

**16th Annual FTA Drug and Alcohol Program
National Conference**

March 14-16, 2023

**Beginner
DAPM**

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U.S. Department of Transportation
Federal Transit Administration

FTA
FEDERAL TRANSIT ADMINISTRATION

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Topics

- **OVERVIEW:**
 - Regulations
 - Employer’s Role
 - Key Terms
- **KEY CONCEPTS:**
 - Why We Test
 - Three Kinds of Tests
 - Legal Background
- **PART 655:**
 - Program Requirements
 - Prohibitions
 - Test Types
 - Records Retention & Release, D&A Management Information System (MIS)

FEDERAL TRANSIT ADMINISTRATION

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Topics (cont.)

- PART 40:
 - Purpose
 - Subparts & Key *Employer* Subparts
 - Alcohol Testing
 - Drug Testing
 - Processing of Results
 - Testing Problems & Refusals
 - Section 40.25 (Previous-Employer Checks)
 - Public Interest Exclusions (PIEs)
- VENDORS:
 - “Service Agents,”
 - Employer’s Responsibility & Role
 - Common Oversight Methods
- Next Steps



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Housekeeping

- Two fifteen-minute breaks
- Lunch: Noon to 1:30
- Questions at the end of each section, and at the end of the day



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OVERVIEW

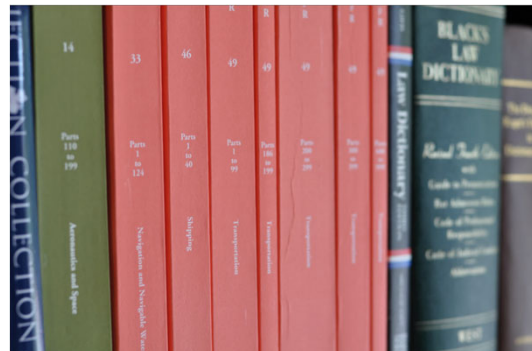
Regulations, Role of the Employer, Key Terms



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The Omnibus Transportation Employee Testing Act

- Passed by Congress in 1991
- Directed DOT to:
 - Implement testing
 - Include strong safeguards
 - Require HHS-approved labs
 - ...and split-specimen testing
 - Test in five *specific* circumstances



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49 CFR PART 655

49 CFR PART 655—PREVENTION OF ALCOHOL MISUSE AND PROHIBITED DRUG USE IN TRANSIT OPERATIONS

Subpart A—General

Sec. 655.1 Purpose.
655.2 Overview.
655.3 Applicability.
655.4 Definitions.
655.5 Stand-down waivers for drug testing.
655.6 Preemption of state and local laws.
655.7 Start-up date for testing programs.

Subpart F

655.51 Compli- require-
655.52 Subst. ment
655.53 Super-
655.54-655.60 periodical

Subj:

655.61 Actios verified p
confirmee
greater, c
655.62 Refers
655.63-655.70

- Published by the Federal Transit Administration
- Full Title: Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations
- **Who** is subject to testing (e.g., operators)
- **When** testing must take place (e.g., after an accident)

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FMCSA, FRA, and USCG REGULATIONS

- Each DOT mode regulates *who* must be tested, and *under what circumstances* (just like Part 655)
 - FMCSA → Part 382 (Controlled Substances and Alcohol Use and Testing)
 - FRA → Part 219 (Control of Alcohol and Drug Use)
 - USCG → 46 CFR Parts 16 (Chemical Testing) and 4 (Mandatory Chemical Testing Following Serious Marine Incidents Involving Vessels in Commercial Service)
- ❖ USCG is not within USDOT, but follows Part 40 for drug testing

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49 CFR PART 40



- Published by USDOT's Secretary's Office (ODAPC)
- Full Title: Procedures for Transportation Workplace Drug and Alcohol Testing Programs
- **How** to conduct drug and alcohol testing
- **How** to return an employee to duty after a violation



The Role of the Regulated Employer

- Implement a policy prohibiting drug use and alcohol misuse
- Perform previous-employer checks for new hires/transferees
- Conduct all required testing
- Take action as necessary
- Oversee contractors and vendors
- Report testing summaries to DOT



