual job functions should be considered rather than job titles. If an individual performs any of the safety-sensitive job functions described above, then that individual must be classified as such.

Since job titles and corresponding duties vary from employer to employer, actual job functions should be considered rather than job titles. If an individual performs any of the safety-sensitive job functions described above, then that individual must be classified as such.

Exemptions

The following are exempt from FTA drug and alcohol regulations:

- Maintenance contractors performing services:
 - for Section 5311 grantees
 - for sections 5307, 5309, or 5339 grantees serving areas with a population less than 200,000
 - on a one-time or limited, *ad-hoc* basis
- Maintenance subcontractors (i.e., a contractor to a covered maintenance contractor)
- Volunteers are exempt unless they:
 - are required to hold a CDL to operate the vehicle
 - receive remuneration in excess of actual expenses incurred while engaged in the volunteer activity
- Taxi cab drivers are exempt when patrons (using publicly-subsidized vouchers) can choose from a variety of taxi cab operators.

Policy Development and Communication

An anti-drug use and alcohol misuse program must have a statement describing the employer's policy on prohibited drug use and alcohol misuse in the workplace (§655.12). This policy must be written and made available to all covered employees.

Policy Statement Required Information (§655.15)

Contact Person

Identification of the person, office, branch, or position designated by the employer to answer employee questions about the anti-drug and alcohol misuse prevention program. In most cases, the contact person will be the employer's Drug and Alcohol Program Manager (DAPM).

Board Approval

Adoption by the local governing board of the employer, or another responsible individual with appropriate delegation of authority. In most instances, a grantee will have a governing board that can adopt the policy. However, where there is no governing board, or the governing board does not have approval authority, the highest-ranking official with authority to approve the policy may do so.

The effective date of the policy is normally found on the cover. Make sure future revisions of a substantive nature also receive board approval. The date that the policy was last revised and approved should be clearly indicated.

Categories of Covered Employees

- A complete list or description of the actual positions/categories of employees who are subject to the provisions of Part 655.
- Safety-sensitive functions include:
 - Operating a revenue service vehicle, in or out of revenue service
 - Operating a non-revenue vehicle requiring a CDL
 - Maintaining a revenue service vehicle or equipment used in revenue service
 - Controlling dispatch/movement of a revenue service vehicle
 - Carrying a firearm for security purposes

- Volunteers are classified as covered employees if they are required to hold a CDL to operate the vehicle or they receive remuneration in excess of their actual expenses incurred.

Prohibited Behaviors

- Use of illegal drugs (marijuana, cocaine, amphetamines, opioids, phencyclidine) is prohibited at all times.
- Alcohol use is prohibited within 4 hours prior to performing safety-sensitive functions, while on call, and while performing safety-sensitive functions.
- Alcohol use is prohibited for 8 hours after an accident or until post-accident testing is performed.
- Employees are prohibited from performing safety-sensitive functions while having an alcohol concentration of 0.04 or greater.
- Employees with an alcohol concentration of 0.02–0.039 may not perform safety-sensitive functions until the concentration measures less than 0.02 or the employee has been removed from duty for at least 8 hours.

Circumstances for Testing

Pre-Employment

- An applicant must produce an MRO-verified negative drug test result prior to first performing a safety-sensitive function.
- An employee being transferred into a safety-sensitive position must provide a verified negative drug test result prior to performing a safety-sensitive function.
- An applicant who previously failed or refused a DOT test must show evidence of successful completion of an SAP referral, evaluation, and treatment plan.
- If the employer chooses to require an alcohol test:
 - The test must occur before the first performance of a safety-sensitive function.
 - All covered employees must be tested.
 - Testing must occur after the employer makes a contingent offer of employment or transfer.
 - Testing must follow the procedures described in 49 CFR Part 40.
 - The covered employee must not be allowed to perform safety-sensitive duties unless the result indicates an alcohol concentration below 0.02.
- An employee who is out of safety-sensitive duty for 90+ days **and** out of the random testing pool during that time must have a pre-employment test with a verified negative result before returning to covered duties.

Random

- Random selection must be by a scientifically-valid method.
- Each covered employee must have an equal chance of being tested each time selections are made.
- Random tests are to be spread reasonably throughout the year.
- Random tests must be conducted on all days and at all times of day when safety-sensitive functions are performed.
- Random test dates are unannounced and immediate following notification.
- Random alcohol testing is permissible only just before, during, or just after actual performance of safety-sensitive functions.

Operationally, testing must be continuous throughout the calendar year and conducted on all days and hours during which safety-sensitive functions are performed. This ensures that employees will have a reasonable expectation that they might be called for a test on any day and at any time they are at work.

Post-Accident

- Post-accident testing thresholds:
 - Fatality
 - Medical treatment away from the scene, unless the driver is completely discounted as a contributing factor
 - Disabling damage (i.e., if the public transportation vehicle is a rubber-tire vehicle and any of the involved vehicles is towed away; if the public transportation vehicle is a rail vehicle or vessel and is removed from revenue service), unless the driver is completely discounted as a contributing factor
- Any covered employee whose performance could have contributed to the accident must be tested.
- A covered employee subject to post-accident testing must remain readily available, or it is considered a refusal to test. Testing is stayed while the employee assists in resolution of the accident or receives medical attention following the accident.

Reasonable Suspicion

- Testing is required when a trained supervisor or company official can articulate and substantiate contemporaneous physical, behavioral, and performance indicators of probable drug use or alcohol misuse by observing the appearance, behavior, speech, or body odors of the covered employee.
- Alcohol testing is permissible only just before, during, or just after the performance of safety-sensitive functions.

Return-to-Duty and Follow-Up (if the employer has a second-chance policy)

- All tests will be conducted in accordance with Part 40, subpart O.
- All tests will be directly observed.
- Follow-up alcohol testing is permissible only just before, during, or just after actual performance of safety-sensitive functions.

Testing Procedures

- All FTA drug and alcohol testing will be conducted in accordance with 49 CFR Part 40. *(This statement covers the Part 655 requirement to include the procedures that will be used to test for the presence of illegal drugs or alcohol misuse, protect the employee and the integrity of the drug and alcohol testing process, safeguard the validity of the test results, and ensure the test results are attributed to the correct employee. Accordingly, the employer's policy need not elaborate in detail, as long as it includes this statement.)*

Requirement to Submit to Testing

- All covered employees are required to submit to drug and alcohol tests as a condition of employment in accordance with 49 CFR Part 655.

Period of Coverage

- Safety-sensitive employees can be tested for:
 - Drugs – any time while on duty
 - Alcohol – just before, during, or immediately after performance of safety-sensitive functions

Refusals to Test

- Failing to remain at the testing site until the testing process is complete (it is not a refusal if the employee leaves the testing site before a pre-employment test commences).
- Failing to appear for any test (except a pre-employment test) within a reasonable time.
- Failing to attempt to provide a breath or urine specimen.
- Failing to provide a sufficient quantity of urine or breath without a valid medical explanation.
- Failing to undergo a medical evaluation as required by the MRO or Designated Employer Representative (DER).
- Failing to cooperate with any part of the testing process.
- Failing to permit an observed or monitored collection when required.
- Failing to follow an observer's instructions to raise and lower clothing and turn around during a directly-observed test.

- Possessing or wearing a prosthetic or other device used to tamper with the testing process.
- Failing to take a second test when required.
- Admitting the adulteration or substitution of a specimen to the collector or MRO.
- Submitting an adulterated or substituted sample, as verified by the MRO.
- Refusing to sign Step 2 of the Alcohol Test Form.

Consequences for Violations

- Verified positive drug test result, confirmed alcohol concentration of 0.04 or greater, or test refusal (*immediate removal from safety-sensitive position and SAP referral required*).
- Alcohol concentration in range of 0.02–0.039 (*removal from safety-sensitive position for at least 8 hours or until an alcohol concentration of less than 0.02; apply employer disciplinary policy if applicable; DOT SAP referral **prohibited***).
- Dilute negative – must have fixed policy to retest or not retest (policy may differ between test types).

Be sure to operationally reflect the employee consequences stated within the policy.

Second-Chance vs. Zero-Tolerance

The regulations allow the employer to decide whether a “zero-tolerance” or “second-chance” policy is adopted.

- A **zero-tolerance** policy requires that any employee who tests positive or refuses a drug or alcohol test be terminated.
- A **second-chance** policy allows an employee to return to safety-sensitive duties pending the fulfillment of an evaluation by an SAP, compliance with the SAP’s prescribed treatment, and the receipt of a negative return-to-duty test and placement into a follow-up testing program.

Additional Employer Provisions Allowed

The policy may provide additional detail or include additional requirements not mandated by FTA (though in these cases, FTA’s requirements must still be described). These additional provisions must be clearly identified in the policy. Using clear phrasing, **bolding**, or *italics* to differentiate between FTA and company policy prohibitions, terms, etc., is common. You may not impose

Tests conducted under the employer’s own authority must be performed separately using a second breath or urine sample, using non-Federal forms.

requirements that are inconsistent with or contrary to the procedures required by 49 CFR Part 655.

Drug-Free Workplace Act

The provisions of the Drug-Free Workplace Act of 1988 may be incorporated in the policy statement but must be so identified.

Prescription/Over-the-Counter Drug Policy

Although not required, employers are encouraged to include policy provisions regarding an employee's use of prescription and over-the-counter medications that could potentially impact public safety.

For more information, including best practices and model forms and policies, see the FTA Prescription and Over-the-Counter Medications Tool Kit at <http://transit-safety.fta.dot.gov/drugandalcohol/tools/>.

Policy Distribution (§655.16)

Each employer must provide written notice to all covered employees and representatives of employee organizations of the policy. Make sure all employees have the most current version of the policy. As a best practice, employees may be requested to sign an acknowledgment of receipt form. A sample form is provided in Appendix C.

Additional Resources

The Policy Builder on FTA's Drug and Alcohol Program website at <http://transit-safety.fta.dot.gov/drugandalcohol/tools> can help develop a customized anti-drug and alcohol misuse policy containing all required elements.

Education and Training

Training and educating your workforce and supervisors are major components of a successful drug and alcohol program. FTA regulations require each covered employer to establish an education and training program for all covered employees and training for all supervisors and/or other company officials authorized to make reasonable suspicion determinations.

Training for All Safety-Sensitive Employees

Required Components

The following education and training elements are required by §655.14.

Display and Distribution of Materials

- Informational materials (e.g., posters, pamphlets, fact sheets, etc.) about the effects of drugs and alcohol
- Community service hotline for employee assistance (if available)
- Company anti-drug and alcohol misuse policy (or written notice of its availability)

If you cannot locate a local hotline number, there are several national hotline numbers that you can provide to your employees. (See potential sources in Appendix E.)

Training

- Minimum 60 minutes on **drugs**:
 - Effects and consequences of prohibited drug use on personal health, safety, and the work environment
 - Signs and symptoms that may indicate prohibited drug use
- No training requirement for alcohol

Recommended Elements

The following training is recommended in addition to the 60-minute minimum requirement:

- Major policy provisions
- Drug and alcohol testing procedures
- Effects and consequences of alcohol misuse
- Employee rights and responsibilities
- Employee conduct prohibited by the regulations

- Consequences of violating DOT rules
- Potential safety risks of certain prescription and over-the-counter medications

Training for Supervisors – Reasonable Suspicion

This training is required for supervisors or other company officials authorized to make reasonable suspicion determinations. Before making any reasonable suspicion referrals, supervisors and/or company officials must complete this training.

Required Components

The following training is required by §655.14.

Training

- Minimum 60 minutes on drugs (in addition to the 60-minute training requirement for all safety-sensitive employees)
 - Physical, behavioral, and performance indicators of probable drug use
- Minimum 60 minutes on alcohol
 - Physical, behavioral, speech, and performance indicators of probable alcohol misuse

Recommended Elements

- Definition of reasonable suspicion
- Roles and responsibilities of supervisors who can make reasonable suspicion determinations
- Initiating, substantiating, and documenting the referral
- Intervention and confrontation with employees

The regulations do not require refresher training, but you are encouraged to provide additional training beyond the requirements under your own authority.

Sources of Training

Training is available from many sources. Some transit employers conduct substance abuse training in-house, and others contract with external trainers for the service.

FTA sponsors some training events related to FTA's Drug and Alcohol testing program. Most of the training is available at little or no cost. A list of training events can be found at <http://transit-safety.fta.dot.gov/drugandalcohol/training>.

In addition, a video and trainer/trainee guide on reasonable suspicion have been produced for and are available from FTA at no charge. If followed as intended, this program satisfies the basic requirements for supervisor reasonable suspicion training. These training materials are available for download at <http://transit-safety.fta.dot.gov/drugandalcohol/tools>.

Recordkeeping Requirements

Be sure to document all parts of training, including the date and time it took place, who attended, and the topics covered. This must be kept for at least two years. Sample Acknowledgement of Training forms are provided in Appendix C.

Best Practice

Maintain reasonable suspicion training documentation for the duration of that supervisor's employment.

Types of Testing

Six categories of testing are required by Part 655, subpart E:

- Pre-Employment (drug test only)
- Random
- Post-Accident
- Reasonable Suspicion
- Return-to-Duty
- Follow-Up

Prohibited Drug Use (§655.21)

Use of the following drugs is prohibited at all times and must be tested for:

- Marijuana
- Cocaine
- Opioids
- Amphetamines
- Phencyclidine

Prohibited Alcohol Use (§655.31–§655.35)

Any employee with an alcohol concentration of 0.04 or greater is prohibited from performing or continuing to perform a safety-sensitive function.

- On-duty use – alcohol use is prohibited while performing safety-sensitive functions.
- Pre-duty use – alcohol use is prohibited within 4 hours prior to performance of safety-sensitive functions.
- On-call employees must have the opportunity to acknowledge the use of alcohol at the time they are called to report to duty and the inability to perform safety-sensitive functions.
 - If the employee acknowledges alcohol use but claims ability to perform a safety-sensitive function, the employee must take an alcohol test prior to duty.

Any employee who is found to have an alcohol concentration of 0.02 or greater, but less than 0.04, cannot perform safety-sensitive functions until:

- The employee's alcohol concentration measures less than 0.02; or
- The start of the employee's next regularly-scheduled shift, but not less than 8 hours following the test

General Testing Requirements

Before performing a drug or alcohol test, the employer must inform the employee of the testing authority (§655.17). The employee should be notified discreetly and must proceed **immediately** to the collection site.

Make it clear to employees that there are consequences for failure to appear at any test

As the employer, you must provide the following information to the collector when conducting a drug test or alcohol test (§40.14):

- Full name of the employee being tested
- Employee SSN or ID number
- Laboratory name and address
- Employer name, address, phone number, and fax number
- DER name and telephone number
- MRO name, address, phone number, and fax number
- DOT agency under which the test is authorized (e.g., FTA)
- Reason for the test (pre-employment, random, post-accident, reasonable suspicion, return-to-duty, follow-up)
- Whether or not the test is to be observed

A sample Drug and Alcohol Testing Notification form is provided in Appendix C.

Pre-Employment Testing (§655.41, §655.42)

Pre-employment tests ensure that potential employees are drug-free prior to beginning safety-sensitive duties.

A pre-employment **drug** test with a verified negative result is required:

- Before an applicant for employment can begin safety-sensitive functions.
- When a non-safety-sensitive employee transfers into a safety-sensitive position.
- When an employee has been on extended leave (90+ consecutive days) and has not been in the random selection pool during that time.
- When a pre-employment drug test is canceled (another pre-employment test must be administered).

You must receive the negative test result before safety-sensitive functions can begin. This includes training, operating in the yard, or any other movement or control of the vehicle.

- If an applicant undergoes a pre-employment test, but does not actually perform safety-sensitive duties within 90 days from the date of the test, then a second pre-employment test with a verified negative result is required.

Problems in Pre-Employment Drug Testing

Insufficient Volume (§40.195)

If the applicant is unable to provide a sufficient specimen because of a permanent or long-term medical condition (see §40.193), the MRO must determine if there is clinical evidence that the individual is an illicit drug user. An alternative test, such as a blood test, may be used in this circumstance.

- If no clinical evidence exists, MRO reports negative result, and applicant may begin safety-sensitive functions.
- If clinical evidence exists, MRO reports canceled result, and applicant may not perform safety-sensitive functions.

Dilute Specimen (§40.197)

The employer is authorized to obtain one additional test following a negative-dilute result (this practice must be included in the policy). However, since a negative-dilute test result is a negative result for DOT purposes, the applicant may begin safety-sensitive functions.

For more details about insufficient volume or dilute specimens in drug testing, see “Problems in the Collection Process” in Section 6.

Pre-Employment Alcohol Testing

A pre-employment alcohol test is not required, but may be conducted if:

- Every applicant is tested before the first performance of safety-sensitive functions (this includes new employees and employees transferring into a safety-sensitive position).
- The employer has already made a contingent offer of employment subject to passing the pre-employment alcohol test.
- All alcohol tests are performed according to 49 CFR Part 40.

The result of the pre-employment alcohol test must be below 0.02 before safety-sensitive duties can be performed.

Best Practice

Record the date that safety-sensitive functions are first performed.

Previous Employer Records Request (§40.25)

All US DOT-regulated employers must make a good faith effort to obtain drug and alcohol testing records from other DOT-regulated employers, for all applicants seeking safety-sensitive positions.

As the employer, you must:

- Obtain the applicant's written consent for release of information. A sample form is provided in Appendix C.
- Submit the applicant's written consent along with a request for information to each DOT-regulated employer who has employed the applicant during any period within the previous two years. The following information must be requested:
 - Alcohol tests with a result of 0.04 or higher alcohol concentration
 - Verified positive drug tests
 - Refusals to test (including verified adulterated or substituted drug test results)
 - Other violations of DOT agency drug and alcohol regulations
- Maintain a confidential written record of the information you obtain or of the good faith efforts you made to obtain the information. A good faith effort is demonstrated by making follow-up telephone calls or sending a reminder notice.
- Ask the applicant if he/she has failed or refused a DOT **pre-employment** test in the previous two years. (See Pre-Employment Notification and Acknowledgment form in Appendix C.)
 - If yes, the applicant must provide documentation of successful completion of an SAP evaluation and prescribed treatment plan.

If the applicant has violated a DOT drug or alcohol regulation, you must obtain documentation of successful completion of the DOT return-to-duty process.

If you are requested to provide information regarding a previous employee and the employee has provided written consent, you are required to provide the requested information. The information must be released in a confidential manner, and you must maintain a written record of the information released.

Random Testing (§655.45)

Random testing serves as a robust deterrent against the use of prohibited drugs and the misuse of alcohol. Random testing can also identify employees who may have substance abuse issues but have been able to avoid detection.

Minimum Annual Testing Rates

Testing rates describe the **number of tests**, not the number of individuals tested. Some employees may be tested multiple times throughout the year, and others are not tested at all. The minimum annual random testing rates are:

- **50%** of the number of covered employees for drugs
- **10%** of the number of covered employees for alcohol

Minimum testing rates are 50% and 10%. You may test at a higher rate.

Minimum testing rates are subject to change, according to §655.45(b)–(d). See the *Federal Register* for current rates. Rates are also noted in the *FTA Drug and Alcohol Regulation Updates* newsletter.

Consortium Members

If the employer is part of a consortium, the annual rate may be calculated for each individual consortium organization member or for the total number of safety-sensitive employees within the consortium. (See Section 15, Consortia and Third-Party Administrators.)

Multimodal Employers

If an employer is required to conduct random drug and alcohol testing under the authority of more than one DOT agency, the employer may:

- Establish separate random selection pools, with each pool containing the covered employees who are subject to testing at the same rate. If a covered employee is subject to testing under more than one DOT agency, the employee must be subject to random testing at the rate established by the DOT agency regulating more than 50% of the employee's function, **OR**
- Combine all covered employees into a single random pool and conduct random selections for testing at the highest applicable minimum percentage rate.

Calculation of Number of Random Tests

The following method can be used to determine the number of tests to be conducted each year:

- Determine how frequently random selections are made (e.g., daily, weekly, monthly, quarterly). Random selections must be performed at least quarterly. The following table shows suggested frequencies of random selections based on the average number of safety-sensitive employees per year.

Number of Safety-Sensitive Employees	Suggested Frequencies of Random Selections
1–200	Quarterly
201–1000	Monthly
1001–5000	Weekly
>5000	Daily

- The number of tests per testing period should be calculated as follows:
 - a. Multiply the number of safety-sensitive employees in the pool at the beginning of the testing period by the required testing rate (e.g., 50% for drug, 10% for alcohol).
 - b. Divide the result by the number of testing periods in the year (quarterly = 4, monthly = 12, weekly = 52, daily = 365). In many cases, the result will not be a whole number; round up to ensure enough tests are conducted.

This method is demonstrated in the following table:

Testing Period	Safety-Sensitive Employees in Testing Period (A)	# of Testing Periods (B)	# of Drug Tests Required (A × 50%)/B	# of Alcohol Tests Required (A × 10%)/B
Quarter 1	120	4	15	3
Quarter 2	144	4	18	4
Quarter 3	160	4	20	4
Quarter 4	152	4	19	4
<i>Total Year</i>			72	15

Since only completed tests can be used to meet the random testing rate, once the number of tests per testing period has been calculated, the number should be adjusted to allow for canceled tests.

Random Testing Pool Management

A scientifically-valid method (e.g., random number table, computer-based random number generator) must be used for random selections.

- Each employee must have an equal chance of being tested each time selections are made.
- The random testing pool must be updated prior to each draw to ensure all applicable employees are included.
- Only DOT employees can be included. If the employer conducts non-DOT random testing, those selections must be made from a separate pool, and the employees must be tested under the employer's authority.

Random Selection Lists

To ensure the random testing process is not compromised, access to random testing lists should be limited. The selection lists must be transmitted by secure means (if generated outside the organization) and maintained in a secure, locked cabinet or on a password-protected computer.

If the DAPM is in the random testing pool, a procedure must be in place to ensure that random testing is immediate upon notification, if the DAPM is selected. Typically, this is done in one of two ways:

- DAPM receives selection list and, upon review of his/her name, proceeds immediately to testing site; or
- Person responsible for making selections forwards information to a supervisor who will notify the DAPM and require the DAPM to proceed immediately to the testing site.