The Role of the Regulated Employer: Covered Employers

- Recipients of FTA Transit Funds (i.e., Grantees)
 - 5307: Urbanized Area Formula (Operating & Capital)
 - 5309: Transit Capital Investment (Capital)
 - 5311: Formula Grants for Rural Areas (Operating and Capital)
 - Serving population less than 50,000

- Subrecipients and Contractors of FTA Grantee, when:
 - Recipient (grantee) uses the subrecipient/contractor to provide some or all of its safety-sensitive activities
 - Subrecipient/contractor uses vehicles purchased with FTA capital funding



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The Role of the Regulated Employer: Which functions are covered?

1. Operating a revenue service vehicle, including when not in revenue service
2. Operating a non-revenue service vehicle, when required to be operated by a Commercial Driver's License (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
5. Carrying a firearm for security purposes



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The Role of the Regulated Employer: Others who are covered?

- Volunteers who perform a safety-sensitive function if:
 - Required to have a CDL to operate the vehicle; or
 - Receive payment in excess of actual expenses
- Taxi cab operators/Transportation Networking Companies (e.g., Uber, Lyft) who contract with FTA recipients
 - Unless patrons (using publicly subsidized vouchers) or other transportation providers can choose from a variety of taxi cab operators/TNCs



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The Role of the Regulated Employer: Who is exempt?

- Maintenance contractors performing services:
 - for 5311 grantees
 - for 5307 or 5309 grantees serving areas with a population less than 200,000
 - on a one-time or limited, ad-hoc basis
 - Sub-contractors of maintenance contractors are also exempt
- Commuter rail operators
 - Federal Railroad Administration (FRA)
- Ferryboat Operators
 - Covered mostly by United States Coast Guard
 - Need FTA Random Alcohol Testing



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Common Acronyms

DER	=	Designated Employer Representative
DAPM	=	Drug and Alcohol Program Manager
BAT	=	Breath Alcohol Technician
ATF	=	Alcohol Testing Form
EBT	=	Evidential Breath Testing
CCF	=	Custody and Control Form
MRO	=	Medical Review Officer
SAP	=	Substance Abuse Professional
CFR	=	Code of Federal Regulations
ODAPC	=	Office of Drug and Alcohol Policy and Compliance (OST)



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Key Definitions

DER: an employee authorized to take immediate action to remove employees from safety-sensitive duties. The DER also receives test results

DAPM: an individual responsible for the implementation of the drug and alcohol testing program

CCF: the Federal Drug Testing Form, used to document every DOT urine collection

ATF: the DOT form, used to document every DOT alcohol test

EBT: a device approved by NHTSA for the evidential testing of breath

BAT: a person who instructs and assists employees in the alcohol testing process and operates an EBT



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KEY CONCEPTS

Why We Test, 3 Kinds of Tests, Legal Background



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Why We Test

FTA's rule sets forth various prohibitions, then uses testing to determine whether an employee has violated those prohibitions

• Prohibitions

- Drug use at all times
- Alcohol use...
 - Prior to s.s. function
 - During performance of s.s. function
 - After an accident

• Testing

- Before covered employment
- Randomly
- Responsively



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Three Kinds of Tests

- **“Gatekeeper” Tests** - Pre-safety-sensitive function tests
 - Pre-employment
 - Return-to-duty
- **“Preventative” Tests** - Deter prohibited behaviors
 - Random
 - Follow-up
- **“Responsive” Tests** - Detect employee violations
 - Post-accident
 - Reasonable-suspicion
 - Follow-up



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Legal Background



- Public Safety vs. Employee Privacy
- Courts have consistently upheld DOT’s requirements and procedures
 - *Skinner v. Railway Executive’s Assoc.* (1989)
 - E.g., 2009 Court of Appeals’ unanimous upholding of direct observation for return-to-duty and follow-up tests



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PART 655

Program Requirements, Prohibitions, Test Types, Records Retention & Release, Management Information System



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Program Requirements: FTA D&A Policy – What is it?