Scheduling Random Testing

Random testing must be **unannounced** and **unpredictable**. Testing must be reasonably spread throughout:

- All times of the day when safety-sensitive functions are performed (e.g., beginning, middle, and end of an employee's shift)
- All days of the week when safety-sensitive functions are performed (including weekends and holidays)
- All weeks of the month, and months of the year

If a Third-Party Administrator provides the selection lists to you, they must be provided consistently and timely to ensure your ability to complete and reasonably spread random testing is not hindered.

This ensures that employees will have a reasonable expectation that they might be called for a random test on any day and at any time they are at work.

Random testing can occur:

- For drugs – anytime a covered employee is on duty
- For alcohol – just before, during, or just after the performance of safety-sensitive functions

An employee who is notified of selection for random drug or alcohol testing must proceed to the test site immediately. The employer must ensure the employee arrives at the collection site in a timely manner.

Best Practice

Have a method in place to document the employee's arrival time at the collection site.

Excusals from Random Testing

In the rare event a selected employee cannot be tested during the entire testing period, the employer must document the reason for not testing. There must be a legitimate reason for excusing the employee from testing (e.g., long-term medical leave).

"Operational difficulties" is not a valid reason for excusal from random testing.

Reasonable Suspicion Testing (§655.43)

A safety-sensitive employee must submit to a test when the employer has reasonable suspicion to believe the employee has used a prohibited drug or misused alcohol.

The reasonable suspicion determination must be based on:

- Specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odor of the covered employee

And **not** on:

- Hunches or "gut feelings"
- Complaints by other employees or passengers (in this situation, the supervisor must investigate the claims and make the reasonable suspicion determination based on their own observations, not hearsay).

A supervisor/company official authorized to make a reasonable suspicion determination must be trained in the physical signs and symptoms associated with substance abuse. (This training is described in greater detail in Section 4, Education and Training.)

Any signs/symptoms must be actually observed in a face-to-face evaluation by the trained supervisor/company official, and then documented. A sample Reasonable Suspicion Determination Report form can be found in Appendix C. Only one trained person is required to make a reasonable suspicion determination.

A reasonable suspicion test can be conducted:

- For drugs – anytime a covered employee is on duty
- For alcohol – just before, during, or just after the performance of safety-sensitive functions (the observations must be made just before, during, or just after the performance of safety-sensitive functions)

If a reasonable suspicion alcohol test is not conducted within 2 hours following the observations that led to the determination, the reason for the delay must be documented. After 8 hours following the observations, cease attempts to administer the test and document the reason the test was not conducted.

Post-Accident Testing (§655.44)

Testing Criteria

An accident is defined as an occurrence associated with the operation of a vehicle in which one or more of the following occur:

- An individual dies
- An individual suffers bodily injury and immediately receives medical treatment away from the scene (transported by any means)
- One or more vehicles (including non-FTA funded vehicles) incurs disabling damage and must be towed away from the scene.
 - Disabling damage includes:
 - Damage that prevents any vehicle from leaving the scene in its usual manner in daylight hours after simple repairs
 - Damage to vehicles that could be operated, but doing so would cause further damage
 - Disabling damage excludes:
 - Damage that can be remedied temporarily at the scene without special tools or parts
 - Tire disablement without other damage (even if no spare tire is available)
 - Damage to headlights, taillights, turn signals, horn, windshield wipers, or mirrors, etc.
- If the vehicle is a rail car, trolley car or trolley bus, or vessel, and is removed from operation.

Who to Test

In a fatal accident:

- Each surviving covered employee operating the vehicle at the time of the accident
- Any other covered employee whose performance could have contributed to the accident

In a non-fatal accident:

- Each covered employee operating the vehicle at the time of the accident (unless the employee’s performance can be completely discounted as a contributing factor)
- Any other covered employee whose performance could have contributed to the accident

The decision to test/not test must be based on the employer’s determination using the best-available information at the time. “Best information available” refers to any and all information observed or learned during the **on-site** portion of an accident investigation. The decision to test or not to test must be made using this information, regardless of facts that may later emerge.

The decision not to test after an accident must be documented in detail, including the decision-making process used. A sample decision-making form is provided in Appendix C.

Time Limitations on Testing

Post-accident drug and alcohol tests must be performed as soon as possible following the accident. (Always treat injuries and cooperate with law enforcement first.)

- If an **alcohol** test is not performed within **2 hours** following the accident, document the reason for the delay.
- If an **alcohol** test is not administered within **8 hours** following the accident, cease any attempt to perform the test and document why the test was not conducted.
- If a **drug** test has not been performed within **32 hours** following the accident, cease any attempt to perform the test.

You must ensure testing services are available at all times and in all locations where safety-sensitive functions are performed. Unavailability of testing sites is not an acceptable reason for not conducting a test.

If a covered employee who is subject to post-accident testing fails to remain readily available for testing, it may be deemed by the employer as a refusal to test.

Acceptance of Other Test Results

If the employer can obtain the results of a blood, urine, or breath test conducted by federal, State, or local officials having independent authority to test, provided the test conforms to the applicable federal, State, or local testing requirements, the test is considered to meet the requirements of Part 655. However, such test results may only be used when the employer is **unable** to perform a post-accident test within the required time limits.

Prohibited Alcohol Use Following an Accident (§655.34)

Any covered employee required to take a post-accident test is prohibited from using alcohol for 8 hours following the accident or until they undergo a post-accident test, whichever occurs first.

Recommended Training for Post-Accident Decisionmakers

Although not required by FTA regulations, it is a good idea to provide training to those who perform accident investigations and make the decision on whether or not an FTA test must be conducted. At a minimum, this training should include:

- FTA testing criteria
- Proper completion of the decision-making form (if applicable)
- Time limitations for testing
- Where to send employee for testing (including after-hours procedures, if applicable)

Return-to-Duty Testing (§655.46)

When a covered employee refuses to submit to a test or has a verified positive drug test result and/or a confirmed alcohol test result of 0.04 or greater, the employer must follow the procedures outlined in 49 CFR Part 40, subpart O.

It is at each individual employer's discretion as to whether or not it will adopt a "zero-tolerance" or "second-chance" policy. The employer's drug and alcohol policy should be clear on whether an employee who refuses or fails a test may be permitted to return to safety-sensitive duties. In either case, the employee must be referred to a qualified SAP. (The duties of an SAP are outlined in Section 12, Substance Abuse Professional and the Return-to-Duty Process.)

Zero-Tolerance Policy

Any employee who tests positive or refuses a test is terminated.

Second-Chance Policy (§40.305)

Based on input from the SAP, the return-to-duty decision must ultimately be made by the employer.

The employer must receive from the SAP a written evaluation of the employee's readiness to return to duty and a follow-up testing plan. (§40.307)

Once the SAP has determined the employee has successfully completed the recommended education and/or treatment program and the employer has decided the employee can return to work, a return-to-duty test must be performed with a verified negative result, before the employee may return to

safety-sensitive duties. The SAP determines if the return-to-duty test will be for drugs, alcohol, or both.

All return-to-duty drug tests must be performed under **direct observation** conditions.

A canceled return-to-duty test does not count as a completed test and must be recollected.

Follow-Up Testing (§655.47)

Once allowed to return to duty, the employee must be subject to follow-up testing. The employer must follow procedures outlined in 49 CFR Part 40, subpart O.

The SAP must submit a written follow-up plan to the employer. These plans are non-negotiable—only the SAP may modify the follow-up testing plan based on new or additional information. The follow-up testing plan follows the employee through breaks in service and/or to subsequent DOT-covered employers. (As an employer, if you hire an employee who has not completed the SAP's follow-up testing plan, you must ensure it is completed.)

Based on the evaluation of the employee, the **SAP** determines (§40.307):

- Number of follow-up tests
 - Minimum of 6 tests in first year (SAP must choose a specific number)
- Duration of follow-up testing
 - Minimum 12 months (1 year) – maximum 60 months (5 years)
- Whether the follow-up tests will be for drugs, alcohol, or both.

You must not impose additional testing requirements (e.g., under company authority) that go beyond the SAP's testing plan.

The employer determines (§40.309):

- The follow-up testing schedule (day and time of tests) to achieve the SAP's requirements
 - Tests must be **unannounced and unpredictable**.

A follow-up test can be conducted:

- For **drugs** – anytime a covered employee is on duty
- For **alcohol** – just before, during, or just after the performance of safety-sensitive functions

A canceled follow-up test does not count as a completed test and must be recollected.

All follow-up drug tests must be conducted under **direct observation** conditions.

Follow-up Testing and the Random Pool

Follow-up testing is separate from and in addition to the regular random testing program. An employee subject to follow-up testing must also remain in the random testing pool and must be tested whenever his/her name is selected for random testing—even if this means being tested twice in the same day, week, or month.

Random tests **must not** be used as a substitute for follow-up testing.

Non-DOT/“Company Authority” Testing

Employers may conduct non-DOT tests under their own authority, where they can test for any drugs, or under circumstances not required by Part 655. However, the following restrictions apply:

- Non-DOT testing must be totally separate from DOT testing.
- DOT tests must **always** be conducted and completed first (a separate void must be collected for a subsequent non-DOT test).
- Non-Federal and non-DOT forms must be used.
- The policy must be clear about which requirements are under DOT authority and which are under company authority.
- DOT test records must be kept separated from non-DOT test records.
- Non-DOT testing beyond the SAP’s follow-up testing plan is prohibited.

Drug Testing Procedures – Urine Specimen Collection

Collection Site Personnel (§40.33)

DOT drug tests are conducted using urine specimens only. To act as a collector in the DOT drug testing program, you must meet the following training requirements:

- Basic Information
 - Knowledgeable about 49 CFR Part 40 regulations
 - Knowledgeable about DOT Urine Specimen Collection Guidelines
 - Knowledgeable about applicable DOT agency regulations (e.g., FTA)
 - Subscribe to the ODAPC list-serve
- Qualification Training
 - All collection steps and proper completion and transmission of the Custody and Control Form (CCF)
 - Problem collections (e.g., shy bladder, adulterated specimen)
 - Fatal flaws, correctable flaws, and corrections
 - Collector responsibility for maintaining the integrity of the collection process
- Initial proficiency demonstration
 - Five consecutive error-free mock collections
 - Two uneventful scenarios
 - One insufficient quantity of urine scenario
 - One temperature out-of-range scenario
 - One scenario where the employee refuses to sign the CCF and initial specimen bottle tamper-evident seal
 - Mock collections must be monitored and evaluated by a qualified collector who has:
 - Regularly conducted DOT drug test collections for at least a year OR
 - Conducted collector training for at least one year OR
 - Successfully completed a “train-the-trainer” course
- Refresher Training
 - Qualification training and proficiency demonstration must occur every 5 years

- Error Correction training – if you make a mistake in the collection process that causes a test to be canceled:
 - Must occur within 30 days of the date you are notified of the error
 - Three consecutive error-free mock collections
 - One uneventful scenario
 - Two scenarios related to the area(s) in which the error occurred
 - Must be monitored and evaluated by a qualified collector who meets the requirements of §40.33(c)(2)
- Documentation
 - You must maintain collector qualification documentation and provide it upon request to DOT agency representatives and to employers and consortia or third-party administrators (C/TPAs) who are using or negotiating use of your services

Requirements for a Collection Site (§40.41)

All urine specimens must be collected at an appropriate collection site. The collection site may be in a medical facility, a mobile facility (e.g., a van), a dedicated collection facility, or any other facility that meets the requirements below. The regulations require that the collection site provide all personnel, materials, equipment, facilities, and storage space necessary to conduct the test consistent with 49 CFR Part 40, subpart D. At a minimum, this includes:

- Privacy enclosure for urination
 - A single toilet room with a full-length door is preferred.
 - If a multi-stall restroom facility is used, it must provide substantial visual privacy, such as a partial-length door. You also must either:
 - Secure all sources of water and place bluing agent in all toilets/secure the toilets to prevent access, OR
 - Perform all collections as monitored collections (See §40.69 for procedures)
- A suitable clean writing surface
- Water source for hand washing, preferably outside the privacy enclosure
 - All other water sources in the privacy enclosure must be turned off or secured
- Restricted access during collection

Responsibility for Maintaining Security and Integrity of the Collection Process (§40.43)

To deter donors from tampering with their specimens, the urine collector must perform the following tasks prior to each and every collection; these should also be rechecked following the collection to ensure the site's continued integrity:

- Secure water sources by turning off water or taping handles to prevent opening faucets.
- Ensure that the water in the toilet is blue.
- Remove all soap, disinfectants, cleaning agents, or other possible adulterants.
- Inspect the site to ensure no foreign or unauthorized substances are present.
- Secure the toilet tank or put bluing agent in the tank.
- Secure areas that can be used to conceal contaminants (trash receptacles, paper towel holders, drop-ceiling tiles, ledges, etc.).
- Ensure that undetected access (e.g. through a door out of the collector's view) is not possible.

Collectors may conduct only one test at a time (unless the donor is in an extended wait time associated with the “shy bladder” procedure described later in this section). The collector must, to the greatest extent possible, keep the donor's specimen within full view of both the collector and the donor until the specimen is sealed. Only the collector and the donor are allowed to handle the specimen before it is sealed. The collector must remain at the collection site and be in personal control of the specimen and CCF throughout the collection process.

For more information, see the DOT's “10 Steps to Collection Site Security and Integrity” video at <http://www.transportation.gov/odapc/collectors>.

Drug Testing Supplies (49 CFR Part 40, Appendix A)

The following supplies, usually provided by the contracted laboratory, must be used for each DOT collection:

- Federal Drug Testing CCF – This five-part carbonless manifold form can be viewed on the ODAPC website at <http://www.transportation.gov/odapc/documents>. The form must include the names, addresses, telephone numbers, and fax numbers of the employer and the MRO. The MRO information must include a specific physician's name and physical address (as opposed to a

Use of a non-federal CCF by mistake is a correctable flaw using the corrective actions prescribed in §40.205(b).

generic clinic or company name). An employer may use a Consortium or Third-Party Administrator (C/TPA) address in place of its own, but the name, telephone number, and fax number of the employer must be used.

In certain circumstances, the electronic version of this form (eCCF) may be used in place of the paper form. For more information, visit <http://www.transportation.gov/odapc>.

The federal CCF cannot be used for non-DOT urine collections. Furthermore, non-federal CCFs cannot be used for DOT urine collections.

- Collection container – Single-use plastic container large enough to easily catch and hold at least 55 mL of urine. The cup must have:
 - Graduated volume markings clearly noting levels of 45 mL and above
 - A temperature strip attached providing temperature readings between 90°F - 100°F
 - A visible tamper-evident system such as a peelable, sealed lid, or be individually wrapped
- Plastic specimen bottles – Large enough to hold at least 35 mL of urine and:
 - Must have screw-on or snap-on caps that prevent seepage of urine during shipment
 - Must have clear markings indicating 30 mL for the primary specimen and 15 mL for the split specimen
 - Must be designed so the required tamper-evident bottle seals fit with no damage to the seal when applied or initialed
 - Must be wrapped in a sealed plastic bag or shrink wrapping separate from the collection container or be packaged by some other visible tamper-evident system
 - Must be made of leach-resistant plastic material
- Leak-resistant plastic bag – Must have two sealable compartments or pouches, one large enough to hold two specimen bottles, and the other large enough to hold the CCF. Once sealed, the bag must be tamper-evident.
- Absorbent material – Each collection kit must contain enough absorbent material to absorb the entire contents of both specimen bottles. The material must fit inside the plastic bag pouch that holds the specimen bottles.
- Shipping container – Must be designed to adequately protect the specimen bottles from damage during transport to the laboratory. The shipping container is not part of the actual collection kit sent to collection sites. This container is not necessary if the laboratory courier hand-delivers the specimen bottles from the collection site to the laboratory.

Collection Process (§40.61–§40.73)

Specimen collection is the most critical aspect of the drug testing program; thus, it is vital for collection site personnel to strictly follow the DOT Guidelines for Urine Specimen Collection, which can be found at <http://www.transportation.gov/odapc/collectors>.

An overview of the key steps of the collection process is as follows.

Prior to the Collection

1. When a specific time for an employee's test has been scheduled and the employee does not appear at the collection site at the scheduled time, notify the DER of late arrival. Unreasonable delay may be considered a test refusal.
2. Begin the testing process without undue delay. Do not wait if the employee indicates he/she is not ready to urinate or is waiting for a union representative.
3. In the event that both DOT drug and alcohol tests are required, the alcohol test should be conducted first.
4. Verify the employee's identity with a photo ID. The photo ID need not be a driver's license (e.g., a photo employer ID is acceptable). If a photo ID is not available, the DER or employee's supervisor (but not a coworker) can verify the employee's identity.
5. Explain the collection procedure, showing the employee the instructions on the back of the CCF.
6. Direct the employee to remove his/her outer garments (e.g., jacket, coat, hat) and to leave personal belongings such as purses and briefcases with the outer garments. The employee is allowed to keep his/her wallet.
7. Direct the employee to empty his/her pockets and display the items to ensure that no items could be used to adulterate the specimen.
8. Instruct the employee to not list medications he/she currently is taking on the CCF. The employee may make notes of medications on the back of his/her own copy (Copy 5) for convenience.

Before the Employee Provides the Specimen

1. Complete Step 1 on the CCF.
2. Instruct the employee to wash his/her hands under your observation.
3. Select, or have the employee select, a wrapped specimen cup and unwrap in the presence of both.
4. Direct the employee to the privacy enclosure, taking only the collection cup. Instruct the employee to provide at least 45 mL of urine, to not flush the toilet, and to return as soon as possible. You may set a reasonable time limit for voiding.

5. Pay careful attention to the employee and note any conduct indicating an attempt to tamper with the specimen.

When the Employee Presents the Specimen

1. Check for:
 - Sufficiency of specimen – at least 45 mL
 - Temperature of specimen (within 4 minutes after employee presents specimen) – between 90°F and 100°F
 - Signs of tampering (e.g., unusual color or odor, presence of foreign objects)

Preparing the Specimen (completed in the presence of the donor)

1. Complete Step 2 on the CCF, indicating that this was a split specimen collection. All DOT urine collections must be split specimen collections.
2. Split the specimen from the collection container into the two bottles, with at least 30 mL in the primary and at least 15 mL in the split.
3. Secure the bottle caps and place the tamper-evident seals over the caps and down the sides of the bottles.
4. Date the specimen bottle seals.
5. Have the donor initial the bottle seals.
6. Discard any remaining urine. If the employer tests for drugs other than those specified by FTA regulation, a completely separate urine collection with its own non-federal CCF is required.

Completing the Collection (completed in the presence of the donor)

1. Direct the employee to read and sign the certification statement on Copy 2 (Step 5) of the CCF.
2. Turn back to Copy 1 of the CCF and complete Step 4.
3. Ensure that all copies of the CCF are legible and complete.
4. Place the specimen bottles and Copy 1 of the CCF in the appropriate pouches of the plastic bag, and secure the pouches.
5. Give the employee Copy 5 of the CCF. The employee may now leave the collection facility.

Distribution of the CCF

- **Copy 1: Test Facility (Laboratory)** – Shipped with the specimen. The specimen must be shipped as quickly as possible, but at least within 24 hours or during the next business day.

- **Copy 2: Medical Review Officer** – Usually faxed or scanned. Copy 2 must be transmitted to the MRO within 24 hours or during the next business day.
- **Copy 3: Collection Site** – Filed. Copy 3 must be maintained by the collection site for at least 30 days.
- **Copy 4: Employer** – Scanned, faxed, and/or mailed. Copy 4 must be transmitted to the DER within 24 hours or during the next business day.
- **Copy 5: Donor** – Given to the employee at the completion of the collection.

Problems in the Collection Process

Directly Observed Collection (§40.67)

Procedures for collecting urine must allow for individual privacy unless there is a reason to believe an individual may alter or substitute the specimen to be provided. In the following circumstances, a directly observed collection is required:

- Test is a return-to-duty or follow-up test
- Collector observes materials brought to the collection site or employee conduct indicating an attempt to tamper with the specimen.
- Urine specimen appears to have been tampered with or has a temperature out of range
- Previous specimen is invalid (as reported by the laboratory) with no medical explanation
- Split specimen is unavailable to confirm a positive, adulterated, or substituted result
- Initial test was negative-dilute with a creatinine concentration of 2–5 mg/dL

The observer must be the same gender as the donor, but he/she does not have to be the collector or even a qualified collector or collection site employee. If the observer is not the collector, the collector must note the name of the observer in the Remarks section of the CCF, along with the reason for the observation.

The following procedures must be followed for all directly observed collections:

1. Employer or collector must explain to the employee the reason for the direct observation.
2. Collector must complete a new CCF.
3. Observer must request the employee to raise his/her shirt above the waist, lower clothing and underwear, and turn around to show that they do not have a prosthetic device.
4. Observer must watch the urine go from the donor's body into to the collection container.

Insufficient Volume (§40.193)

If an employee is unable to provide 45 mL of urine, the collector must follow the insufficient volume or “shy bladder” procedures:

1. Discard the original specimen unless the temperature is out of range or shows evidence of adulteration or tampering. (In this case, complete the collection process with the insufficient specimen, then initiate a new collection under direct observation, and send both specimens to the laboratory.)
2. Instruct the employee that he/she has up to 3 hours to provide another specimen with sufficient volume. The 3-hour period begins when the insufficient quantity or empty cup is presented to the collector.
3. Urge the employee to drink up to 40 ounces of fluid, distributed reasonably throughout the 3 hour period or until a sufficient specimen is provided, whichever comes first. The employee’s refusal to drink is not considered a test refusal.
4. If 3 hours pass without a sufficient specimen, discontinue testing and notify the DER. Discard any specimen the employee previously provided. (This includes any specimen that was out of temperature range or showed signs of tampering. In this case, the collector must make a note in the remarks section.)
 - The employee will then have 5 days to undergo an evaluation by a licensed physician—acceptable to the MRO—to determine if there is a legitimate medical explanation.
 - If no acceptable medical explanation is found, the MRO will determine that the employee has refused to test.
 - If an acceptable medical explanation exists, the MRO will cancel the test.

Employer Responsibilities – Oversight

Mock Collections

Although not required, having your collectors conduct mock collections for you enables you to determine if the collector properly completes the collection steps, maintains integrity and security at the collection site, and correctly completes the custody and control form. The DOT “Mock Collection” instructional video is intended to provide insight and specific information that can be used to review your collection site and the typical collection procedures required. The video can be viewed at <http://www.transportation.gov/odapc/collectors>.

In addition, the Urine Collection Site Review Checklist in Appendix B provides a guide for reviewing your collection site.

Custody and Control Form (CCF) Review

After a drug test has been completed, you should receive the Employer Copy (Copy 4) of the CCF. One way to oversee collection sites is to review incoming CCFs to ensure that they are accurate, legible, and complete. A brief review will identify problem areas needing correction and will help you avoid future problems and compromised tests.

The following items should be reviewed on the CCF:

- Does the form read “Federal Drug Testing Custody and Control Form” at the top?
- In Step 1:
 - Are the correct employer name and address listed? (The employer’s name must be listed here, not the C/TPA.)
 - Are the correct MRO name, address, phone, and fax number listed?
 - Is the correct employee ID number or SSN listed?
 - Is the “FTA” box marked?
 - Is the reason for the test marked correctly?
 - Is the box indicating that this is a five-panel test marked?
 - Are the collection site address indicating the location where the test was actually performed and the site’s telephone numbers completed accurately?
- In Step 2:
 - Is the temperature between 90° and 100°F marked (“Yes” or “No, Enter Remark”)?
 - Is the “Split” collection box marked?
 - If it was an observed collection, is the “Observed” box marked? (This box should not be marked if an observed collection was not performed.)
 - Is there an appropriate comment included in the Remarks section? The most common needs for remarks include temperature out of range, insufficient volume, adulteration, and employee refuses to sign.
- In Step 3:
 - Although no information is provided in Step 3 of the form, look at the bottom of the CCF in the Step 7 portion of the Employer’s copy for a faint shadow, imprint, or traces of carbon ink of a date or the employee’s initials.
 - During the collection process, the collector dates and the employee initials the bottle seals after they have been affixed to the bottles. Carbon shadows in Step 7 indicate the date and/or initials were written on the bottle seals before they were affixed to the bottles. **This practice is unacceptable.**

- In Step 4:
 - Has the collector printed his/her name and signed?
 - Are the time and date correct? Make sure the appropriate AM or PM time is indicated. (If an alcohol test also was performed, compare the time on the ATF with the time on the CCF to make sure the alcohol test was completed first.)
 - Is the delivery service name clearly identified in the “Specimen Bottles Released To” box?
- In Step 5:
 - Are the employee’s name, telephone number(s), and date of birth provided?
 - Is the date provided?
 - Did the employee sign the form? If not, is this documented in the Remarks section of Step 2?

This CCF Review Checklist is also provided in Appendix B.

Issues you find with the collection or the manner in which the CCF was completed should be brought to the attention of the collector immediately and, if necessary, corrective action taken as soon as possible.

The only uncorrectable flaw in regards to the CCF that would result in a canceled test is if the collector fails to print his or her name **and** fails to sign the form in Step 4. All other errors in need of correction are correctable with a signed affidavit from the collector. (For a list of correctable flaws, see Section 9: Drug Testing Procedures - Problems in the Drug Testing Process.) This affidavit of correction must be provided on the same business day the collector is made aware of the error. A sample CCF Affidavit of Correction form is provided in Appendix C.

Drug Testing Procedures – Drug Testing Laboratories

Drug testing laboratories receive urine specimens and test them to determine the presence of drugs. They also conduct validity testing to determine if the specimen has been adulterated or substituted. Only laboratories certified by the US Department of Health and Human Services (HHS) under the National Laboratory Certification Program (NLCP) are permitted to analyze DOT urine specimens. A current list of certified laboratories can be found at <http://www.transportation.gov/odapc/labs>.

All laboratories must comply with 49 CFR Part 40 and US HHS requirements.

Specimen Inspection (§40.83)

Upon receipt, the laboratory must inspect each DOT specimen and its accompanying CCF for fatal and correctable flaws. (See list of flaws in Section 9, Problems in the Drug Testing Process.) If no fatal flaws exist, but correctable flaws are found, the laboratory must document the flaw and take corrective action as defined in §40.205.

Validity Testing (§40.89–§40.96)

Specimen validity testing is the evaluation of the specimen to determine if it is consistent with normal human urine. The purpose of specimen validity testing is to determine if certain adulterants or foreign substances were added to the urine, if the urine was diluted, or if the specimen was substituted.

When conducting validity testing, each primary specimen must be tested for creatinine, pH, and the presence of adulterants. If the creatinine concentration is less than 20 mg/dL, the specific gravity of the specimen must also be measured.

Adulterated Specimen

- A substance is present that is not expected in human urine.
- A substance is present at concentrations not consistent with human urine.

Dilute Specimen

- Creatinine and specific gravity values are lower than expected for human urine:
 - Creatinine concentration is ≥ 2 mg/dL but < 20 mg/dL
 - Specific gravity is > 1.0010 and < 1.0030

Substituted Specimen

- Creatinine and specific gravity values are so diminished or divergent that they are not consistent with human urine:
 - Creatinine concentration is < 2 mg/dL
 - Specific gravity is ≤ 1.0010 , or ≥ 1.0200

Invalid Specimen

- In accordance with the criteria described in the HHS Mandatory Guidelines, a positive, negative, adulterated, or substituted result cannot be established.

Drug and Drug Metabolite Testing (§40.85)

For a DOT drug test, the laboratory must test for the following five drugs or their metabolites:

- Marijuana metabolites
- Cocaine metabolites
- Amphetamines
 - Amphetamine
 - Methamphetamine
 - MDMA
 - MDA
- Opioids
 - Codeine
 - Morphine
 - Hydrocodone
 - Hydromorphone
 - Oxycodone
 - Oxymorphone
 - 6-Acetylmorphine (6-AM)
- Phencyclidine (PCP)

You cannot test for any other drugs using a urine specimen collected for a DOT test.

For forensic as well as scientific acceptability, laboratories are required to perform initial and confirmatory tests using separate aliquots of a specimen to support a positive, adulterated, or substituted result. The initial test, which may be an immunoassay test or an alternate technology (e.g., spectrometry, spectroscopy), is used to differentiate a negative specimen from one that requires further testing for

drugs or drug metabolites. If any prohibited drug or its metabolite registers at or above the cutoff level on the initial test, an aliquot of the same urine specimen must be analyzed using a technique called mass spectrometric identification (e.g., gas chromatography/mass spectrometry, liquid chromatography/mass spectrometry, or equivalent). On this confirmation test, any result at or above the cutoff concentration must be reported as positive.

The current cutoff concentrations for both the initial test and the confirmatory test are found in §40.87.

Test Results (§40.97)

The laboratory may report test results only to the designated MRO and not to or through the DER or a C/TPA. The test results will fall into one of three categories:

- Category 1: Negative Results
 - Negative
 - Negative dilute (with numerical values for creatinine and specific gravity)
- Category 2: Non-Negative Results
 - Positive (with drugs/metabolites noted)
 - Positive dilute (drugs/metabolites noted with numerical values for creatinine and specific gravity)
 - Adulterated (adulterant and confirmatory test values noted and remarks)
 - Substituted (with confirmatory test values for creatinine and specific gravity)
 - Invalid (with remarks and actual values for pH results)
- Category 3: Rejected for Testing (with remarks)

The actual result must be reported (not the category) and must be transmitted confidentially to the MRO in a timely manner (preferably the same day the test result is reviewed by the laboratory's certifying scientist).

Split Specimen Testing (§40.175 – §40.187)

In the event of a verified positive test of the primary specimen or a verified adulterated or substituted result, the donor can request to have the split specimen tested at a second laboratory. The split specimen test is an independent way to determine if the primary test results were accurate.

If the primary specimen is positive, adulterated, or substituted, the laboratory must provide secure, frozen storage for the split specimen for a period of one year. If directed by the MRO, the primary laboratory must forward the split specimen to a different HHS-approved laboratory.

At the second laboratory:

- If the primary test was positive, the specimen must be tested for the presence of the drug(s) or drug metabolite, independent of the cutoff levels.
 - If found, the primary test will be confirmed positive.
 - If not found, and there is no evidence of adulteration/substitution, the primary test will be canceled by the MRO and failure to reconfirm will be reported to ODAPC.
- If the primary test was adulterated or substituted, the specimen will be tested in the same manner as the primary to confirm substitution or adulteration.
 - If found, the primary test result will be confirmed.
 - If not found, the test will be canceled by the MRO and failure to reconfirm will be reported to ODAPC.

If the split specimen is unavailable for testing, the primary test will be canceled, and the employee must be retested under direct observation.

Semi-Annual Statistical Summaries (§40.111)

If the employer has at least five aggregate test results, the laboratory must provide statistical summaries that include the information listed in Appendix B to Part 40, broken out by individual employer, including the number of specimen results reported:

- By test reason
- As negative
- As rejected for testing, by reason
- As positive, by drug
- As adulterated, substituted, and invalid

The statistical summaries must be sent by January 20 for July–December data of the previous year and by July 20 for January–June data of the current year.

Compare the statistical summaries from the laboratory with your own statistical reports, billing records from the collectors and MROs, and CCFs and results reports you receive. Any discrepancies should be addressed with the appropriate parties. Note that laboratory positives may be deemed negative by the MRO upon verification.

Drug Testing Procedures – Medical Review Officer (MRO) and Verification Process

FTA regulations require all drug testing laboratory results be reviewed by a qualified MRO to verify and validate test results.

MRO Qualifications (§40.121)

To act as an MRO in the FTA drug testing program, you must meet the following training requirements:

- Credentials
 - Licensed physician (Doctor of Medicine or Osteopathy)
- Basic Information
 - Knowledge of and clinical experience in controlled substance abuse disorders
 - Detailed knowledge of alternative medical explanations for laboratory drug test results
 - Knowledgeable about issues relating to adulterated and substituted specimens
 - Knowledge of medical causes for invalid test results
 - Knowledgeable about 49 CFR Part 40 regulations
 - Knowledgeable about DOT MRO guidelines
 - Knowledgeable about applicable DOT agency regulations (e.g., FTA)
- Qualification Training
 - Urine specimen collection procedures
 - Chain of custody, reporting, and recordkeeping
 - Interpretation of drug and validity test results
 - Role and responsibility of the MRO
 - Interaction with DERs, SAPs, etc.
 - 49 CFR Part 40 regulations
 - Applicable DOT agency regulations (e.g., FTA)
 - Changes and updates in rules, guidance, and interpretations that affect MRO functions

- Issues that MROs confront in carrying out their duties under Part 40 and DOT agency rules
- Examination
 - Administered by a nationally-recognized MRO certification board
 - Comprehensively cover all elements of qualification training
- Continuing Education
 - Comprehensive retraining and requalification exam every 5 years
- Documentation
 - You must maintain qualification documentation and provide it upon request to DOT agency representatives and to employers and C/TPAs using or negotiating use of your services

Functions of the MRO (§40.127–§40.129)

An MRO is to serve as an independent, impartial “gatekeeper” responsible for the accuracy and integrity of the drug testing process. As such, the MRO is required to perform the following functions:

- Receive the results of the drug tests from the lab.
- Review Copy 1 (Laboratory copy) and Copy 2 (MRO copy) of the CCF to ensure that they are legible and accurate, and check for fatal and correctable flaws.
- Provide feedback, as appropriate, to the DER and service agents regarding performance issues.
- Report to and consult with ODAPC or a DOT agency to resolve program issues.
- Determine whether there is a legitimate medical explanation for confirmed positive, adulterated, substituted, and invalid test results from the laboratory.

See the MRO Process Flow Chart that follows for a visual depiction of the MRO process once laboratory results are received.

Reviewing Negative Test Results

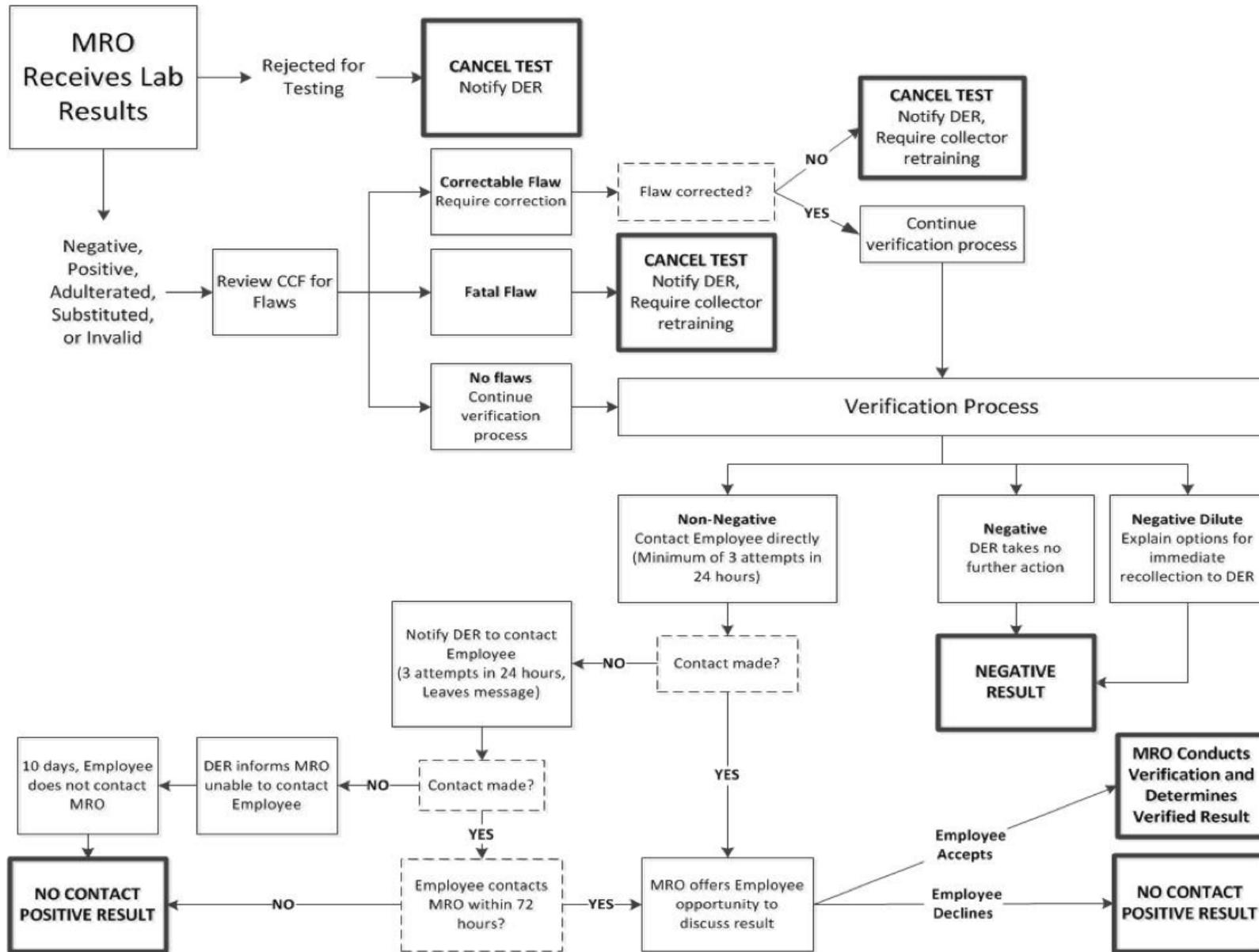
- MRO assistants may process negative test results.
 - MRO must personally review at least 5% of negative tests quarterly (up to 500 tests per quarter).
- Report negative results to the DER in a confidential manner.

Reviewing Non-Negative Results

- MRO verification interview with the employee must be made by telephone or in person.

- Must inform the employee of the test results
- Must explain the verification process and potential need for further medical evaluation
- Review and interpret an individual's confirmed non-negative test by:
 - Affording the individual an opportunity to discuss the test result
 - Reviewing any medical records and biomedical information provided
 - Verifying the authenticity of all medical records the employee provides
- Verify the test result as either negative, positive, test canceled, or test refused.
 - Confirm a positive test result for marijuana, cocaine, amphetamines, semi-synthetic opioids and/or PCP unless the employee presents a legitimate medical explanation for the presence of the drug in his/her system.
 - If positive for opiates, MRO must review to determine if 6-AM was present.
 - If 6-AM is present, verify as positive.
 - If no presence of 6-AM, but codeine or morphine levels are 15,000 ng/mL or above, verify as positive unless employee provides documentation of a legitimate medical explanation.
 - If no presence of 6-AM and codeine or morphine levels are less than 15,000 ng/mL, verify as positive only if MRO determines there is clinical evidence of illegal drug use through a face-to-face examination of the employee (either by the MRO, or a physician acceptable to the MRO).
 - If specimen is adulterated:
 - Employee must demonstrate the adulterant entered the specimen through physiological means.
 - If specimen is substituted:
 - Employee must demonstrate he/she produced or could have produced a urine specimen through physiological means that has creatinine and specific gravity levels falling within the criteria of a substitute specimen.
 - If explanation seems reasonable, employee will have up to 5 days to undergo a medical examination by a medical physician acceptable to the MRO.
- Inform the employee he/she has 72 hours from the time of the verified result to request a split specimen test.
- Report each verified test result and other relevant information to the DER confidentially and in a timely manner.

MRO Process Flow Chart



Transmission of Test Results (§40.163–§40.167)

The MRO must report all drug test results to the employer in writing as soon as possible. All verified positive test results, results requiring an immediate collection under direct observation, adulterated or substituted results, and other refusals to test must be transmitted to the DER on the same day the MRO verifies the result or the next business day. Direct telephone contact with the DER is the preferred method of immediate reporting, which then must be followed up with the appropriate documentation within two days of verification. Appropriate measures must be taken to ensure the security of the transmission and to limit access to any transmission, storage, or retrieval systems.

The MRO may use a signed or stamped and dated legible photocopy of Copy 2 of the CCF to report test results. If the MRO does not report test results using Copy 2 of the CCF, he/she must provide a written report for each test result. This report, as a minimum, must include the following information:

- Full name, as indicated on CCF, of employee tested
- Donor SSN or employee ID number
- Specimen ID number from CCF
- Reason for test, if indicated on CCF (e.g., random, post-accident)
- Date of collection
- Date MRO received Copy 2 of CCF
- Result of test (i.e., positive, negative, dilute, refusal to test, test canceled) and date result was verified by MRO
- For verified positive tests, drug(s)/metabolite(s) for which test was positive (should not include quantitative values for drugs found)
- For canceled tests, reason for cancellation
- For refusals to test, reason for refusal determination

Employer Responsibilities

If the laboratory reports a positive, adulterated, substituted, or invalid drug test to the MRO, the MRO must contact the employee to determine if there is a legitimate medical explanation for the result. The MRO may contact you, as the DER, if he/she is unable to contact the employee. You will be asked to contact the employee and urge him/her to contact the MRO. **Do not assume this means the test was positive.** If a legitimate explanation exists, the MRO will report the result to you as **negative**.

Stand Down – Prohibited (§40.21)

Without a waiver from FTA (an extensive process), you are prohibited from temporarily removing an employee from the performance of safety-sensitive functions based only on a report from a laboratory to the MRO of a confirmed positive test for a drug or drug metabolite, an adulterated test, or a substituted test, before the MRO has completed verification of the test result.

However, as a practice, you **are** permitted to remove an employee from duty while awaiting negative test results, as long as this is included in your company policy.

Employer Actions

Once notified by the MRO of a result that is verified positive, refused, adulterated, or substituted:

- Immediately remove the employee from safety-sensitive job duties; do not wait for the written report from the MRO or the test result from the split specimen (if requested).
- The employee cannot be returned to safety-sensitive duty until he/she has successfully completed the return-to-duty process (defined further in Section 12).

The following table provides a quick reference of the test results and their subsequent employer actions. For further explanation, consult the regulations in Part 40.

Summary of Test Results and Employer Actions

Test Result	Verified Result	Employer Action
Negative	Negative	No action
Negative – Dilute [40.197]	Negative	No action, or may retest (dependent on employer policy)
Temperature Out of Range [40.67]	Inconclusive	Retest under direct observation
Evidence at Collection of Specimen Tampering/Substitution/Adulteration [40.67]	Inconclusive	Retest under direct observation
Positive [40.23]	Positive – Rule Violation	Remove from duty, refer to SAP
Positive – Dilute [40.197]	Positive - Rule Violation	Remove from duty, refer to SAP
Refusal/Adulteration/Substitution [40.23, 40.191]	Test Refusal – Rule Violation	Remove from duty, refer to SAP
Insufficient Volume with Medical Explanation (Random, Reasonable Suspicion, Post–Accident) [40.193]	Canceled	No action
Insufficient Volume with Disability – No Clinical Evidence of Drug Use (Pre-employment, Return-to-duty, Follow-up) [40.195]	Negative	No action
Insufficient Volume with Disability –Evidence of Drug Use (Pre-employment, Return-to-duty, Follow-up) [40.195]	Canceled	Assignment of safety-sensitive duties prohibited
Insufficient Volume with No Medical Explanation [40.193]	Test Refusal – Rule Violation	Remove from duty, refer to SAP
Fatal Flaw/ Rejected for Testing (Random, Reasonable Suspicion, Post-Accident) [40.199]	Canceled	No action
Fatal Flaw/ Rejected for Testing (Pre-Employment, Return-to-duty, Follow-Up) [40.199]	Canceled	Retest
Invalid Result with Medical Explanation [40.159]	Canceled	No action
Invalid Result with No Medical Explanation [40.159]	Canceled	Retest under direct observation
Primary Positive – Split Fails to Reconfirm [40.187]	Canceled	MRO notifies ODAPC
Primary Adulterated/Substituted – Split Fails to Reconfirm [40.187]	Canceled	MRO notifies ODAPC
Primary Invalid – Split Fails to Reconfirm [40.187]	Canceled	Retest under direct observation
Primary Non-negative, Split Unavailable for Testing [40.187]	Canceled	Retest under direct observation
Evidence at Collection of Specimen Tampering/Substitution/Adulteration [40.67]	Inconclusive	Retest under direct observation

Drug Testing Procedures – Problems in the Drug Testing Process

Refusals to Test (§40.191)

Refusals Determined by DER

In the following cases, the collector must document the obstructive behavior and notify the DER. Upon review of this documentation, the DER must deem an employee's behavior as a "refusal to test."