- Statement describing policy on prohibited drug use and alcohol misuse in the workplace
 - Provides clear, concise guidelines to employees regarding the DOT/FTA substance abuse prevention program
 - Informs employees of prohibited conduct/behavior
 - Defines consequences for rule violations
 - Describes circumstances for testing
 - Provides a program implementation guide for the DAPM

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FTA D&A Policy: Required Info

- § 655.15 Policy Statement Contents
- Checklist available: <https://transit-safety.fta.dot.gov/DrugAndAlcohol/Tools/Checklist/PolicyReqsChecklist.doc>
- Important 2018, 2019 updates:
 - 1/1/2018 – “Opiates” → “Opioids”
 - 1/1/2019 – If your policy states FTA random rate as “25%,” must update to “50%” or just “minimum rate”



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FTA D&A Policy: Required Info

- You Decide:
 - Negative-dilute → accept result or retest?
 - Pre-employment Alcohol Testing?
 - Zero tolerance or second chance?
 - Company consequences beyond FTA regulatory requirements?



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FTA D&A Policy: Allowed Provisions

- May include Drug Free Workplace Act
- May include Prescription/Over-the-Counter drug policy (encouraged)
- FTA-Required Provisions vs. Employer Provisions
 - Must not conflict
 - Must clearly differentiate (e.g., bold or italics... plain language even better!)



FTA D&A Policy: Distribution

- § 655.16: requirement to disseminate policy
 - Must provide written notice to all covered employees of the policy
 - Can be physical, email, intranet, etc.



Program Requirements: Education & Training

- Display and Distribution of Materials - § 655.14(a)
 - Informational materials about the effects of drugs & alcohol
 - Community service hotline for employee assistance



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Training: All Covered Employees

- Minimum of **60 minutes** on **drugs** - § 655.14(b)
 - Effects and consequences of prohibited drug use on personal health, safety, and the work environment
 - Signs and symptoms that may indicate prohibited drug use
 - Additional training (policy, alcohol, etc.) does not count towards 60 minutes
 - FTA video available: <https://transit-safety.fta.dot.gov/DrugAndAlcohol/Tools/DrugAwarenessVideo/Default.aspx>



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Training: Supervisors

- § 655.14(c): Supervisors and/or other company officials authorized to make reasonable suspicion determinations must receive:
 - Minimum of 60 minutes on physical, behavioral, and performance indicators of probable drug use
 - Minimum of 60 minutes on physical, behavioral, and performance indicators of probable alcohol use
- ❖ Training must occur prior to making any reasonable suspicion referrals
 - FAQ: “How *often* do we need to do this training?”
A: “One time.”



Training: Record Keeping

- Maintain documentation of training - **2 years minimum**
 - Date and time it took place
 - Who attended
 - What topics were covered
 - Copy of certificate (if given)



Prohibited Substances: Drugs

- Use of these drugs is prohibited **at all times****
 - Marijuana
 - Cocaine
 - Phencyclidine (PCP)
 - *Opioids
 - Amphetamines
- Covered employees may be tested for drugs anytime they are on duty

*Policies listing “opiates” as a prohibited/tested substance must be updated to list “opioids” instead

**If your policy does not prohibit drug use at all times, but instead prohibits something like “performing functions while having a drug metabolite level higher than the minimum thresholds established in Part 40,” your policy is not compliant.



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Prohibited Substances - January 2018 Changes

- Added 4 semi-synthetic opioids to testing panel:
 - hydrocodone, oxycodone, hydromorphone, oxymorphone
 - Common brand names: Percodan®, OxyContin®, Percocet®, and Vicodin®
- Removed MDEA from Amphetamine panel
 - Remove this from your policy if it’s currently listed



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Prohibited Substances - January 2018 Changes

Pre-2018	2018
----------	------

§ 40.87 What are the cutoff concentrations for drug tests?