- Employee fails to appear for testing (except for a pre-employment test) within a reasonable time frame.
- Employee fails to remain at the collection site until testing is complete (it is not a refusal if the employee leaves the testing site before a pre-employment test commences).
- Employee fails to provide a urine specimen.
- Employee fails to permit an observed or monitored collection when required.
- Employee fails or declines to take an additional drug test when directed by the employer or collector.
- Employee fails to cooperate with the collection process (e.g., refuses to empty pockets or wash hands when instructed, behaves in a confrontational way that disrupts the collection).
- Employee fails to follow an observer's instructions to raise and lower clothing and turn around during a directly-observed test.
- Employee possesses a prosthetic device.
- Employee admits to adulterating or substituting the specimen to the collector.

In extremely rare cases in which the DER determines there was no refusal, the reason for the determination must be documented.

Refusals Determined by MRO

The following are refusals to test, as determined by the MRO:

- Employee submits an adulterated or substituted specimen, verified by the MRO.
- Employee admits to adulterating or substituting the specimen to the MRO.

- Employee fails to undergo a medical examination or evaluation as required.
- Employee fails to provide a sufficient specimen, with no legitimate medical explanation.

Correctable and Fatal Flaws

Fatal Flaws (§40.199)

The following are “**fatal flaws**” in the drug testing process which result in a canceled test:

- No CCF.
- No specimen submitted with CCF when a specimen has been collected.
- Collector’s printed name **and** signature **both** missing on CCF.
- Two separate collections performed using one CCF.
- Specimen ID numbers on specimen bottle and CCF do not match.
- Specimen bottle seal broken or shows evidence of tampering, and split specimen cannot be re-designated as primary specimen.
- Primary specimen volume is less than 30 mL, and split specimen cannot be re-designated as primary specimen.

The MRO, in cancelling a drug test, will determine if the collector is at fault. The MRO will report this to the employer with the reason for the cancellation. The employer or service agent designated by the employer (e.g., MRO or C/TPA) is responsible for notifying the collection site of the error and retraining requirement.

When a collector is notified of a fatal flaw, they must complete error correction training (as defined in §40.33) within 30 days. The collector may continue to perform DOT collections until the training takes place.

You are responsible for ensuring that error correction training takes place.

Correctable Flaws (§40.203)

The following are “**correctable flaws**” that must be corrected using the corrective procedures described in §40.205; if not corrected, these flaws would result in a canceled test:

- Collector’s signature missing on CCF.
- Employee’s signature missing on CCF and employee’s failure/refusal to sign not noted in Remarks section.
- Certifying scientist’s signature missing on Copy I of CCF for a non-negative test result from laboratory.
- Non-federal or expired federal CCF used.

Effects of a Canceled Test (§40.207)

A canceled test is neither positive nor negative; it should be treated as though the test never occurred.

- Employer cannot attach consequences of a positive test or DOT rule violation.
- If negative test is required (pre-employment, return-to-duty, or follow-up), another test must be performed.
- Test does not count toward employer's minimum random testing requirements.
- Test does not provide valid basis to conduct a non-DOT test under company authority.

Procedural Problems – Require Correction; Do Not Result in Cancellation (§40.208)

This error must be corrected with an affidavit, but will not result in a canceled test:

- Specimen temperature on CCF not checked, no entry regarding temperature out of range in Remarks section.

Procedural Problems – Do Not Require Correction; Do Not Result in Cancellation (§40.209)

The following are errors that should be documented, but do not require formal corrective action:

- Minor administrative mistakes such as omitting employee's middle initial.
- Error that does not affect employee protections, such as failure to add bluing agent to toilet bowl.
- Collection of specimen by a collector who has not yet met training requirements.
- Delay in collection process.
- Verification of test result by an otherwise-qualified MRO who has not met training requirements.
- Failure to perform an observed or monitored collection when one is authorized or performing a directly-observed collection when not authorized.
- Use of a facility that does not meet minimum requirements.
- Omission of courier name on CCF.
- Inadvertent inclusion of personal information on CCF.
- Claims that employee was improperly selected for testing.

Although these types of errors are not sufficient to cancel a drug test result, the employer or service agent may be subject to enforcement action under FTA regulations or action under Part 40, subpart R.

SECTION
10

Alcohol Testing Procedures – Specimen Collection

Alcohol Testing Personnel (§40.213)

DOT alcohol screening tests are conducted using **either** breath or saliva. DOT confirmation tests must be conducted using Evidential Breath Testing Devices (EBTs) that analyze breath **only**.

Screening test technicians (STTs) and breath alcohol technicians (BATs) are the only people authorized to conduct DOT alcohol tests. STTs are permitted to conduct alcohol screening tests using only an approved alcohol screening device (ASD), whereas BATs can perform screening tests using an ASD or EBT and confirmation tests using an approved EBT. To be permitted to act as a STT or BAT, you must meet the following training requirements:

- Basic Information
 - Knowledgeable about 49 CFR Part 40 regulations
 - Knowledgeable about applicable DOT agency regulations (e.g., FTA)
 - Subscribe to ODAPC list-serve
- Qualification Training
 - DOT Model BAT or STT Course, or equivalent (available at <https://www.transportation.gov/odapc>)
 - All alcohol testing procedures and proper completion and transmission of Alcohol Testing Form (ATF)
 - Operation of particular alcohol testing device(s) you will be using
 - STT/BAT responsibility for maintaining integrity of testing process
 - Training must be performed by a qualified instructor who has:
 - Regularly conducted DOT alcohol tests as an STT or BAT for at least a year; OR
 - Conducted STT or BAT training for at least a year; OR
 - Successfully completed a “train the trainer” course
- Initial Proficiency Demonstration
 - BATs: Seven consecutive error-free mock collections using devices that will be used
 - STTs: Five consecutive error-free mock collections using devices that will be used

- Mock collections must be monitored and evaluated by an instructor that meets the qualifications listed above
- Refresher Training
 - Qualifications training and proficiency demonstration must occur every 5 years
- Error Correction Training – if you make a mistake in the collection process that causes a test to be canceled:
 - Must occur within 30 days of date you are notified of error
 - Three consecutive error-free mock collections:
 - One uneventful scenario
 - Two scenarios related to the area(s) in which the error occurred
 - Must be monitored and evaluated by a qualified instructor who meets the requirements of §40.213(b)(4)
- Documentation
 - You must maintain STT or BAT qualification documentation and provide it upon request to any DOT agency representatives and to employers and C/TPAs that are using or negotiating use of your services

Law enforcement officers who are certified by State or local governments to conduct breath alcohol tests on the ASD or EBT used for the test are deemed to be qualified as BATs and are not required to complete the DOT training requirements.

Requirements for a Testing Site (§40.221)

All alcohol tests must be conducted at an appropriate testing site. The testing site may be in a medical facility, a mobile facility (e.g., a van), a dedicated collection facility, or any other facility meeting the requirements below. The regulations require that the testing site provide all personnel, materials, equipment, and facilities necessary to conduct the test consistent with 49 CFR Part 40, subpart K. At minimum, this includes:

- Testing location that provides visual and aural privacy to prevent unauthorized persons from seeing or hearing test results
- Suitable clean writing surface
- Restricted access during testing process

Responsibility for Maintaining Security and Integrity of Testing Process (§40.223)

The STT/BAT is responsible for maintaining the integrity of the testing process.

- The only people authorized in the testing site are the donor, the BAT/STT and other testing site employees, DERs, union representatives, and DOT agency representatives.
 - All must be under the supervision of the BAT/STT at all times.
 - Only the STT/BAT, the employee being tested, and DOT agency representatives are authorized to actually witness the testing process.
- The STT/BAT may conduct an alcohol test for only one employee at a time. If an EBT screening test indicates an alcohol concentration of 0.02 or higher:
 - EBT may not be used to test another employee until the confirmation test has been completed.
 - BAT may not test another employee until the confirmation test has been completed.
 - BAT may not leave the testing site until the confirmation test has been completed, unless it is to contact the DER if the donor obstructs the testing process.

The operator of the testing site also must ensure that when an ASD or EBT is not being used for testing, it is stored in a secure location. When an EBT is unsecured, only BATs or other employees of the testing site should have access.

Alcohol Testing Supplies

- DOT Alcohol Testing Form (ATF) (§40.225–§40.227) – the only form to be used for a DOT alcohol test. This three-part carbonless manifold form can be viewed on the DOT website at <https://www.transportation.gov/odapc/documents>. This form cannot be used for non-DOT alcohol tests. Furthermore, non-DOT forms cannot be used for DOT alcohol tests.
- Alcohol Testing Devices (§40.229 – §40.235) – Only testing devices approved by the National Highway Traffic Safety Administration (NHTSA) and listed on ODAPC’s website can be used for DOT alcohol tests.

Use of the non-DOT form by mistake is correctable using the corrective actions prescribed in §40.271(b).

The **initial screening test** may be conducted using **either** an EBT or ASD using breath or saliva. Only ASDs listed on ODAPC’s web page for

“Approved Screening Devices to Measure Alcohol in Bodily Fluids” and EBTs listed on ODAPC’s web page for “Approved Evidential Breath Measurement Devices” may be used.

The **confirmation test** must be conducted using **only** an EBT. Only EBTs listed on ODAPC’s web page for “Approved Evidential Breath Measurement Devices” can be used for DOT confirmation tests. The EBT must be able to:

- Print each test result in triplicate or three consecutive identical copies
- Assign a unique number to each completed test, allow the BAT and the employee to read the number before each test, and print the number on each copy of the result
- Print, on each copy of the result, manufacturer’s name for device, device’s serial number, and time of test
- Distinguish alcohol from acetone at the 0.02 alcohol concentration level
- Test air blanks
- Perform external calibration checks

For each ASD or EBT used, you must have its quality assurance plan (QAP) and follow its instructions for the use and care of the device.

The testing site must maintain EBT calibration documentation for at least 5 years.

Alcohol Screening Test Process (§40.241–§40.247)

The BAT/STT plays a vital role in the success of the DOT alcohol testing program. The STT and BAT directly interact with the employee and instantaneously provide the employee with an alcohol test result. As such, the BAT and/or STT must be knowledgeable and proficient in the testing procedures. An overview of the key steps of the testing process is as follows.

Prior to the Screening Test

1. When a specific time for an employee’s test has been scheduled and the employee does not appear at the collection site at the scheduled time, notify the DER of late arrival. Unreasonable delay may be considered a test refusal.
2. Begin the testing process without undue delay. Do not wait if the employee indicates they are not ready or are waiting for a third party such as a union representative.
3. In the event both drug and alcohol tests are required, the alcohol test should be conducted first.

4. Verify the employee's identity with a photo ID. If a photo ID is not available, the employer or employee's supervisor (but not a coworker) can verify the employee's identity. The photo ID need not be a driver's license (e.g., a photo employer ID is acceptable).
5. Explain the basic collection procedure and show the employee the instructions on the back of the ATF.
6. Complete Step 1 on the ATF.
7. Direct the employee to complete Step 2 on the ATF and sign the certification. If the employee refuses to sign, document this refusal in the "Remarks" section of the ATF and immediately notify the DER. This is a refusal to test.

Screening Testing Procedures

If using an EBT or non-evidential breath ASD:

1. Select, or have the employee select, an individually wrapped or sealed mouthpiece.
2. Open the mouthpiece in the presence of the employee and insert it into the device.
3. Instruct the employee to blow forcefully into the mouthpiece for at least 6 seconds or until the device indicates a sufficient amount of breath has been obtained.
4. Show the employee the displayed test result.
5. If the device prints the test number, testing device name and serial number, time, and result directly onto the ATF, ensure that this information has printed correctly.
6. If the device provides a separate printout, ensure that the information is correct and affix the printout onto each copy of the ATF with tamper-evident tape.

If using a saliva ASD:

1. Check the expiration date on the device and show it to the employee.
2. Open the individually wrapped or sealed device package in the presence of the employee.
3. Instruct the employee to insert the device into his/her mouth until it becomes saturated with saliva.
4. If the device is activated, wait the appropriate time (defined by the manufacturer) and read the result displayed.
 - If the test is unsuccessful, one reattempt is allowed using a new device. If the reattempt is unsuccessful, the employee must take a new test immediately using an EBT.
5. Show the employee the result and enter the result on the ATF.

Completing the Screening Test

If the screening test result is **less than 0.02**:

1. Sign and date Step 3 of the ATF.
2. Give the employee Copy 2 of the ATF. The employee may now leave the testing facility (unless a urine collection is also required).
3. Confidentially transmit the results to the DER. (See §40.255.)

If the screening test result is **0.02 or greater, a confirmation test must be conducted**. The procedures for the confirmation test are outlined in the next section.

Alcohol Confirmation Testing Procedures (§40.251–§40.255)

Prior to the Confirmation Test

1. Conduct an observed waiting period of at least 15 minutes, but not more than 30 minutes, before beginning the confirmation test.
 - If more than 30 minutes elapse, the cause for the delay must be documented, but the test **remains valid**.
2. Provide waiting period instructions—tell the employee:
 - The reason for the waiting period (i.e., to prevent an accumulation of mouth alcohol from leading to an artificially high reading)
 - To not eat, drink, put anything (e.g., cigarette or chewing gum) in his/her mouth, or belch
 - That following your instructions is to the employee's benefit
 - If the employee does not follow your instructions, note this in the Remarks section of the ATF and continue with the confirmation test after the waiting period ends.

Confirmation Testing Procedures

1. Conduct an air blank and show the employee; the EBT must register 0.00 on the air blank.
2. Open a **new** individually wrapped or sealed mouthpiece in the presence of the employee and insert it into the EBT.
3. You and the employee both read the test number on the EBT.
4. Instruct the employee to blow forcefully into the mouthpiece for at least 6 seconds or until the device indicates a sufficient amount of breath has been obtained.
5. Show the employee the displayed test result on the EBT.

6. Show the employee the result and unique test number that the EBT prints out either directly on the ATF or onto a separate printout.
7. If the device prints onto a separate printout, affix the printout to each copy of the ATF with tamper-evident tape.

Completing the Confirmation Test

If the initial screening test and the confirmation test produce different results, the confirmation test result is deemed to be the final result.

If the confirmation test result is **less than 0.02**:

1. Sign and date Step 3 of the ATF.
2. Give the employee Copy 2 of the ATF. The employee may now leave the testing facility (unless a urine collection also is required).

If the confirmation test result is **0.02 or greater**:

1. Direct the employee to sign and date Step 4 of the ATF. It is not a refusal to test if the employee refuses to sign Step 4, but the BAT should note this in the Remarks section.

Transmission of Test Results (§40.255)

Test results must be transmitted directly to the DER in a confidential manner. The BAT may transmit the results, using Copy 1 of the ATF, in person, by telephone, or by electronic means. The DER must be notified immediately of any result greater than or equal to 0.02. Direct telephone contact with the DER is the preferred method of immediate reporting, which then must be followed up with the appropriate documentation. Appropriate measures must be taken to ensure the security of the transmission and to limit access to any transmission, storage, or retrieval systems.

Employer Actions

If notified by the BAT of a confirmation test result of 0.04 or greater or refusal to test:

- Immediately remove the employee from safety-sensitive job duties; do not wait for the written results from the BAT.
- The employee cannot be returned to safety-sensitive duty until he/she has successfully completed the return-to-duty process defined further in Section 12.

A result of 0.02–0.039 is not a rule violation, but it is considered non-negative. In this case, the employee must be removed from safety-sensitive duties until his/her next regularly-scheduled shift, but not less than 8 hours, unless a retest indicates an alcohol concentration of less than 0.02.

The following table provides a quick reference of the test results and subsequent employer actions. For further explanation, consult the regulations in Part 40.

Summary of Test Results and Employer Actions

Test Result	Verified Result	Employer Action
Screening Test < 0.02	Negative	No action
Confirmation Test 0.02 – 0.039 [40.23, 655.48]	Non-Negative -Not a Rule Violation	Remove from safety-sensitive duty for 8 hours unless a retest results in <0.02
Confirmation Test ≥ 0.04 [40.23]	Rule Violation	Remove from safety-sensitive duties, refer to SAP
Test Refusal [40.261]	Test Refusal – Rule Violation	Remove from safety-sensitive duties, refer to SAP
Insufficient Volume with Medical Explanation [40.265]	Canceled	No action
Insufficient Volume with No Medical Explanation [40.265]	Test Refusal – Rule Violation	Remove from safety-sensitive duties, refer to SAP
Fatal Flaw (Random, Post-Accident, Reasonable Suspicion) [40.267]	Canceled	No action
Fatal Flaw (Pre-Employment, Return-to-Duty, Follow-Up) [40.273]	Canceled	Retest

Employer Responsibilities – Oversight

Mock Collection

Although not required, having your alcohol technician conduct mock collections for you will assist you in being able to determine if the technician properly completes the collection steps, maintains integrity and security at the testing site, and correctly completes the alcohol testing form.

The Alcohol Testing Site Checklist in Appendix B provides a guide for reviewing your testing site.

Alcohol Testing Form (ATF) Review

After an alcohol test has been completed, you should receive the Employer Copy (Copy I) of the ATF. One way to oversee alcohol testing sites is to review incoming ATFs to ensure that they are accurate, legible, and complete. A brief review will identify problem areas needing correction and will avoid future problems and compromised tests.

The following items should be reviewed on the ATF:

- Does the form read “US Department of Transportation Alcohol Testing Form“?
- In Step 1:
 - Is the correct employee’s name and ID number or SSN listed?
 - Is the correct employer name and address listed?
 - Is the DER name and phone number accurate?
 - Is the reason for the test marked correctly?
- In Step 2:
 - Did the employee sign and date the form?
- In Step 3:
 - Did the alcohol technician designate his/her title (BAT or STT) and indicate the type of device used?
 - Is the testing facility information listed accurately?
 - Did the alcohol technician sign and date the ATF?
 - If a confirmation test was performed, was the 15-minute waiting period observed (i.e., is the “Yes” box marked)?
 - If a confirmation test was not performed, neither the “Yes” nor “No” box should be marked.
 - If a confirmation test result is 0.02 or greater, did the employee sign Step 4? If not, did the BAT make an appropriate comment in the Remarks section?
- EBT Printout:
 - Are the printed results for a screening or confirmation test affixed to the ATF with tamper-evident tape if not printed directly on the form?
 - The results of a screening test below 0.02 may be hand-printed on the ATF in Step 3 if the screening device is not designed to print.

This ATF Review Checklist is also provided in Appendix B.

If you find any issues with the collection or the manner in which the ATF was completed, these should be brought to the attention of the alcohol technician immediately and, if necessary, corrective action taken as soon as possible. (For a list of correctable flaws, see Section II, Alcohol Testing Procedures – Problems in the Alcohol Testing Process.) A sample ATF Affidavit of Correction form is provided in Appendix C.

Alcohol Testing Procedures - Problems in the Alcohol Testing Process

Insufficient Sample (§40.263–§40.265)

If the employee is unable to provide sufficient saliva to complete a test:

- Conduct a new screening test using a new screening device.
 - If the employee cannot provide enough saliva to complete the new test, note this in the Remarks and notify the DER. The DER should immediately arrange for an alcohol test using an EBT.
 - If the employee refuses to attempt to complete a new test, note this in the Remarks section and notify the DER. This is a refusal to test.

If the employee is unable to provide sufficient breath to complete a test:

- Instruct the employee to make another attempt.
 - If the employee refuses to make another attempt, note this in the Remarks and notify the DER. This is a refusal to test.
 - A third attempt may be provided if the BAT believes it is likely that it will be successful.
 - If using an EBT that can operate manually, you may attempt to conduct the test in manual mode.
- If all attempts are unsuccessful, note this in the Remarks and notify the DER.
 - The employer must inform the employee that they have 5 days to obtain an evaluation from a licensed physician to determine if a valid medical explanation for the insufficient volume exists.
 - If no valid medical explanation: this is a refusal to test
 - If a valid medical explanation exists: the test is canceled

Refusals to Test (§40.261)

Refusals Determined by DER

In the following cases, the alcohol technician must document the obstructive behavior and notify the DER. Upon review of this documentation, the employer must deem the behavior as a “refusal to test.”

- Employee fails to appear for any test (except a pre-employment test) within a reasonable time frame.

- Employee fails to remain at the testing site until testing is complete. (It is not a refusal if the employee leaves the testing site before a pre-employment test commences.)
- Employee fails to provide a saliva or breath specimen.
- Employee fails to cooperate with any part of the testing process.
- Employee refuses to sign Step 2 of the ATF.

If the employee fails to undergo a medical examination or evaluation as directed as part of the insufficient breath procedures, the employee has refused to test.

In extremely rare cases where the DER determines there was no refusal, the reason for the determination must be documented.

Refusals Determined by Evaluating Physician

The following is a refusal to test, as determined by the evaluating physician:

- Employee fails to provide a sufficient quantity of breath without a valid medical explanation.

Correctable and Fatal Flaws

Fatal Flaws (§40.267)

The following are “fatal flaws” that result in a canceled test:

- For a screening test:
 - Saliva test is used after its expiration date.
 - Waiting time specified by the saliva test manufacturer is not adhered to.
 - Saliva test device is not activated.
 - EBT sequential test number or test result displayed does not match the printed test number or result.
- For a confirmation test:
 - BAT does not wait at least 15 minutes between the screening test and confirmation test.
 - BAT does not conduct an air blank before the confirmation test.
 - Air blank conducted has a reading other than 0.00.
 - EBT sequential test number or test result displayed does not match the printed test number or result.
 - External calibration check of the EBT produces a result outside the allowed tolerance levels. In this case, every test result of 0.02 or above obtained on the EBT since the last valid external calibration check must be canceled.

When an alcohol technician is notified of a fatal flaw, they must complete error-correction training (as defined in §40.213) within 30 days.

You are responsible for ensuring that error correction training takes place.

Correctable Flaws (§40.269)

The following are “correctable flaws” that must be corrected using the corrective procedures described in §40.271. If not corrected, these flaws result in a canceled test:

- BAT/STT does not sign the ATF.
- Employee fails to sign Step 4 of the ATF and the BAT/STT does not note such in the Remarks section.
- BAT/STT uses a non-DOT alcohol testing form.

Effects of Canceled Test (§40.273)

A canceled test is neither positive nor negative; it should be treated as though the test never occurred.

- When a test is canceled, the BAT/STT must inform the DER within 48 hours of the cancellation.
- Employer cannot attach consequences of a positive test or DOT rule violation.
- If a negative test is required (pre-employment, return-to-duty or follow-up), another test must be performed.
- Test does not count toward employer’s minimum random testing requirements.
- Test does not provide a valid basis to conduct a non-DOT test under company authority.

Procedural Problems – Do Not Require Correction; Do Not Result in Cancellation (§40.275)

The following are errors that should be documented if made aware, but they do not require formal corrective action:

- Minor administrative mistakes such as omitting an employee’s middle initial
- Delay in the testing process
- Use of a facility that does not meet the minimum requirements
- Claims that the employee was improperly selected for testing

Although these types of errors are not sufficient to cancel an alcohol test result, the employer or service agent may be subject to enforcement action under FTA regulations or action under Part 40, subpart R.

Substance Abuse Professionals and Return-to-Duty Process

FTA regulations require that any employee who has a positive drug test or an alcohol concentration of 0.04 or greater or who refuses a test be immediately removed from safety-sensitive duty and referred to a Substance Abuse Professional (SAP). A referral for assessment by a qualified SAP is required regardless of whether the employee is terminated (“zero tolerance” policy) or given a second chance after a rule violation and for any applicant for a safety-sensitive position who fails or refuses a pre-employment test.

SAP Qualifications (§40.281)

To act as an SAP in the FTA drug and alcohol program, you must meet the following requirements:

- Credentials – You must have one of the following credentials:
 - Licensed physician (Doctor of Medicine or Osteopathy)
 - Licensed or certified psychologist
 - Licensed or certified social worker
 - Licensed or certified employee assistance professional
 - State-licensed or certified marriage and family therapist
 - Certified drug and alcohol counselor
- Basic Knowledge
 - Knowledgeable about and clinical experience in the diagnosis and treatment of drug and alcohol-related disorders
 - Knowledgeable about SAP functions as they relate to employer interests in public safety
 - Knowledgeable about 49 CFR Part 40
 - Knowledgeable about DOT Substance Abuse Professional Guidelines
 - Knowledgeable about applicable DOT agency regulations (e.g., FTA)
- Qualifications Training
 - Background, rationale, and coverage of DOT’s program
 - 49 CFR Part 40
 - DOT agency rules (e.g., FTA)
 - DOT drug testing requirements
 - DOT alcohol testing requirements

- SAP qualifications and prohibitions
- Role of SAP in return-to-duty process
- SAP consultation and communication requirements
- Reporting and recordkeeping requirements
- Issues that SAPs confront in carrying out their duties
- Examination
 - Administered by a nationally-recognized professional or training organization
 - Comprehensively cover all elements of qualification training
- Continuing Education
 - Every 3 years, must complete 12 professional development hours relevant to SAP duties
 - Must include documentable assessment tools
- Documentation
 - Must maintain qualification documentation and provide it upon request to DOT agency representatives and to employers and C/TPAs who are using or negotiating use of your services

Employer Responsibility – SAP Referral (§40.285–§40.289)

Each employee (including an applicant) who has a positive drug test or a confirmed alcohol concentration of 0.04 or greater or who refuses a test must be provided with a list of readily-available qualified SAPs. This list can be provided directly by the employer or through a C/TPA or other service agent. Documentation of the referral to the SAP must be maintained.

Best Practice

If SAP referrals are sent through the postal service, send the letter as Certified Mail. This provides a source of documentation and assurance that the employee has received the letter.

The role of the employer will vary depending on whether the employee is terminated or allowed to return to duty:

- **Zero-tolerance policy** – The employer is required only to provide a list of qualified SAPs. If the employee chooses to make an appointment and follow through with the assessment and treatment, he/she does so at his/her own expense and without any participation by the employer.

- **Second-chance policy** – The employer must provide a list of qualified SAPs and ensure that the employee has completed the SAP evaluation, referral, education/treatment, and return-to-duty process before being allowed to perform safety-sensitive job duties. Responsibility of payment for SAP evaluations and services is at the employer’s discretion.

As the employer during the previous-employer records request (§40.25), if you obtain information that an applicant has violated a DOT drug and alcohol rule, you must ensure that the DOT return-to-duty process has been successfully completed before the person can perform safety-sensitive functions.

Functions of the SAP

The SAP is the “gatekeeper” of the return-to-duty process and is responsible for protecting public safety to the greatest extent possible. The responsibilities of the SAP are described below.

Initial Evaluation (§40.293)

- Make a comprehensive **face-to-face** assessment and clinical evaluation to determine the level of assistance the employee needs in resolving problems associated with alcohol or drug use.
 - SAP may consult with the MRO who verified the test to obtain information pertinent to the evaluation.
 - SAP must not be influenced by employee claims that the testing process was unjust or inaccurate.
- Make a recommendation for education and treatment that will, to the greatest extent possible, protect public safety if the employee returns to perform safety-sensitive functions.
 - Provide a written report to the DER highlighting specific recommendations for assistance.

Once an SAP has made an evaluation and provided a written recommendation to the employer, the employer and employee are prohibited from seeking a second opinion. (§40.295)

Only the SAP who made the initial evaluation may modify the evaluation and recommendations. (§40.297)

Education/Treatment Program Referral (§40.299)

- Refer the employee to an appropriate education and treatment program.
- Limitations:
 - SAP cannot provide the treatment to the employee.
 - SAP cannot have financial or other ties to the treatment providers, unless the provider is:

- a public treatment facility operated by a State, County, or municipality
- the employer's treatment provider
- the only therapeutically-appropriate treatment program available under the employee's health insurance program
- the only therapeutically-appropriate education/treatment program reasonably located within the general commuting area of the employee

Follow-Up Evaluation (§40.301)

- Conduct a **face-to-face** follow-up evaluation to determine if the employee has actively participated in and successfully complied with the recommended education/treatment program.
 - Confer with or obtain information from the education/treatment professionals to whom the employee was referred.
- Provide a written report to the DER indicating if the employee has successfully complied with recommendations.
 - If employee has not successfully completed the treatment prescribed, the employer may not return the employee back to work.

Aftercare (§40.303)

- If necessary, recommend an aftercare program to assist the employee in maintaining sobriety or abstinence from drug use following his/her return to duty.
- Include the recommended aftercare in the written report to the employer.
- It is recommended (but not required) that the employer include the aftercare recommendations in the return-to-duty agreement with the employee. If the employee does not comply, he/she may be subject to disciplinary action.

Conclusion of Return-to-Duty Process (§40.305)

Once the SAP has determined that the employee has successfully complied with the prescribed education/treatment program, the **employer** must make the final decision about whether the employee will be permitted to return to duty.

The employer must ensure that the employee takes a return-to-duty test (for alcohol, drugs, or both, as determined by the SAP).

Follow-Up Testing Plan (§40.307)

If the employer has decided the employee can return to duty, the SAP must provide a written follow-up testing plan.

The follow-up testing plan must be provided directly to the DER and not through a C/TPA or other service provider.

The SAP is the **sole determiner** of the **number and frequency** of follow-up tests (minimum of 6 tests in first 12 months, up to 60 months) and if those tests will be for **drugs, alcohol, or both**.

- SAP does not establish specific dates for testing (up to the employer).
- Employer may not impose additional testing requirements (e.g., under company authority) beyond the SAP's testing plan.
- Follow-up testing plan requirements follow the employee to subsequent employers or through breaks in service.

Employer Responsibilities – Follow-Up Testing (§40.309)

The employer has the following responsibilities in the follow-up testing process:

- Carry out the SAP's follow-up testing requirements.
- Schedule follow-up tests to be unannounced and unpredictable.
- Do not substitute other tests (e.g., random tests) for follow-up tests.
- Re-collect any canceled follow-up test (a canceled test does not count as a completed test).
- Ensure that follow-up drug tests are directly observed.

SAP Report Requirements (§40.311)

All written reports from the SAP must be sent directly to the employer (or the employee if he/she has no current employer). Reports must be on the SAP's letterhead, signed, and dated by the SAP.

Any written report from the SAP must include:

- Employee's name and Social Security number
- Employer's name and address
- Reason for the initial assessment (specific violation of DOT regulations and violation date)

All written reports from the SAP must be maintained for at least 5 years.

- Date of initial assessment
- SAP's telephone number

Other information is required depending on whether the report is the initial or follow-up evaluation letter:

- After the **initial evaluation**, the report also must include:
 - SAP's education and/or treatment recommendation
- After the SAP's **follow-up evaluation**, the report also must include:
 - Synopsis of treatment plan from initial assessment
 - Name of the practice(s) or service(s) providing the recommended education/treatment
 - Inclusive dates of employee's program participation
 - Clinical characterization of the employee's program participation
 - SAP's clinical determination as to whether the employee has demonstrated successful completion
- After **successful** completion, also include:
 - Follow-up testing plan (if providing the report to the employee, this information must be redacted)
 - Employee's continuing care needs with recommendations for specific treatment, aftercare, and/or support group services
- If unsuccessful completion, include:
 - Date(s) of first follow-up evaluation
 - Date(s) of any further follow-up evaluation the SAP has scheduled

Follow-Up Testing – Summary of Responsibilities

The table below outlines the responsibilities of the SAP and the employer in the follow-up testing program.

Roles and Responsibilities of SAP and Employer in Follow-Up Testing

SAP Responsibilities	Employer Responsibilities
<ul style="list-style-type: none"> • Provide written report to the employer. • Determine number and frequency of follow-up tests. • Determine if return-to-duty and follow-up tests are for drugs, alcohol, or both. 	<ul style="list-style-type: none"> • Make fitness for duty determination to return an employee to safety-sensitive duty. • Schedule follow-up testing schedule to achieve SAP's requirements. • Ensure all return-to-duty and follow-up tests are directly observed.

Confidentiality

Measures must be taken to ensure confidentiality related to the return-to-duty process. However, the SAP is not required to have employee consent to:

- Consult with the MRO who verified the test to obtain information pertinent to the SAP evaluation.
- Communicate with the education and/or treatment providers.
- Provide written reports directly to the employer.

Client-counselor confidentiality is waived if the employee poses a clear and imminent danger to himself or herself or others.

SECTION
13

Roles and Responsibilities of Service Agents

A service agent is any person outside your company that you use to help you implement the DOT regulations. The table below lists most of the types of service agents who work in the DOT drug and alcohol testing program and their responsibilities. Although the roles and responsibilities of each are described in detail in other sections of these guidelines, they are outlined in the table below.

Type of Service Agent	Responsibilities
Urine Collector	<ul style="list-style-type: none"> • Collect urine specimens using Part 40 procedures. • Ship specimens to HHS-certified laboratories for analysis. • Distribute copies of CCF to laboratory, MRO, employer, and employee in timely and confidential manner. • Maintain collection site security and integrity.
Laboratory	<ul style="list-style-type: none"> • Receive, analyze, and report laboratory confirmed results only to MROs.
Medical Review Officer (MRO)	<ul style="list-style-type: none"> • Receive laboratory-confirmed urine drug test results. • Determine if legitimate medical explanation for laboratory-confirmed positive, adulterated, or substituted result exists. • Review and report verified result to employer in timely and confidential manner.
Screening Test Technician (STT)	<ul style="list-style-type: none"> • Conduct an alcohol screening test (either breath or saliva test). • Document the test result on an ATF. • Transmit the results to the employer and employee in a timely and confidential manner.
Breath Alcohol Technician (BAT)	<ul style="list-style-type: none"> • Conduct alcohol screening and confirmation tests by collecting and analyzing breath specimens using approved screening and EBT devices. • Document results on ATF. • Transmit results to employer and employee in timely and confidential manner.
Substance Abuse Professional (SAP)	<ul style="list-style-type: none"> • Evaluate employees who have violated DOT drug and alcohol regulations and make recommendations concerning education, treatment, follow-up testing, and aftercare. • Determine if employee demonstrates successful compliance with recommended education and treatment.
Consortium/ Third Party Administrator (C/TPA)	<ul style="list-style-type: none"> • Coordinate a variety of drug and alcohol testing services for employers, including: <ul style="list-style-type: none"> – Random selections – Preparation of annual MIS reports – Coordination of urine collections, laboratory testing, MRO services, alcohol testing, and SAP evaluations • Ensure that services provided comply with DOT regulations and that service agents are qualified.

Recordkeeping Requirements

All service agents must maintain documentation of their credentials and make them available to employers or DOT agency representatives upon request. In addition, various service agents also have specific recordkeeping requirements, as described below.

Collection Sites

- Must keep copies of Copy 3 of CCF for at least 30 days.
- Must maintain EBT calibration documentation for at least 5 years.

Laboratories

- Must maintain non-negative specimens in a secure, long-term frozen storage for a minimum of 1 year.
 - If primary specimen is non-negative, split specimen must be stored for at least 1 year or for the same period of time that the primary specimen is retained.
- Must keep all records pertaining to each specimen for a minimum of 2 years.
 - Must be maintained for longer if requested by the employer, employee, MRO, or DOT agency.
- Must produce and retain an aggregate statistical summary of drug test results for each employer on a semiannual basis.
 - Must be maintained for at least 2 years.
 - Cannot include any employee-specific information or information upon which an employee's identity can be inferred.
 - Reports will not be sent to employers with fewer than 5 aggregate test results.

Substance Abuse Professionals

- Must maintain copies of all reports provided to employers for at least 5 years.

Medical Review Officers

- Must maintain records related to verified non-negatives for at least 5 years.
- Must maintain records related to verified negatives for at least 1 year.
 - Includes notes recorded by the MRO containing supplemental information supporting a legitimate medical explanation for a non-negative lab result

Selecting Service Agents

When selecting a service agent, you should weigh some very important factors:

- Can the service agent ensure their compliance with DOT/FTA regulations?
- Do they provide services during the times and on days you need them?

- Do their personnel qualifications and training meet DOT requirements?
- Are the services cost-competitive?

Appendix C to ODAPC’s “What Employers Need to Know about DOT Drug and Alcohol Testing” provides helpful tips for selecting service agents. This employer handbook can be viewed at https://www.transportation.gov/odapc/employer_handbook.

In addition, following are some useful links to help to begin your search:

- **Laboratories** – the current list of HHS-certified laboratories is available at <https://www.transportation.gov/odapc/labs>.
- **Substance Abuse Professionals** – SAPs can list their own information at <http://www.saplist.com>.
 - All individuals on this website may not be DOT-qualified SAPs; the list is a good place to start, but be sure to check for credentials and training.
- **Medical Review Officers:** Two nationally-recognized MRO organizations list their certified MROS, available at <http://www.mrocc.org> or <http://www.aamro.com>.

Best Practice

Contact nearby transit employers to identify vendors that perform their duties well. Either local or nationwide companies can be suitable vendors.

Employer Responsibilities – Oversight

As the employer, you are responsible for all actions of your service agents. Service agents must follow the DOT regulations (Part 40), but, ultimately, the employer remains accountable to DOT/FTA for compliance. **If your service agents are not compliant, then you are not compliant.**

Although the regulations do not stipulate how an employer should monitor its service agents, the following activities are recommended:

- Include specific and detailed minimum performance standards in contracts and provide disincentives for non-performance.
- Provide service agents with copies of appropriate DOT guidelines, regulations, and related materials.
- Conduct periodic mock collections to identify procedural flaws.

- Conduct periodic reviews of service agent credentials, including training documentation.
- Investigate any employee reports of flawed procedures.
- Monitor canceled tests and require explanations for each.

Are You Satisfied With Your Service Agents?

Ask yourself the following questions:

- Do they follow the correct procedures and use the correct forms?
- Do they stay up-to-date with changes in regulations, standard procedures, and HHS guidelines?
- Are you satisfied with:
 - the number of and explanation for canceled tests?
 - their timeliness of collection and transfer of specimens?
 - their service hours, including the ability to perform after-hours collections?
 - the ease of communications and reporting?

Public Interest Exclusions (Part 40, subpart R)

To protect the public interest, including protecting transportation employers and employees from serious non-compliance with DOT drug and alcohol rules, DOT must ensure that employers conduct business only with responsible service agents. If a service agent fails or refuses to provide testing services consistent with the regulations or fails to cooperate with DOT or employer oversight activities, DOT may institute a Public Interest Exclusion (PIE) excluding that vendor from participating in its drug and alcohol testing program for a period of time.

A PIE is not used for the purpose of punishment, but it is a serious action DOT takes only to remedy situations of **serious, uncorrected** non-compliance. These may include serious violations affecting:

- Public safety
- Outcomes of test results
- Privacy and confidentiality
- Employee due process
- Honesty and integrity of the testing program

For more information on the process for initiating a PIE and the decision process, see 49 CFR Part 40, subpart R.

SECTION
14

Administrative Requirements

Records Retention (§655.71)

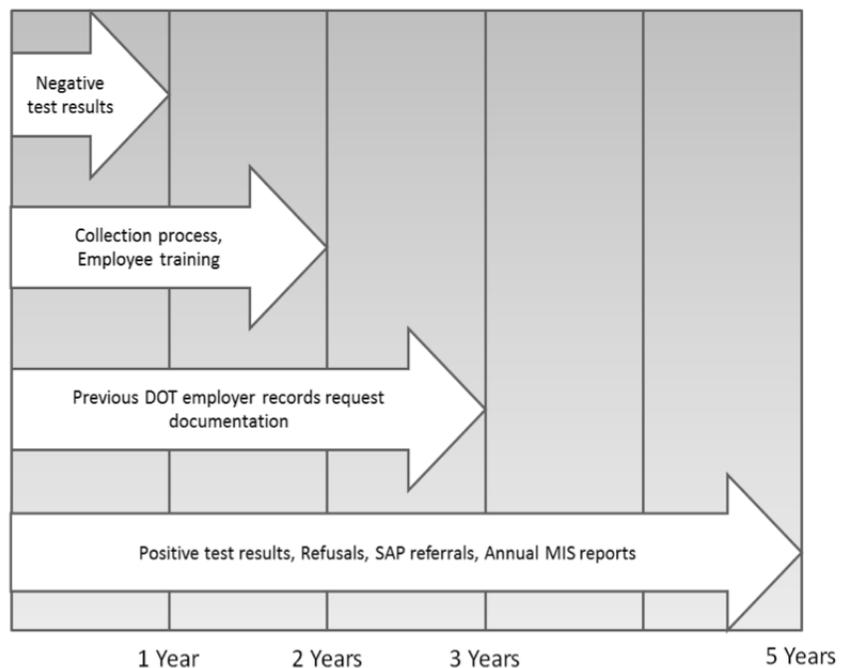
Employers must maintain certain records relating to their anti-drug and alcohol misuse program for specific periods of time. All records must be maintained in a secure location with controlled access. Records should be in locked file cabinets.

Best Practice
Keep drug and alcohol records separate from personnel records and medical records to limit unauthorized access to drug and alcohol records.

If records are kept electronically (where permitted), they must be easily accessible, legible, and formatted and stored in an organized manner. Electronic records should be password-protected.

With the exception of records related to a DOT violation, the specified minimum retention period is measured from the date of the creation of the record. The following chart summarizes the schedule that should be followed:

Minimum Retention Periods



Records Retention Checklist

Use the checklist below to ensure that all records are kept for the minimum period required. This checklist also can be found in Appendix B.

Five Years

1. Records related to verified positive drug test results:
 - Employer copy of CCF
 - Test result
 - Documents presented by a covered employee to dispute a test result
2. Alcohol test records with a result of 0.02 or greater
 - Employer copy of alcohol testing form (ATF), including test result
 - Documents presented by a covered employee to dispute a test result
3. Documents related to a refusal to test:
 - Includes adulterated or substituted test results
4. SAP referral/return-to-duty/follow-up testing:
 - Documents pertaining to SAP's initial assessment of the individual
 - Documents concerning an employee's entry into and completion of SAP-recommended treatment program
 - Records pertaining to SAP's reassessment of the individual following education/treatment, including SAP's determination of employee's suitability to return to safety-sensitive duties
 - Records of follow-up tests and follow-up testing schedules
5. Copies of annual MIS reports

All records related to the return-to-duty/follow-up process must be maintained for 5 years following the employee's last follow-up test.

Three Years

1. Previous DOT employer records request documentation:
 - Records of previous positive drug tests, alcohol tests with a result of 0.02 or greater, test refusals, and/or any other DOT rule violation
 - Records documenting applicant's completion of return-to-duty process
 - Records documenting a good faith effort to obtain records from previous DOT employers, including applicant consent forms

Two Years

1. Records related to the collection process:

- Collection log books (if used)
 - Documents relating to the random selection process (e.g., random selection lists)
 - Documents generated in connection with decisions to administer reasonable suspicion tests
 - Documents generated in connection with decisions on post-accident testing
 - MRO documents verifying existence of a medical explanation of inability of an employee to provide an adequate urine or breath sample
2. Records relating to employee training:
- Training materials on drug-use awareness and alcohol misuse
 - Employer policy on prohibited drug use and alcohol misuse
 - Names of covered employees who attended training and dates/times of such training
 - Documentation of training provided to supervisors to qualify them to make reasonable suspicion determinations
 - Certification that any training conducted complies with requirements of §655.14.