(a) As a laboratory, you must use the cutoff concentrations displayed in the following table for initial and confirmatory drug tests. All cutoff concentrations are expressed in nanograms per milliliter (ng/mL). The table follows:

Initial test analyte	Initial test cutoff concentration	Confirmatory test analyte	Confirmatory test cutoff concentration
Marijuana metabolites	50 ng/mL	THCA ¹	15 ng/mL
Cocaine metabolites	150 ng/mL	Benzoylcegonine	100 ng/mL
Opiate metabolites			
Codeine/Morphine ²	2000 ng/mL	Codeine	2000 ng/mL
		Morphine	2000 ng/mL
6-Acetylmorphine	10 ng/mL	6-Acetylmorphine	10 ng/mL
Phencyclidine	25 ng/mL	Phencyclidine	25 ng/mL
Amphetamines ³			
AMPMAMP ⁴	500 ng/mL	Amphetamine	250 ng/mL
		Methamphetamine ⁵	250 ng/mL
MDMA ⁴	500 ng/mL	MDMA	250 ng/mL
		MDA ⁷	250 ng/mL
		MDEA ⁸	250 ng/mL

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Initial test Analyte	Initial test cutoff ¹	Confirmatory test analyte	Confirmatory test cutoff concentration
Marijuana metabolites (THCA) ²	50 ng/mL ³	THCA	15 ng/mL
Cocaine metabolites (Benzoylcegonine)	150 ng/mL ³	Benzoylcegonine	100 ng/mL
Codeine/Morphine	2000 ng/mL	Codeine	2000 ng/mL
		Morphine	2000 ng/mL
Hydrocodone/Hydromorphone	300 ng/mL	Hydrocodone	100 ng/mL
		Hydromorphone	100 ng/mL
Oxycodone/Oxymorphone	100 ng/mL	Oxycodone	100ng/mL
		Oxymorphone	100 ng/mL
6-Acetylmorphine	10 ng/mL	6-Acetylmorphine	10 ng/mL
Phencyclidine	25 ng/mL	Phencyclidine	25 ng/mL
Amphetamines/Methamphetamine	500 ng/mL	Amphetamine	250 ng/mL
		Methamphetamine	250 ng/mL
MDMA ⁴ /MDA ⁵	500 ng/mL	MDMA	250 ng/mL
		MDA	250 ng/mL

Prohibited Alcohol Use

- Alcohol use is prohibited:
 - **While performing** a safety-sensitive function
 - **Within 4 hours prior** to performing a safety-sensitive function
 - **While on-call** to perform a safety-sensitive function
 - Allow employee the opportunity to acknowledge alcohol use
 - **Within 8 hours following an accident** requiring an FTA post-accident test, or until the test has been conducted
- Covered employees may be tested for alcohol **just before, during, or just after the performance of safety-sensitive functions**
- Covered employees are also prohibited from performing a safety-sensitive function when their alcohol concentration is 0.04 or higher (not 0.02!!)

Prohibited Behaviors: Refusals

- As a covered employee, you have refused to test if you:
 - Fail to appear for a test within a reasonable time
 - Fail to remain at the testing site until the testing process is complete
 - Fail to provide a breath or urine specimen
 - Fail to permit monitoring or direct observation, as required
 - Fail to provide a sufficient quantity of breath or urine without a valid medical explanation
 - Fail or decline to take a second test as directed by the collector or employer

Consequences for refusing to test are the same as for a positive test (i.e., removal from duty and SAP referral)



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Refusals continued

- Fail to cooperate with the testing process (e.g., fail to wash hands)
- Admit adulteration or substitution of specimen to the collector/MRO
- Provide an adulterated or substituted specimen, as verified by the MRO
- Refuse to sign the certification at Step 2 of the ATF
 - Not a refusal to decline to sign Step 5 of the urine collection CCF
- Fail to remain readily available following an accident

Consequences for refusing to test are the same as for a positive test (i.e., removal from duty and SAP referral)



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PRE-EMPLOYMENT TESTING

- ✓ Three Situations
- ✓ Drug test required, alcohol test optional
- ✓ Unique test refusals
- ✓ Previous employer record checks



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Pre-employment Testing: Three Situations

- Applicant
- Current employee transfers to safety-sensitive position
- Current employee returning from extended leave
 - No SS duties for 90+ consecutive days, AND removed from random testing pool
 - So really... the critical factor is 90 days of *pool absence*
 - Do not confuse *return-to-duty* tests with *pre-employment* tests
 - *Return-to-duty* tests are preceded by a positive/refusal, and are directly observed
 - Mix-up = 4th-amendment violation!