One Year

1. Records of verified negative drug test results:
 - Employer copy of the custody and control form (CCF)
 - Test result
2. Alcohol test records with a result less than 0.02:
 - Employer copy of alcohol testing form (ATF), including test result

Annual MIS Reporting (§655.72)

Covered employers are required to prepare and maintain annual reports summarizing their DOT drug and alcohol test results for each calendar year. The standard Management Information System (MIS) form that must be used, as well as reporting instructions and frequently asked MIS questions, can be found in Appendix D.

When requested by FTA, each recipient must submit this report to FTA's Drug and Alcohol MIS office by March 15 following each calendar year. Each recipient is responsible for ensuring the accuracy and timeliness of each report submitted by an employer, contractor, consortium, or third-party administrator acting on the recipient's behalf.

Internet reporting is the preferred method. Reporting on paper is allowable only if internet access is unavailable. For internet reporting guidance, visit <http://transit-safety.fta.dot.gov>.

Reporting Guidance

- When an employer is regulated by multiple DOT agencies, but employees perform duties regulated by a **single** DOT agency:
 - Prepare separate agency-specific MIS forms.
 - Do not double-report.
- When an employer is regulated by **multiple** DOT agencies and employees perform duties regulated by multiple DOT agencies:
 - Employees are reported under the DOT agency for which they are randomly tested, OR
 - Employees are reported under the DOT agency for which the majority of safety-sensitive duties are conducted.
- If in a consortium, the employer may compile its own report or require the consortium to prepare the annual report. (The report still must be specific to the employer.) In either case, the employer is still responsible for the report’s accuracy and timely submission.
- Pass-through agencies such as metropolitan planning organizations (MPOs), county governments, etc., are required to submit a report. They should “zero out” a report to indicate that they are a pass-through.
- When entering drug testing data:
 - For the total number of test results, count only the number of testing events resulting in negative, positive, and refusal results; do not count canceled tests.
 - For canceled tests requiring a second collection, the result of the subsequent test will count as the test of record, provided it also is not canceled.
 - Be sure to enter all pre-employment testing data regardless of whether an applicant was hired or not.

Access to Facilities and Records (§655.73)

Employers and their service agents must provide access to all facilities used to conduct DOT drug and alcohol testing functions to DOT or FTA agency representatives (e.g., auditors).

Confidentiality should be applied to all aspects of the drug and alcohol program, particularly with respect to identifying specific individuals.

Test results may be released only when the employee provides **specific written consent**, except when:

- Required in a lawsuit brought by or on behalf of the employee and arising from the result.
- Requested by the DOT Secretary or any DOT agency with regulatory authority over the employer or any of its employees.
- Requested by the State oversight agency or grantee required to certify compliance to FTA on behalf of the employer.
- Requested by the National Transportation Safety Board as part of an accident investigation.

“Specific written consent” means a statement signed by the employee agreeing to the release of information to a particular, explicitly-identified person or organization at a particular time. Vague, open-ended, or blanket release statements are prohibited.

Certifying Compliance (Part 655, subpart I)

Transit employers receiving financial assistance from FTA must annually certify that they are in compliance with the drug and alcohol testing regulations.

Compliance as a Condition of Financial Assistance

- Failure to establish an anti-drug and alcohol misuse program – not eligible for FTA funding.
- Failure to maintain compliance with Part 655 – may be barred from receiving FTA funds (in an amount the FTA Administrator considers appropriate).
- Penalty for false statements or misrepresentations – subject to criminal sanctions and fines.

Grantee Oversight Responsibility

A recipient must ensure that a subrecipient or contractor receiving 5307, 5309, 5311, or 5339 funds directly from the recipient complies with 49 CFR Part 655.

- A recipient may suspend FTA funds from a subrecipient or contractor for non-compliance.

Requirement to Certify Compliance

A recipient of FTA 5307, 5309, 5311, or 5339 funding must certify compliance with 49 CFR Part 655 to the applicable FTA Regional Office annually.

- The certification must be authorized by the organization’s governing board (if applicable) or another authorizing official and signed by a party specifically authorized to do so.

Recipients, including State DOTs, that administer 5307, 5309, 5311, or 5339 funds to subrecipients and contractors must annually certify compliance on their behalf.

SECTION
15

Consortia and Third-Party Administrators

Consortia/Third-Party Administrators (C/TPAs) can manage all or part of an employer's DOT drug and alcohol testing program, including maintaining required testing records. They perform tasks as agreed to by the employer to assist in implementing the drug and alcohol testing program and to help keep the employer compliant with the DOT/FTA drug and alcohol testing rules and regulations.

The term “consortium” typically refers to a group of employers who join together as a single entity to administer the DOT drug and alcohol testing program of its members. A “third-party administrator” typically provides a package of services that includes most aspects of drug and alcohol testing and program administration. The choice of which tasks will be delegated to a C/TPA is at the discretion of the employer.

The use of a C/TPA is not required by DOT or FTA. Employers should evaluate their organizational needs and available resources before deciding if consortium membership or use of a TPA is the best option. There are no uniform criteria for answering this question. In the end, employers are responsible for full implementation of their drug and alcohol testing program, regardless of whether or not it contracts for individual testing services.

Advantages and Disadvantages of a C/TPA

Transit employers using a C/TPA typically do so for one or more of the following reasons:

- **Lower costs** – ability to spread administrative and other costs among more employers
- **Greater expertise** – consortium manager with specialized knowledge and experience
- **Reduced administrative burden** – pooling administrative functions may save members time and effort
- **Random pool maintenance and selection** – less predictability for smaller transit employers; selections by a third-party may be perceived to be more objective and impartial

Although there are many advantages, there are also disadvantages to consider, including:

- **Shared design** – C/TPA may not provide elements the employer considers important
- **Reduced control** – employer loses operational autonomy over its testing program
- **Financial risks** – possible consortium membership fees
- **Shared compliance** – each consortium member can impact the random testing rate compliance of the other members
- **Realized employer testing rates above or below modal minimums** – although this may still be compliant, it may not be desirable to the employer

Functions of the C/TPA: As a Program Administrator

C/TPAs may perform the following functions:

- Operate random testing programs and assist with other types of testing (through contracting with laboratories or collection sites, conducting collections).
- Maintain the random pool.
- Assist in implementing follow-up testing plans.
- Receive and maintain all records without employee consent.
 - Records retention requirements (§655.71) apply
 - Ensure that any information requested of the employer by a DOT agency representative can be made available to the employer within two business days

C/TPAs **may not**:

- Make decisions to test based on post-accident, reasonable suspicion, return-to-duty, or follow-up criteria (although they can give advice and information to assist the employer in making the decision).
- Determine that an employee has refused a drug or alcohol test (can give advice).
- Remove an employee from safety-sensitive duties on behalf of the employer.
- Impose conditions or requirements on employers that US DOT regulations do not authorize.
- Intentionally delay transmission of testing-related documents because of a payment dispute.

Functions of the C/TPA As an Intermediary

The C/TPA may transmit the following information (Part 40, Appendix F):

- Notification to the DER of employee “no shows” at the testing/collection site
- DER contact information to the collector
- Test results requested by subsequent employers (§40.25)
- Drug testing information:
 - MRO-verified test results
 - Test refusals, including shy bladder refusals
 - Canceled tests
 - Split specimen reconfirmation
 - Retest requirements
 - Insufficient specimen
 - Shy bladder refusals
 - Dilute specimen
 - CCFs (except Copy 2, which must be sent by the collector directly to the MRO)
 - Laboratory statistical reports
 - Notification of direct observation collections
- Alcohol testing information:
 - Alcohol screening and confirmatory test results less than 0.02 (anything at 0.02 or above must be transmitted directly to the DER)
 - Shy lung refusals

The C/TPA **may not** act as intermediary in the transmission of the following information (§40.355):

- Laboratory drug test results to the MRO
- Medical information from the MRO to the employer
- SAP reports to the employer
- Alcohol test results at 0.02 or above to the employer

Confidentiality (§40.351)

C/TPAs must follow the same confidentiality and security measures as the employer:

- When transmitting drug and alcohol information:
 - Only speak directly to the DER
 - Only transmit information to a secure device

- Test results and other confidential information may not be released to another employer without specific written consent from the employee.
- All records must be kept in a secure location with controlled access.

Tips for the Employer – C/TPA Relationship

Although following the regulations through a consortium or third-party administrator, the employer remains responsible to FTA for compliance. This means that if the C/TPA is implementing some aspect of the program incorrectly, the employer is implementing it incorrectly. Therefore, it is important to exercise due diligence in selecting a C/TPA, and in monitoring its operations.

It is important to be clear about your expectations. You may dictate:

- When and how selection lists arrive (be sure to submit updated employee lists when requested by the TPA)
- Individual test days and times
- Annual testing rates (may be calculated for each individual employer or for the total number of covered employees in the consortium)

Make sure the C/TPA understands the difference between DOT modes (e.g., FTA vs. FMCSA).

- Ensure that if employees from more than one DOT mode are in the same random pool, all covered employees must be tested at the highest percentage rate applicable

Remember, the C/TPA works for you! Do not tolerate poor performance or uncooperativeness.

SECTION
16

Subrecipient and Contractor Oversight

As the FTA grantee, you are fully responsible for your compliance with the drug and alcohol testing regulations, including your subrecipients and contractors who perform safety-sensitive job functions. Therefore, you must oversee your subrecipients and contractors and certify their compliance to FTA as part of your annual compliance certification.

You should not assume that your subrecipients and contractors are knowledgeable of the regulatory requirements or that they have compliant policies or programs. Even though the regulation does not specify the nature or extent of your oversight duties, it is your responsibility to take whatever actions are necessary to ensure their ongoing compliance.

Suggested oversight procedures may include:

- Obtaining a copy of the subrecipient or contractor's drug and alcohol policy and determining if it is compliant, or providing a copy of your compliant policy
- Ensuring that their service agents are qualified under Part 40
- Requiring periodic management reports on policy modifications, changes in service agents, training, etc.
- Auditing testing records on site
- Requiring and monitoring quarterly and annual MIS reports
- Requiring immediate corrective actions to remedy problems identified
- Inviting subrecipients and contractors to participate in your testing and training programs

SECTION
17

FTA Drug and Alcohol Compliance Audits

To assess compliance with drug and alcohol testing requirements, FTA conducts audits during site visits to transit employers and State DOTs and their Section 5311 subrecipients across the US. The audit is an open and cooperative process with many opportunities for technical assistance.

Audits are conducted by a team of experts consisting of DOT and contractor staff. The audit team typically consists of four or five auditors who spend 2–4 days on-site depending on the size and complexity of the transit grantee. The audit process is comprehensive in nature, including a review of each grantee/subrecipient's policies, procedures, and recordkeeping. Safety-sensitive contractors and service agents also are included in the audit. The basic process is described below.

Audit Process

Notification

The process begins with a phone call from the audit team leader to the DAPM or MIS certifying official notifying him/her that his/her agency has been selected. This initial call is followed by a formal notification letter from FTA explaining the audit process and requesting that the DAPM send various materials to the audit team. This phone call and letter typically come about seven weeks before the on-site visit is scheduled to begin.

Pre-Audit Submission

The following are requested prior to the audit; this information should be readily-available so it can be retrieved easily:

- Complete copy of current Drug and Alcohol Policy Statement
- Copies of the five most recent MIS filings
- Copies of the three most recent semi-annual statistical summary reports from your laboratory
- Current number of covered employees, broken out by safety-sensitive function
- Table showing hours and days (including weekends and holidays) during which safety-sensitive functions (including vehicle maintenance) are performed
- List of any covered employees for whom you have received a request for information from a gaining employer in accordance with §40.25

- List of all company individuals authorized to initiate DOT reasonable-suspicion testing
- List of all new hires with hire date or date the person began performing safety-sensitive functions (if different from the hire date) in the records-review period requested by the audit team; include any employees hired and subsequently terminated during that period
- List of all employees who were selected to be randomly tested in the records-review period requested by the audit team, whether or not the test was actually completed.
- List of vendors used (e.g., MRO, SAP, C/TPA, and BATs/collectors) and their contact information
- List of all accidents, as defined by FTA, occurring in the records-review period requested by the audit team; include any events for which the threshold for testing was met, but the employee was not tested (e.g., performance discounted as a factor contributing to the accident); list must include date and time of the accident
- Protected/encrypted list of all reasonable-suspicion observations occurring in the records-review period requested by the audit team, including date of test
- Protected/encrypted list of any positive, refused, or canceled tests that occurred in the records-review period requested by the audit team
- Description of any open grievance, arbitration, or litigation related to the drug and alcohol testing program that occurred within the records-review period requested by the audit team
- List of your current FTA-regulated safety-sensitive contractors and the period of performance of the contract for any safety-sensitive duties performed for you under that contract
- List of addresses of all testing/collection site locations used during the period requested by the audit team

Preparation for the Audit

In preparation for the audit, ensure that all relevant personnel are available during the site visit, including:

- DAPM/DER
- Service agents
- Safety-sensitive contractors and their service agents (if applicable)
- Other agency staff, as appropriate

In addition, FTA will request that the following be provided for the audit team:

- Visitor pass for each auditor or escort to allow them to move throughout the facility, if necessary

- Lockable office with a workspace and power outlets

Site Visit

The on-site portion of the audit begins with an Entrance Interview, during which the audit team explains the audit process to all agency personnel with drug and alcohol program responsibilities. Following the Entrance Interview, the audit team starts its review of testing records generated during the period requested in the pre-audit phase and conducts an interview with the DAPM on his/her day-to-day management of the program. All records required by §655.71 to be retained will be viewed on-site.

The following checklist details the records that auditors look for, so ensure that all are accessible.

On-Site Review Checklist

- Pre-employment Review
 - Federal CCF
 - MRO-verified test result
 - Alcohol testing form (ATF) (if applicable)
 - DOT drug and alcohol background check (if applicable)
- Random Testing Review
 - Notification form (if used)
 - Federal CCF and/or ATF
 - MRO-verified test result
 - Original selection lists for review period
 - Documentation explaining missed/excused tests
- Post-Accident Review
 - Accident report(s) (e.g., supervisor report, police report)
 - Post-accident testing decisionmaking form/documentation (if applicable)
 - Federal CCF and ATF (if applicable)
 - MRO-verified test result (if applicable)
- Reasonable Suspicion Review
 - Supervisor's documentation of event
 - Federal CCF and/or ATF
 - MRO-verified test result
 - Documentation of supervisor's reasonable suspicion training

- Positive Test Review (all test types)
 - Federal CCF and/or ATF
 - MRO-verified test result
 - SAP referral
 - SAP reports, including follow-up testing schedule (if applicable)
 - Return-to-duty and follow-up tests (including CCFs/ATFs and results) (if applicable)
- Canceled Test Review
 - Federal CCF and/or ATF
 - MRO-verified cancellation
 - If canceled due to fatal flaw by collector, verification of error-correction training

The audit team also visits the collection site used by the transit employer to conduct mock breath and urine collections and interviews with collection site personnel. Interviews with other service agents, such as the MRO and SAP, are usually conducted prior to the on-site audit.

After the audit is complete, the team conducts an Exit Interview, presenting the findings to transit employer management. A letter and final report documenting the deficiencies and necessary corrective actions will be generated and provided. The employer will have the opportunity to ask questions regarding the findings; however, they will not be negotiated. The employer will then be given 90 days to submit an audit response, with appropriate supporting documentation demonstrating the corrective action taken. The grantee/subrecipient is responsible for the audit findings and subsequent compliance of its safety-sensitive contractors and service agents.

Terms and Definitions

The following are important terms and definitions used throughout Part 655 and Part 40. These definitions can be found in §655.4 and §40.3.

Accident

An occurrence associated with the operation of a vehicle, if as a result: (1) an individual dies; or (2) an individual suffers bodily injury and immediately receives medical treatment away from the scene of the accident; or (3) with respect to an occurrence in which the public transportation vehicle involved is a bus, electric bus, van, or automobile, one or more vehicles (including non-FTA funded vehicles) incurs disabling damage as the result of the occurrence and such vehicle or vehicles are transported away from the scene by a tow truck or other vehicle; or (4) with respect to an occurrence in which the public transportation vehicle involved is a rail car, trolley car, trolley bus, or vessel, the public transportation vehicle is removed from operation.

Adulterated specimen

A specimen that has been altered, as evidenced by test results showing either a substance that is not a normal constituent for that type of specimen or showing an abnormal concentration of an endogenous substance.

Air blank

In evidential breath testing devices (EBTs) using gas chromatography technology, a reading of the device's internal standard. In all other EBTs, a reading of ambient air containing no alcohol.

Alcohol concentration

The alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by a breath test under Part 40.

Alcohol confirmation test

A subsequent test using an EBT, following a screening test with a result of 0.02 or greater, that provides quantitative data about the alcohol concentration.

Alcohol screening device

A breath or saliva device, other than an EBT that is approved by the National Highway Traffic Safety Administration (NHTSA) and appears on ODAPC's web page for "Approved Screening Devices to Measure Alcohol in Bodily Fluids" because it conforms to the model specifications from NHTSA.

Alcohol screening test

An analytic procedure to determine whether an employee may have a prohibited concentration of alcohol in a breath or saliva specimen.

Alcohol testing site

A place selected by the employer at which employees present themselves for the purpose of providing breath or saliva for an alcohol test.

Alcohol use

The drinking or swallowing of any beverage, liquid mixture, or preparation (including any medication) containing alcohol.

Breath Alcohol Technician (BAT)

A person who instructs and assists employees in the alcohol testing process and operates an evidential breath testing device.

Cancelled test

A drug or alcohol test that has a problem identified that cannot be or has not been corrected or which Part 40 otherwise requires to be cancelled. A cancelled test is neither a positive nor a negative test.

Certification

A recipient's written statement, authorized by the organization's governing board or other authorizing official that the recipient has complied with the provisions of Part 655. (See §655.82 and §655.83 for certification requirements.)

Chain of custody

The procedure used to document the handling of the urine specimen from the time the employee gives the specimen to the collector until the specimen is destroyed. This procedure uses the Federal Drug Testing Custody and Control Form (CCF) as approved by the Office of Management and Budget.

Collection container

A container into which the employee urinates to provide the specimen for a drug test.

Collection site

A place selected by the employer where employees present themselves for the purpose of providing a urine specimen for a drug test.

Collector

A person who instructs and assists employees at a collection site, who receives and makes an initial inspection of the specimen provided by those employees, and who initiates and completes the CCF.

Confirmed drug test

A confirmation test result received by an MRO from a laboratory.

Consortium/Third-Party Administrator (C/TPA)

A service agent who provides or coordinates the provision of a variety of drug and alcohol testing services to employers. C/TPAs typically perform administrative tasks concerning the operation of the employers' drug and alcohol testing programs. This term includes, but is not limited to, groups of employers who join together to administer, as a single entity, the DOT drug and alcohol testing programs of its members. C/TPAs are not “employers” for purposes of Part 40 regulations.

Continuing education

Training for substance abuse professionals (SAPs) who have completed qualification training and are performing SAP functions, designed to keep SAPs current on changes and developments in the DOT drug and alcohol testing program.

Contractor

A person or organization that provides a safety-sensitive service for a recipient, subrecipient, employer, or operator consistent with a specific understanding or arrangement. The understanding can be a written contract or an informal arrangement that reflects an ongoing relationship between the parties.

Covered employee

A person, including an applicant or transferee, who performs or will perform a safety-sensitive function for an entity subject to Part 655. A volunteer is a covered employee if: (1) the volunteer is required to hold a commercial driver's license to operate the vehicle; or (2) the volunteer performs a safety-sensitive function for an entity subject to Part 655 and receives remuneration in excess of his/her actual expenses incurred while engaged in the volunteer activity.

Designated Employer Representative (DER)

An employee authorized by the employer to take immediate action(s) to remove employees from safety-sensitive duties, or cause employees to be removed from these covered duties, and to make required decisions in the testing and evaluation processes. The DER also receives test results and other communications for the employer, consistent with the requirements of Part 40. Service agents cannot act as DERs.

Dilute specimen

A urine specimen with creatinine and specific gravity values that are lower than expected for human urine.

Disabling damage

Damage that precludes departure of a motor vehicle from the scene of the accident in its usual manner in daylight after simple repairs. (1) Inclusions – damage to a motor vehicle, where the vehicle could have been driven, but would have been further damaged if so driven; (2) Exclusions – (i) damage that can be remedied temporarily at the scene of the accident without special tools or parts, (ii) tire disablement without other damage even if no spare tire is available, (iii) headlamp or tail light damage, (iv) damage to turn signals, horn, or windshield wipers, which makes the vehicle inoperable.

DOT, the Department, DOT agency

These terms encompass all DOT agencies, including, but not limited to, the Federal Aviation Administration (FAA), Federal Railroad Administration (FRA), Federal Motor Carrier Safety Administration (FMCSA), Federal Transit Administration (FTA), National Highway Traffic Safety Administration (NHTSA), Pipeline and Hazardous Materials Safety Administration (PHMSA), and Office of the Secretary (OST). For purposes of this part, the United States Coast Guard (USCG) in the Department of Homeland Security is considered to be a DOT agency for drug testing purposes only since the USCG regulation does not incorporate Part 40 for its alcohol testing program. These terms include any designee of a DOT agency.

Drugs

The drugs for which tests are required under Part 40 and DOT agency regulations are marijuana, cocaine, amphetamines, phencyclidine (PCP), and opioids.

Employee

Any person who is designated in a DOT agency regulation as subject to drug testing and/or alcohol testing. The term includes individuals currently performing safety-sensitive functions designated in DOT agency regulations and applicants for employment subject to pre-employment testing. For purposes of drug testing under Part 40, the term employee has the same meaning as the term “donor” as found on CCF and related guidance materials produced by the Department of Health and Human Services.

Employer

A recipient or other entity that provides public transportation service or which performs a safety-sensitive function for such recipient or other entity. This term includes subrecipients, operators, and contractors.

Error Correction Training

Training provided to BATs, collectors, and screening test technicians (STTs) following an error that resulted in the cancellation of a drug or alcohol test. Error correction training must be provided in person or by a means that provides real-time observation and interaction between the instructor and trainee.

Evidential Breath Testing Device (EBT)

A device approved by the National Highway Traffic Safety Administration (NHTSA) for the evidential testing of breath at the 0.02 and 0.04 alcohol concentrations and appears on ODAPC's web page for "Approved Evidential Breath Measurement Devices" because it conforms with the model specifications available from NHTSA.

Invalid drug test

The result reported by an HHS-certified laboratory in accordance with the criteria established by HHS Mandatory Guidelines when a positive, negative, adulterated, or substituted result cannot be established for a specific drug or specimen validity test.

Laboratory

Any US laboratory certified by HHS under the National Laboratory Certification Program as meeting the minimum standards of subpart C of the HHS Mandatory Guidelines for Federal Workplace Drug Testing Programs; or, in the case of foreign laboratories, a laboratory approved for participation by DOT under Part 40.

Negative result

The result reported by an HHS-certified laboratory to an MRO when a specimen contains no drug or the concentration of the drug is less than the cutoff concentration for the drug or drug class and the specimen is a valid specimen.

Non-negative specimen

A urine specimen that is reported as adulterated, substituted, positive (for drug(s) or drug metabolite(s)), and/or invalid.

Performing (a safety-sensitive function)

A covered employee is considered to be performing a safety-sensitive function and includes any period in which he or she is actually performing, ready to perform, or immediately available to perform such functions.

Positive rate for random drug testing

The number of verified positive results for random drug tests conducted under Part 655 plus the number of refusals of random drug tests required by Part 655, divided by the total number of random drug tests results (i.e., positive, negative, and refusals) under Part 655.

Positive result

The result reported by an HHS-certified laboratory when a specimen contains a drug or drug metabolite equal to or greater than the cutoff concentrations.

Primary specimen

In drug testing, the urine specimen bottle that is opened and tested by a first laboratory to determine whether the employee has a drug or drug metabolite in his/her system; and for the purpose of validity testing. The primary specimen is distinguished from the split specimen, defined in this section.

Qualification Training

The training required in order for a collector, BAT, MRO, SAP, or STT to be qualified to perform his/her functions in the DOT drug and alcohol testing program. Qualification training may be provided by any appropriate means (e.g., classroom instruction, internet application, CD-ROM, video).

Refresher Training

The training required periodically for qualified collectors, BATs, and STTs to review basic requirements and provide instruction concerning changes in technology (e.g., new testing methods that may be authorized) and amendments, interpretations, guidance, and issues concerning Part 40 and DOT agency drug and alcohol testing regulations. Refresher training can be provided by any appropriate means (e.g., classroom instruction, internet application, CD-ROM, video).

Rejected for testing

The result reported by an HHS-certified laboratory when no tests are performed for a specimen because of a fatal flaw or a correctable flaw that is not corrected.

Safety-sensitive function

Any of the following duties, when performed by employees of recipients, subrecipients, operators, or contractors: (1) operating a revenue service vehicle, including when not in revenue service; (2) operating a nonrevenue service vehicle, when required to be operated by a holder of a Commercial Driver's License; (3) controlling dispatch or movement of a revenue service vehicle; (4) maintaining (including repairs, overhaul and rebuilding) a revenue service vehicle or equipment used in revenue service; this section does not apply to the following—an employer that receives funding under 49 U.S.C. 5307, 5309, or 5339, is in an area less than 200,000 in population, and contracts out such services; or an employer that receives funding under 49 U.S.C. 5311 and contracts out such services; (5) carrying a firearm for security purposes.

Screening Test Technician (STT)

A person who instructs and assists employees in the alcohol testing process and operates an ASD.

Service agent

Any person or entity, other than an employee of the employer, who provides services to employers and/or employees in connection with DOT drug and alcohol testing requirements. This includes, but is not limited to, collectors, BATs and STTs, laboratories, MROs, substance abuse professionals, and C/TPAs. To act as service agents, persons and organizations must meet the qualifications, if applicable. Service agents are not employers for purposes of Part 40.

Shipping container

A container used for transporting and protecting urine specimen bottles and associated documents from the collection site to the laboratory.

Specimen bottle

The bottle that, after being sealed and labeled according to the procedures in Part 40, is used to hold a urine specimen during transportation to the laboratory.

Split specimen

In drug testing, a part of the urine specimen that is sent to a first laboratory and retained unopened, and which is transported to a second laboratory in the event that the employee requests that it be tested following a verified positive test of the primary specimen or a verified adulterated or substituted test result.

Stand-down

The practice of temporarily removing an employee from the performance of safety-sensitive functions based only on a report from a laboratory to the MRO of a confirmed positive test for a drug or drug metabolite, an adulterated test, or a substituted test, before the MRO has completed verification of the test result.

Substance Abuse Professional (SAP)

A person who evaluates employees who have violated a DOT drug and alcohol regulation and makes recommendations concerning education, treatment, follow-up testing, and aftercare.

Substituted specimen

A urine specimen with creatinine and specific gravity values that are so diminished or so divergent that they are not consistent with normal human urine.

Vehicle

A bus, electric bus, van, automobile, rail car, trolley car, trolley bus, or vessel.
A public transportation vehicle is a vehicle used for public transportation or for ancillary services.

Verified test

A drug test result or validity testing result from an HHS-certified laboratory that has undergone review and final determination by the MRO.

Violation rate for random alcohol testing

The number of 0.04 and above random alcohol confirmation test results conducted under Part 655 plus the number of refusals of random alcohol tests required by Part 655 divided by the total number of alcohol random screening tests (including refusals) conducted under Part 655.

Checklists

This appendix contains the following checklists:

- Uneventful Urine Collection Checklist
- Drug Testing Custody and Control Form (CCF) Review Checklist
- MRO/TPA Drug Test Results Report Checklist
- Alcohol Testing Form (ATF) Review Checklist
- Records Retention Checklist

Uneventful Urine Collection Checklist

Collector must:

- Require the employee to provide positive identification.
- Explain the basic collection procedure and show the employee instructions on the back of the CCF.
- Direct the employee to remove his/her outer clothing (jacket, hat) and to leave these garments and other personal items (briefcase, purse, etc.) in a mutually agreeable location.
 - Advise the employee that failure to comply constitutes a refusal to test.
 - Allow the employee to keep his/her wallet.
- Direct the employee to empty pockets and display items in them.
- If no potential adulterants are found, allow the employee to return items to pockets.
- Use the Federal Drug Testing Custody and Control Form.
- Complete Step 1 of CCF:
 - Ensure that the name and address of the HHS-certified lab is on the top of the CCF.
 - Ensure that the Specimen ID at the top of the CCF matches the Specimen ID on labels/seals.
 - Mark the “Specify DOT Agency” checkbox.
 - Mark the “Reason for Test” box (Pre-Employment, Random, Post-Accident, etc.).
 - Mark the “Drug Tests to Be Performed” box (five-panel).
- Instruct the employee to wash/dry his/her hands and not to wash hands again until after delivering specimen to the collector.
- Ensure that a collection container is selected and unwrapped in presence of employee.
- Secure the urination facility before the collection:
 - Secure any water sources or make them unavailable to employees (e.g., turn off water inlet, tape handles to prevent opening faucets).
 - Ensure that the water in the toilet tank contains bluing agent.
 - Ensure that soap, disinfectants, cleaning agents, or other possible adulterants are not present.
 - Inspect the site to ensure that no foreign or unauthorized substances are present.

- Tape or otherwise securely shut any movable toilet tank or put bluing agent in the tank.
- Ensure that undetected access (e.g., through a door not in your view) is not possible.
- Secure areas and items (e.g., ledges, trash receptacles, paper-towel holders, under-sink areas, drop-down ceiling panels) that appear suitable for concealing contaminants.
- Direct the employee to go into the room used for urination and instruct the employee to:
 - Provide at least 45 mL of urine.
 - Not flush the toilet.
 - Return the specimen to the collector as soon as the void is complete.
 - Allow only the employee into the room used for urination.
- Check that the specimen contains at least 45 mL of urine (if not, follow shy bladder procedure).
- Read the temperature strip within 4 minutes.
 - Mark the appropriate box in Step 2 of CCF (Yes = between 90 and 100 degrees F)
- Check the specimen for unusual color, foreign objects/material, or other signs of tampering (odor).
- Mark the box in Step 2 of the CCF indicating a split specimen collection.
- Pour at least 30 mL of urine into the primary specimen bottle.
- Pour at least 15 mL of urine into the secondary specimen bottle.
- Secure the lids or caps on the specimen bottles.
- Place the tamper-evident seals on the specimen bottles.
 - Date the specimen bottle seals after they are affixed to the bottle.
 - Ensure that the employee initials the specimen bottle seals.
- Direct the employee to read and sign the certification statement on Copy 2 (MRO Copy), Step 5 of the CCF, and provide date of birth, printed name, and day and evening contact telephone numbers.
- Print collector name in Copy 1, Step 4 of the CCF, record the date and time of the collection, sign the statement, and enter the actual name of the delivery service transferring the specimen to the laboratory.
- Ensure that all copies of the CCF are legible and complete.
- Place specimen bottles and Copy 1 of the CCF in plastic bag and secure both pouches.
- Remove Copy 5 of the CCF and give it to the employee.

- Advise the employee that he/she may leave the site.
- Place the plastic bag in a shipping container and seal the container as appropriate.
- Recheck the urination facility, performing all steps as was done prior to the collection to ensure the site's continued integrity.
- Conduct the collection for only one employee at a time.

Drug Testing Custody and Control Form (CCF) Review Checklist

- Does the form read “Federal Drug Testing Custody and Control Form” at the top?
- In Step 1:
 - Is the correct employer name and address listed? (Employer’s name must be listed here, not C/TPA.)
 - Is the correct MRO name, address, phone, and fax number listed?
 - Is the correct employee ID number or SSN listed?
 - Is the “FTA” box marked?
 - Is the reason for the test marked correctly?
 - Is the box indicating this is a five-panel test marked?
 - Are the collection site address indicating the location where the test was actually performed and the site’s telephone numbers completed accurately?
- In Step 2:
 - Is the temperature between 90 and 100 degrees F marked?
 - Is the “Split” collection box marked?
 - If it was an observed collection, is the “Observed” box marked? (This box should not be marked if an observed collection was not performed.)
 - Is there an appropriate comment included in the Remarks Section? The most common need for remarks include temperature out of range, insufficient volume, adulteration, and employee refuses to sign.
- In Step 3:
 - Even though there is no information provided in Step 3 of the form, look at the bottom of the CCF in the Step 7 portion of the employer’s copy for a faint shadow, imprint, or traces of carbon ink of a date or the employee’s initials.
 - During the collection process, the collector dates and the employee initials the bottles seals after they have been affixed to the bottles. Carbon shadows in Step 7 indicate the date and/or initials were written on the bottle seals before they were affixed to the bottles. This practice is unacceptable.

- In Step 4:
 - Has the collector printed his/her name and signed?
 - Are the time and date correct? Make sure the appropriate AM or PM time is indicated. (If an alcohol test also was performed, compare the time on the ATF with the time on the CCF to make sure the alcohol test was completed first.)
 - Is the delivery service name clearly identified in the “Specimen Bottles Released To” box?
- In Step 5:
 - Are the employee’s name, telephone number(s), and date of birth provided?
 - Is the date provided?
 - Did the employee sign the form? If not, is this documented in the Remarks section of Step 2?

MRO/TPA Drug Test Results Report Checklist

The MRO may use a signed or stamped and dated legible photocopy of Copy 2 of the CCF to report test results. If the MRO does not report test results using Copy 2 of the CCF, he/she must provide a written report for each test result.

This report must, at a minimum, include the following information:

- Full name, as indicated on CCF, of employee tested
- Donor SSN or employee ID number
- Specimen ID number from CCF
- Reason for test, if indicated on CCF (e.g., random, post-accident)
- Date of collection
- Date MRO received Copy 2 of CCF
- Result of test (i.e., positive, negative, dilute, refusal to test, test canceled) and date result was verified by MRO
- For verified positive tests, drug(s)/metabolite(s) for which test was positive (should not include quantitative values for drugs found)
- For canceled tests, reason for cancellation
- For refusals to test, reason for refusal determination

Alcohol Testing Form (ATF) Review Checklist

- Does the form read "U.S. Department of Transportation (DOT) Alcohol Testing Form"?
- In Step 1:
 - Are the correct employee name and ID number or SSN listed?
 - Are the correct employer name and address listed?
 - Are the DER name and phone number accurate?
 - Is the reason for the test marked correctly?
- In Step 2:
 - Did the employee sign and date the form?
- In Step 3:
 - Did the alcohol technician designate his/her title (BAT or STT) and indicate the type of device used?
 - Is the testing facility information listed accurately?
 - Did the alcohol technician sign and date the ATF?
 - If a confirmation test was performed, was the 15-minute waiting period observed (i.e., is the "Yes" box marked)?
 - If a confirmation test was not performed, neither the "Yes" nor "No" box should be marked.
 - If a confirmation test result is 0.02 or greater, did the employee sign Step 4? If not, did the BAT make an appropriate comment in the Remarks section?
- EBT Printout:
 - Are the printed results for a screening or confirmation test affixed to the ATF with tamper-evident tape, if not printed directly on the form? – The results of a screening test below 0.02 may be hand-printed on the ATF in Step 3 if the screening device is not designed to print.

Records Retention Checklist

Five Years

1. Records related to verified positive drug test results
 - Employer copy of CCF
 - Test result
 - Documents presented by covered employee to dispute a test result
2. Alcohol test records with result of 0.02 or greater
 - Employer copy of ATF, including test result
 - Documents presented by covered employee to dispute a test result
3. Documents related to a refusal to test
 - Includes adulterated or substituted test results
4. SAP referral/Return-to-duty/Follow-up testing
 - Documents pertaining to SAP's initial assessment of individual
 - Documents concerning employee's entry into and completion of SAP-recommended treatment program
 - Records pertaining to SAP's reassessment of individual following education/treatment, including SAP's determination of employee's suitability to return to safety-sensitive duties
 - Records of follow-up tests and follow-up testing schedules
5. Copies of annual MIS reports

Three Years

1. Previous DOT employer records request documentation
 - Records of previous positive drug tests, alcohol tests with a result of 0.02 or greater, test refusals, and/or any other DOT rule violation
 - Records documenting applicant's completion of return-to-duty process
 - Records documenting good faith effort to obtain records from previous DOT employers, including applicant consent forms

Two Years

1. Records related to collection process
 - Collection log books (if used)
 - Documents relating to random selection process (e.g., random selection lists)
 - Documents generated in connection with decisions to administer reasonable suspicion tests

- Documents generated in connection with decisions on post-accident testing
- MRO documents verifying existence of medical explanation of inability of an employee to provide adequate urine or breath sample
- 2. Records relating to employee training
 - Training materials on drug-use awareness and alcohol misuse
 - Employer policy on prohibited drug use and alcohol misuse
 - Names of covered employees who attended training, and dates/times of such training
 - Documentation of training provided to supervisors to qualify them to make reasonable suspicion determinations
 - Certification that any training conducted complies with the requirements of §655.14

One Year

1. Records of verified negative drug test results
 - Employer copy of CCF
 - Test result
2. Alcohol test records with result less than 0.02
 - Employer copy of ATF, including test result

Sample Forms and Documents

This appendix contains the following sample forms and documents:

- Acknowledgment of Employer’s Drug and Alcohol Testing Policy
- Acknowledgment of Prohibited Drug Awareness Training for Safety-Sensitive Employees
- Acknowledgment of Reasonable Suspicion Training for Supervisors
- Drug and Alcohol Testing Notification
- Pre-Employment Notification & Acknowledgement
- Release of Information Form – 49 CFR Part 40 Drug and Alcohol Testing
- Reasonable Suspicion Determination Report
- FTA Post-Accident Drug and Alcohol Testing Decision Making
- DOT Custody and Control Form – Affidavit of Correction
- DOT Alcohol Testing Form – Affidavit of Correction

EMPLOYER NAME/LOGO

Acknowledgment of Employer’s Drug and Alcohol Testing Policy

I acknowledge that I have received a copy of the anti-drug and alcohol misuse program policy mandated by the US Department of Transportation (DOT), Federal Transit Administration (FTA) for all covered employees who perform a safety-sensitive function. I understand that compliance with all provisions contained in the policy is a condition of employment.

I further understand that the information contained in the policy dated _____ is subject to change, and that any such changes or addendum, shall be disseminated in a manner consistent with the provisions of 49 CFR Part 655.

(Print Name)

(Signature)

(Date)

EMPLOYER NAME/LOGO

**Acknowledgment of Prohibited Drug Awareness Training
For Safety-Sensitive Employees**

In accordance with Federal Transit Administration (FTA) Rule 49 CFR Part 655.14(b), I acknowledge that I have received at least 60 minutes of training on the effects and consequences of prohibited drug use on personal health, safety, and the work environment, and on the signs and symptoms that may indicate prohibited drug use.

(Print Name)

(Signature)

(Date)

EMPLOYER NAME/LOGO

**Acknowledgment of Reasonable Suspicion
Training for Supervisors**

In accordance with Federal Transit Administration (FTA) Rule 49 CFR Part 655.14(b), I acknowledge that I have received at least 60 minutes of training on the physical, behavioral, and performance indicators of probable drug use, and at least 60 minutes of training on the physical, behavioral, speech, and performance indicators of probable alcohol misuse.

(Print Name)

(Signature)

(Date)

EMPLOYER NAME/LOGO**Drug and Alcohol Testing Notification**

The Federal Transit Administration (FTA) drug and alcohol testing regulation (49 CFR Part 655) requires that all safety-sensitive employees must submit to drug and alcohol testing as a condition of employment in a safety-sensitive position.

Employee Information:

Employee Name: _____

Employee ID/SSN: _____

Date of Notification: _____ Time of Notification: _____ AM/PM

Employee Transported? NO YES Transported by: _____**Collection Site Information:**

Name: _____

Address: _____

City, State, ZIP: _____

Order for Testing:Type of Test: Alcohol Drug BothTesting Authority: DOT/FTA Non-DOTTest Type: Pre-Employment Random Post-Accident
 Reasonable Suspicion Return-to-Duty Follow-upObserved Collection: YES NO**To be filled out by Collection Site Personnel:**

Time of Arrival: _____ AM/PM Collector Name: _____

Return this form with the Employer Copy of CCF and/or ATF to:

DER Name: _____

Employer Address: _____

Employer City, State, ZIP: _____

EMPLOYER NAME/LOGO**Pre-Employment Notification & Acknowledgment**

I understand and acknowledge that I will be required to undergo a urine drug test under the authority of the US Department of Transportation (DOT), Federal Transit Administration (FTA) prior to being hired or transferred into a safety-sensitive position as defined in CFR Part 655¹. I understand and acknowledge that I will not be assigned to perform a safety-sensitive function unless my urine drug test has a verified negative result.

(Print Name)

(Signature)

(Date)

Have you tested positive, or refused to test, on any US DOT pre-employment drug or alcohol test administered by an employer to which you applied for, but did not obtain, a safety-sensitive position in the past two years? Please circle your response below:

YES

NO

If you answered YES, can you provide documentation that you successfully completed the US DOT return-to-duty requirements described in 49 CFR Part 40, subpart O? Please circle your response below:

YES

NO

(Print Name)

(Signature)

(Date)

¹ A safety-sensitive function, as described in 49 CFR Part 655 Section 655.4, includes: (1) operating a revenue service vehicle; (2) operating a non-revenue service vehicle, when required to be operated by a CDL holder; (3) controlling dispatch or movement of a revenue service vehicle; (4) maintaining (including repairs, overhaul and rebuilding) a revenue service vehicle or equipment used in revenue service; or (5) carrying a firearm for security purposes.

EMPLOYER NAME/LOGO

Release of Information Form – 49 CFR Part 40 Drug and Alcohol Testing

Section I: To be completed by the new employer, signed by the employee, and transmitted to the previous employer.

Employee Name: _____ SS/ID Number: _____

I hereby authorize release of information from my DOT-regulated drug and alcohol testing records by my previous employer, listed in *Section I-B* to the employer listed in *Section I-A*. This release is in accordance with US DOT Regulation 49 CFR Part 40, section 40.25.

Employee Signature Date

I-A:
New Employer Name: _____

Designated Employer Representative: _____

Address: _____

Phone #: _____ Fax #: _____

I-B:
Previous Employer Name: _____

Designated Employer Representative: _____

Address: _____

Phone #: _____ Fax #: _____

Section II: To be completed by the previous employer and transmitted to the new employer.

II-A:
In the two years prior to the date of the employee’s signature (in Section I), for DOT-regulated testing:

1. Did the employee have alcohol tests with a result of 0.04 or higher? Yes ___ No ___
2. Did the employee have verified positive drug tests? Yes ___ No ___
3. Did the employee refuse to be tested? Yes ___ No ___
4. Did the employee have other violations of US DOT agency drug and alcohol testing regulations? Yes ___ No ___
5. Did a previous employer report a drug and alcohol rule violation to you? Yes ___ No ___
6. If you answered “Yes” to any of the above items, did the employee complete the return to duty process? Yes ___ No ___

II-B:
Person providing information in Section II-A:

Name: _____ Title: _____
Phone #: _____ Date: _____

EMPLOYER NAME/LOGO

Reasonable Suspicion Determination Report

Employee Name: _____ Employee ID/SSN: _____

Date/Time of Observation: _____ / _____ / _____ AM/PM

Date/Time of Determination to Test: _____ / _____ / _____ AM/PM

Observed Indicators of Prohibited Drug Use/Alcohol Misuse

Reasonable Suspicion determinations must be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odor of the safety-sensitive employee.

Check all indicators observed:

Physical Indicators

- Bloodshot or watery eyes
- Flushed or very pale complexion
- Extensive sweating/skin clamminess
- Dilated or constricted pupils
- Disheveled clothing/unkempt grooming
- Unfocused, blank stare
- Runny or bleeding nose
- Jerky eye movement
- Body odor

Behavioral Indicators

- Fidgety/agitated
- Irregular breathing
- Nausea/vomiting
- Slow reactions
- Unstable walking
- Poor coordination
- Hand tremors
- Suspicious, paranoid
- Depressed, withdrawn
- Lackadaisical attitude
- Irritable, moody
- Extreme fatigue

Speech Indicators

- Slurred or slowed speech
- Loud, boisterous
- Incoherent, nonsensical
- Repetitious, rambling
- Rapid, pressured
- Excessive talkativeness
- Exaggerated enunciation
- Cursing, inappropriate speech
- Inability to concentrate
- Impulsive, unusual risk-taking
- Delayed decision-making
- Reduced alertness

Written Summary

Summarize the facts and circumstances surrounding the incident. Attach additional sheets as needed.

Testing Information:

Collection Site Location: _____ Time Arrived: _____ AM/PM

1. Was the **alcohol** test performed within **2** hours of the reasonable suspicion determination?

_____ YES

_____ NO, **Explain:** _____

2. Was the **alcohol** test performed within **8** hours of the reasonable suspicion determination?

_____ YES

_____ NO, **Explain:** _____

If the alcohol test is not conducted within 8 hours cease all efforts to administer the test.

The above documentation of the observed physical, behavioral, and performance indicators of the named employee was provided by:

Supervisor Name: _____

Phone No: _____

Signature: _____

Date: _____

EMPLOYER NAME/LOGO**FTA Post-Accident Drug and Alcohol Testing Decision Making Form**

The Federal Transit Administration (FTA) drug and alcohol testing regulation (49 CFR Part 655) requires that safety-sensitive employees involved in a public transportation vehicle accident (as defined at 655.4 & 655.44) submit to tests for alcohol misuse and prohibited drug use as soon as possible following the accident. Part 655 also requires the testing of any other safety-sensitive employee whose performance could have contributed to the accident, as determined by the employer at the scene using the best information available at the time of the decision.

Accident Information:

Date of Accident: _____ Time of Accident: _____ AM/PM

Employee Name: _____ Employee ID/SSN: _____

Decision Questions:

- **Was there a fatality?** _____ YES (FTA drug and alcohol tests are REQUIRED) _____ NO
- **If there was NO fatality, answer the following questions:**
 1. Has any individual suffered a bodily injury and immediately received medical treatment away from the scene of the accident? _____ YES _____ NO
 2. Was there any disabling damage to **any** vehicle involved in the accident, requiring the vehicle to be towed away from the scene? _____ YES _____ NO
 3. Was the vehicle (if rail car, trolley car, trolley bus, or vessel) removed from operation? _____ YES _____ NO

If YES to any of these three questions, can you completely discount the performance of the operator of the public transportation vehicle as a contributing factor to the accident?

_____ NO (FTA drug and alcohol tests are REQUIRED)

_____ YES, explain: _____

(If you answered YES, FTA drug and alcohol tests are PROHIBITED.)

- **Other than the operator, could the performance of any other safety-sensitive employee have contributed to the accident, using the best information available?**

_____ NO

_____ YES, explain: _____

(If YES, make arrangements to immediately post-accident test that employee.)

Did you decide to perform a drug or alcohol test?

_____ YES (Complete page 2 of this form)

_____ NO (No further action required)

Time of Decision to Conduct a DOT/FTA Post-Accident Test: _____AM/PM

Testing Information:

Collection Site Location: _____ Time Arrived: _____AM/PM

1. Was the **alcohol** test performed within **2** hours of the time of the accident?

_____ YES

_____ NO, explain: _____

3. Was the **alcohol** test performed within **8** hours of the time of the accident?

_____ YES

_____ NO, explain: _____

If the alcohol test is not conducted within 8 hours, cease all efforts to administer the test.

4. Was the **drug** test performed within **32** hours of the time of the accident?

_____ YES

_____ NO, Explain: _____

If the drug test is not conducted within 32 hours, cease all efforts to administer the test.

The above documentation was provided by:

Supervisor Name: _____

Phone No: _____

Signature: _____

Date: _____

EMPLOYER NAME/LOGO**DOT Custody and Control Form - Affidavit of Correction**

According to 49 CFR Part 40, the collector of the drug test referenced below must take all practicable action to correct errors on the Federal Drug Testing Custody and Control Form so that the test is not cancelled.

Date of Test: _____

Donor Name: _____

Specimen ID# _____

Collector Name: _____

This affidavit addresses the following errors:**Use of Federal Custody and Control Form (§40.45):**

_____ Incorrect form used (i.e. Non-DOT or expired testing form used)

Step 1 Requirements (§40.63) Check all that apply:

_____ A. Missing/Incorrect Employer Name, Address

_____ B. Missing/Incorrect MRO Name, Address, Phone No. and Fax No.

_____ C. Missing/Incorrect Donor SSN or Employee ID No.

_____ D. Missing/Incorrect Testing Authority

_____ E. Missing/Incorrect Reason for Test

_____ F. Missing/Incorrect Drug Tests to be Performed

_____ G. Missing/Incorrect Collection Site Address, Collector Phone No. and Fax No.

Step 2 Requirements (§40.65 - §40.71) Check all that apply:

_____ Collector failed indicate if the specimen was within the acceptable temperature range

_____ Collector failed to mark "Split" Collection

_____ Collector failed to mark "Observed"

_____ Collector arbitrarily marked "Observed"

_____ Missing appropriate comment in the Remarks (i.e. any unusual circumstances during the collection)

Step 3 Requirements (§40.71):

_____ Bottle seals were dated and/or initialed while still affixed to the CCF

Step 4 Requirements (§40.73) Check all that apply:

_____ Missing Signature of Collector

_____ Missing Collector's Printed Name (First, MI, Last)

_____ Missing/Incorrect Date of Collection

_____ Missing/Incorrect Time of Collection

_____ Missing Name of Delivery Service

Step 5 Requirements (§40.73) Check all that apply:

_____ Missing Signature of Donor

_____ Missing Donor's Printed Name (First, MI, Last)

_____ Missing/Incorrect Date of Collection

_____ Missing/Incorrect Daytime Phone No. and/or Evening Phone No.

_____ Missing/Incorrect Date of Birth

Collector Remarks (Description of error/corrective action): _____

In accordance with 49 CFR Part 40.205, I certify that the information above is true and accurate.

Collector Signature

Date

EMPLOYER NAME/LOGO**DOT Alcohol Testing Form - Affidavit of Correction**

According to 49 CFR Part 40, the alcohol technician of the alcohol test referenced below must take all practicable action to correct errors on the US DOT Alcohol Testing Form so that the test is not cancelled.

Date of Test: _____

Donor Name: _____

Alcohol Test #: _____

Technician Name: _____

This affidavit addresses the following errors:**Use of US DOT Alcohol Testing Form (§40.227):**

_____ Incorrect form used (i.e. Non-DOT testing form used)

Step 1 Requirements (§40.241) Check all that apply:

- _____ A. Missing/Incorrect Employee Name
 _____ B. Missing/Incorrect Donor SSN or Employee ID No.
 _____ C. Missing/Incorrect Employer Name, Address
 _____ C. Missing/Incorrect DER Name, Phone No.
 _____ D. Missing/Incorrect Reason for Test

Step 2 Requirements (§40.241)

_____ Missing Date of Employee's Signature

Step 3 Requirements (§40.243-§40.251):

- _____ Missing Technician's title (BAT or STT)
 _____ Technician failed to indicate the type of device used
 _____ Technician failed to mark the 15-minute waiting period was observed (confirmation test was performed)
 _____ Technician arbitrarily marked the 15-minute waiting period (no confirmation test was performed)
 _____ Missing Screening Test information (if device is not designed to print)
 _____ Missing appropriate comment in the Remarks (i.e. any unusual circumstances during the collection)
 _____ Missing/Incorrect Alcohol Technician's Company Name, Address
 _____ Missing/Incorrect Alcohol Technician's Printed Name (First, MI, Last)
 _____ Missing Alcohol Technician's Signature
 _____ Missing/Incorrect Date of Alcohol Technician's Signature

Technician Remarks (Description of error/corrective action): _____

In accordance with 49 CFR Part 40.271, I certify that the information above is true and accurate.

 Alcohol Technician Signature

 Date

MIS Guidance

This appendix contains the following MIS guidance:

- DOT MIS Data Collection Form
- FTA MIS Internet Reporting Instructions
- Frequently Asked MIS Questions

U.S. DEPARTMENT OF TRANSPORTATION DRUG AND ALCOHOL TESTING MIS DATA COLLECTION FORM

Calendar Year Covered by this Report: _____

OMB No. 2105-0529
Form DOT F 1385 (Rev. 5/2008)

I. Employer:

Company Name: _____

Doing Business As (DBA) Name (if applicable): _____

Address: _____ E-mail: _____

Name of Certifying Official: _____ Signature: _____

Telephone: (____) _____ Date Certified: _____

Prepared by (if different): _____ Telephone: (____) _____

C/TPA Name and Telephone (if applicable): _____ (____) _____

Check the DOT agency for which you are reporting MIS data; and complete the information on that same line as appropriate:

___ FMCSA – Motor Carrier: DOT #: _____ Owner-operator: (circle one) YES or NO Exempt (Circle One) YES or NO

___ FAA – Aviation: Certificate # (if applicable): _____ Plan / Registration # (if applicable): _____

___ PHMSA – Pipeline: (Check) Gas Gathering ___ Gas Transmission ___ Gas Distribution ___ Transport Hazardous Liquids ___ Transport Carbon Dioxide ___

___ FRA – Railroad: Total Number of observed/documentated Part 219 “Rule G” Observations for covered employees: _____

___ USCG – Maritime: Vessel ID # (USCG- or State-Issued): _____ (If more than one vessel, list separately.)

___ FTA – Transit

II. Covered Employees: (A) Enter Total Number Safety-Sensitive Employees In All Employee Categories:

(B) Enter Total Number of Employee Categories:

Employee Category	Total Number of Employees in this Category

If you have multiple employee categories, complete Sections I and II (A) & (B). Take that filled-in form and make one copy for each employee category and complete Sections II (C), III, and IV for each separate employee category.

III. Drug Testing Data:

Type of Test	Total Number Of Test Results [Should equal the sum of Columns 2, 3, 9, 10, 11, and 12]	Verified Negative Results	Verified Positive Results – For One Or More Drugs	Positive For Marijuana	Positive For Cocaine	Positive For PCP	Positive For Opiates	Positive For Amphetamines	Refusal Results				Cancelled Results	
									Adulterated	Substituted	“Shy Bladder” ~ With No Medical Explanation	Other Refusals To Submit To Testing		
Pre-Employment														
Random														
Post-Accident														
Reasonable Susp./Cause														
Return-to-Duty														
Follow-Up														
TOTAL														

IV. Alcohol Testing Data:

Type of Test	Total Number Of Screening Test Results [Should equal the sum of Columns 2, 3, 7, and 8]	Screening Tests With Results Below 0.02	Screening Tests With Results 0.02 Or Greater	Number Of Confirmation Tests Results	Confirmation Tests With Results 0.02 Through 0.039	Confirmation Tests With Results 0.04 Or Greater	Refusal Results		Cancelled Results
							“Shy Lung” ~ With No Medical Explanation	Other Refusals To Submit To Testing	
Pre-Employment									
Random									
Post-Accident									
Reasonable Susp./Cause									
Return-to-Duty									
Follow-Up									
TOTAL									

Federal Transit Administration (FTA) Drug and Alcohol MIS Internet Reporting Instructions

To begin Internet reporting, go to the DOT Drug and Alcohol MIS reporting website. This will bring you to the Sign-In Screen. If you are a Grantee or State DOT, your user name and password will be provided by the Volpe Center. Once a Grantee or State DOT has logged in, a list of user names and passwords for all associated contractor or subrecipients will be listed. You are then able to view a Word document with the user name and password to be sent to all individual contractors or subrecipients. If you are a contractor or subrecipient, your grantee or State DOT will provide you with your user name and password. Click the “Log In” button at the bottom of the screen.

Status Page

You are now on the Status Screen. The status of your data will be displayed in the “Status” column. The table below provides status descriptions of a company's MIS data.

Note: If you are a grantee or State DOT, you will see your own company as well as any contractors or subrecipients that you have.

Status	Description
No Data Has Been Entered	The company has not begun entering their data.
Data Is Incomplete	The company has begun entering their data, but has not finished.
Signed, Pending Grantee Review	The company has finished entering their data and has digitally signed their submission. The grantee has not yet reviewed the data.
Signed, Accepted by Grantee	The company has finished entering their data and has digitally signed their submission. The grantee has reviewed and accepted their data.
Rejected by Grantee	The grantee has found a problem with the data. The company and the grantee must discuss the problem, then the company must correct any problems and re-sign their data, and the grantee must review it again.

To begin entering data click “Enter” or “Edit Your Data.” If you have already entered data and would like to view it, click “View Your Data (Read Only).” You may also download your completed data and view it in Adobe Reader as it would appear on a DOT Drug and Alcohol Testing MIS Data Collection form by clicking “Download Data in Adobe PDF Format.”

Helpful Hints:

- Context-related help can be accessed by clicking any underlined item.
- After 20 minutes of inactivity, your browser will time out and you will be required to log in again to continue entering your data. All data entered prior to timing out will be saved.
- If you have questions about the Internet reporting process or any regulatory questions, please call the FTA Drug and Alcohol MIS Project Office at (617) 494-6336 or email fta.damis@dot.gov.

Employer Information

Read each item carefully and enter the appropriate data in the fields provided. Ensure that all data are complete and accurate. Please note that most fields are required and must be populated before a section is considered complete. Once you have completed this section, advance to the next section by clicking the “Covered Employees” tab at the top of the page, or the “Covered Employees” button at the bottom of the page.

Note: When a section is complete, a green check mark (✓) will appear on the section tab at the top of the page.

Tip: You can navigate to any section at any time by clicking the corresponding tab at the top of the screen.

Covered Employees

Enter the total number of covered employees who worked in safety-sensitive positions and were subject to testing during the reporting year. For assistance in determining the number of covered employees who should be accounted for, click on “Total Number of Employees in this Category” or see the explanation in the US Department of Transportation Drug and Alcohol Testing MIS Data Collection Form Instruction Sheet for further information. Once this section has been completed, advance to the next section by clicking the “Drug Testing Data” tab at the top of the page, or the “Drug Testing Data” button at the bottom of the page.

Drug Testing Data

Enter all drug testing data for each test type (Pre-Employment, Random, Reasonable Suspicion, Return-to-Duty, and Follow-Up) performed during the reporting year for each employee category.

Note: Zeros entered in the “Covered Employees” section will automatically fill into the testing fields for that employee category. You must still proceed to each employee category to accept.

Begin with Column 2 (Column 1 is the sum of columns 2, 3, 9, 10, 11, and 12 and will be totaled automatically). If a test was performed for a testing category, results should be entered in the fields provided. If your company did not perform a particular test, enter zero (0) in the appropriate fields. A value must be entered into each field in order to complete this section.

Tip: There are three buttons at the bottom of the drug testing data table: “Undo Changes,” “Clear All,” and “Set Blanks to Zero.” Clicking “Undo Changes” will revert all fields to their original values. Clicking “Clear All” will completely clear all fields on the screen, leaving them blank. Clicking “Set Blanks to Zero” will enter a zero (0) in any blank field.

Reminder: You must enter a value in each field in order to complete this section.

Alcohol Testing Data

The “Alcohol Testing Data” section is similar to the “Drug Testing Data” section. The same directions apply for entering data on each of the five test types conducted for each of the five employee categories.

Reminder: Zeros entered in the “Covered Employees” section will automatically fill into the testing fields for that employee category. You must still proceed to each employee category to accept.

Reminder: You must enter a value in each field in order to complete this section.

Once each field has been completed for an employee category, advance to the next employee category by clicking the appropriate radio button at the top of the page or by clicking the employee category button at the bottom of the page. After completing every field for each employee category in the “Alcohol Testing Data” section, advance to the next section by clicking the “Wrap Up” tab at the top of the page or the “Wrap Up” button at the bottom of the page.

Wrap Up

Upon entering the “Wrap Up” section, several validation checks will be run against the data you have entered. If any section is incomplete, the following warning message will be displayed: “You have not finished entering your data. Please click the following button(s) to return to any incomplete section(s).”

The software will flag any obvious data errors with a red error message. Similarly, any data items that have possible problems will be flagged with a warning message. A button to the right of each error or warning message will link directly back to the section in which the data was entered.

ERRORS: Any data errors must be corrected before you can electronically sign your data.

WARNINGS: Please review all “questionable” data that triggers a warning message. Correct the data if entered incorrectly. If the data entered are correct, you do not need to change it.

When each section has been completed and all errors and warnings have been addressed, you must electronically sign your submission by clicking the “Sign and Submit” button. The date and time you signed your submission will appear.

Note: Check the “Email Confirmation” box if you would like to receive an email confirming your data have been submitted.

You may download your completed data and view it in Adobe Reader as it would appear on a DOT Drug and Alcohol Testing MIS Data Collection form by clicking “Print and/or Save a Copy of your MIS Submittal.” You can log out by clicking the orange “Logout” button at the top right hand corner of the screen.

If you are a contractor or subrecipient, you should notify your grantee that you have submitted your data. Your grantee is responsible for reviewing your data and either accepting or rejecting it. You should sign back in periodically to review the status of your submission. If your grantee rejects your data, you must correct any problems, electronically sign it again, and notify your grantee. The grantee will then review your data again. Once your data has been accepted by your grantee, your submission will be complete.

Note: You may sign back in at any time. This gives you the opportunity to view or edit your submission, and to download it in Adobe PDF format. If you choose to edit your data, you must return to the Wrap Up section and sign your submission again.

Frequently-Asked MIS Questions

1. *I have questions about completing and submitting my MIS, how can I get my questions answered?* Contact the FTA Drug and Alcohol Project Office at fta.damis@dot.gov or 617-494-6336.
2. *Can I use a previous year's user name and password?* No, all user names and passwords are reset each Calendar Year.
3. *Can I access previous year MIS submissions?* No, you may only access the current year's data.
4. *If I realize I made a mistake, can I revise my MIS report after I have submitted?* Yes, you may correct, revise, and resubmit your MIS submission up until the database is closed (typically September).
5. *Who is the Certifying Official?* He/she is the individual that has the knowledge to certify that the data are correct and the person who will be contacted by FTA should there be a question about the MIS report or other area of the employer's drug and alcohol program. He/she must be an employee of the employer submitting the report.
6. *If I revise after March 15, will it be considered a "late" submission?* No, FTA tracks all original submission dates.
7. *Can my contractors also revise their MIS submission?* Yes, but after they re-submit, the Grantee must log-in, review, and re-accept their submission.
8. *How do my contractors and subrecipients get their user names and passwords?* The Grantee must provide them. The Status screen, after login, will list Contractor/Subrecipient User Names and Passwords in the right-hand column.
9. *I have two new contractors not on the list shown on the Status screen. How do I set up accounts for them?* Contact the FTA Drug and Alcohol Project Office at fta.damis@dot.gov or 617-494-6336.
10. *What if my employer or my contractor was in operation only a portion of the calendar year?* Enter all results of FTA tests performed, even if testing was performed for less than 12 months.
11. *Where can I indicate that my submission is partial-year?* There is no place to indicate this.
12. *How do I indicate "special" circumstances that may have affected my testing?* There is no place on the form or in the system to indicate this. Maintain documentation, and be prepared to provide this information should there be an inquiry from FTA.
13. *We are the Grantee but we pass through all FTA funding and have no safety-sensitive employees. Do we need to submit anything?* Yes, you must submit an MIS, but it would be zeroed out (i.e., zero employees, zero tests).

14. *We are the Grantee but we contract out all safety-sensitive functions and have no safety-sensitive employees? You still must submit an MIS, but the testing and employee count data would be all zeroes.*
15. *We are in a consortium and random pool with several other employers. Can the consortium submit one report for all the employers? No, this is an employer-based report. Each employer must submit an individual report with only that individual employer's data.*
16. *We are a small employer in a larger consortium, and we had no employees selected for random testing. What would we report? You would report zero tests in the random testing category.*
17. *Our TPA provides us with our annual testing data, which includes all our employees, including those covered by FMCSA. Can we submit these data? No, you would submit FTA data to FTA and FMCSA data to FMCSA (if requested). Do not double-report testing results.*
18. *We now realize that we made incorrect determinations for post-accident and over-tested. Should we report only those tests that met the FTA post-accident thresholds? No, report all tests performed as DOT tests with FTA as authorizing agency, even if they were incorrectly performed.*
19. *We have safety-sensitive contractors who will not submit their data—what do we do? That is up to you, but they are jeopardizing future FTA funding, as you may be deemed non-compliant.*

Additional Resources

Useful Publications

The following publications and many more are available and can be downloaded from the FTA Drug and Alcohol Program website at <http://transit-safety.fta.dot.gov/drugandalcohol>.

- Prescription and Over-the-Counter Medications Tool Kit
- FTA Drug and Alcohol Regulation Updates (published quarterly)
- Presentations from Annual FTA Drug & Alcohol Program National Conference
- Best Practices Manual: FTA Drug and Alcohol Testing Program (October 2009)

Substance Abuse and Mental Health Services Administration (SAMHSA) National Helpline

SAMHSA's National Helpline is a free, confidential, 24/7, 365-day-a-year treatment referral and information service (in English and Spanish) for individuals and families facing mental health and/or substance use disorders. Call 1-800-662-HELP (4357) or visit <https://findtreatment.samhsa.gov/>.

Locate Local Services

The following websites can be used to find contact information and links to local groups and services:

- Alcoholics Anonymous: http://www.aa.org/pages/en_US/find-aa-resources
- Narcotics Anonymous: <http://www.na.org/meetingsearch>
- Alcoholics Anonymous Family Groups: <http://www.al-anon.alateen.org/local-meetings>
- Narcotics Anonymous Family Groups: <http://www.nar-anon.org/find-a-meeting>
- Marijuana Anonymous: <https://www.marijuana-anonymous.org/meetings/find>
- Cocaine Anonymous: <http://www.ca.org/meetings.html>



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