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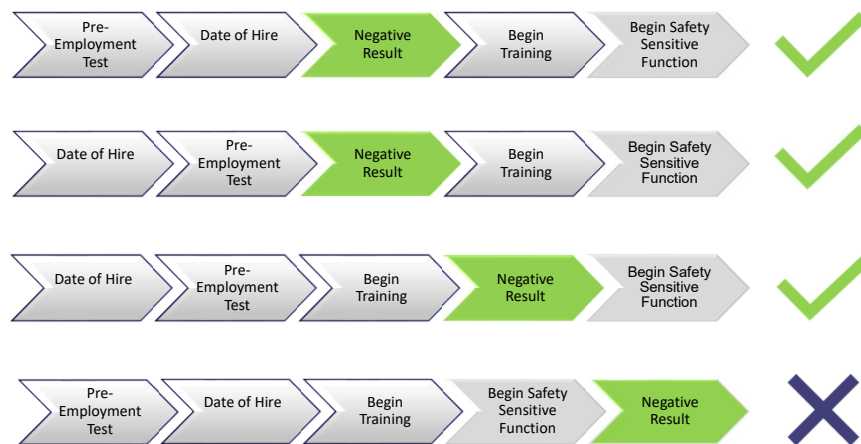
Pre-employment Testing: Drugs



- DOT drug test required for all FTA safety-sensitive positions
 - Verified negative result required prior to first SS duty
 - Includes training, in the yard, or any other movement or control of the vehicle
 - Not more than 90 days between PE test and first SS duty (and inclusion in random pool)

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Pre-employment Testing: Drugs – Four Examples



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Pre-employment Testing: Drugs

What happens if...

- A PE test is cancelled?
 - A second test must be conducted
- A PE test is negative dilute?
 - May conduct a second test (refer to your policy)
 - Employee may begin s.s. functions
 - *Must follow policy either way



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Pre-Employment Testing – Alcohol

- DOT alcohol tests are optional
 - Must follow Part 40 procedures
 - Only after contingent offer of employment
 - Must be applied to all equally*
- BAC < 0.02 result required prior to first SS duty

*but *only* to DOT-covered SSEs!



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Pre-Employment Testing - Refusals

- Different than other test types (random, post-accident, etc.)
- **Not** a refusal if applicant:
 - Fails to appear for testing
 - Leaves the collection site prior to commencement of test:
 - A drug test commences when donor accepts or selects the specimen cup
 - An alcohol test commences when donor accepts or selects the mouthpiece



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Pre-Employment Testing: Key Points

- ✓ Pre-employment drug test required
- ✓ Must receive negative result before first SS duty



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REASONABLE SUSPICION TESTING

- ✓ Goals
- ✓ Authorization to Refer
- ✓ Testing – Why?
- ✓ Testing – When?



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Reasonable Suspicion Testing - Goals

- **The Goal:** Detection of any sign/symptom of drug use and/or alcohol misuse
- Accurately diagnosing specific substance use is not important
 - Are there signs and symptoms of drug use or alcohol abuse?
- May authorize a drug test, alcohol test, or both



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Reasonable Suspicion Testing

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



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Authorized to Make a Referral

- Who should be authorized to make a referral?
 - Company officials who will be in contact with safety-sensitive employees
 - Dispatchers
 - Street supervisors
 - Maintenance supervisors
- Employees (not authorized) should know who to contact if suspicious



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Authorized to Make a Referral

- Training required:
 - 60 minutes – physical, behavioral, and performance indicators of probable drug use
 - 60 minutes – physical, behavioral, and performance indicators of probable alcohol misuse
- ❖ Maintain documentation of training for at least **2 years**



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Reasonable Suspicion Testing – Why?

- Determination to test
 - Based on specific, contemporaneous, articulable observations
 - **Appearance, behavior, speech, or body odor** of employee
 - Decision to administer test must be documented
 - Including any signs or symptoms observed
 - Sample Reasonable Suspicion Determination Form:
<https://transit-safety.fta.dot.gov/drugandalcohol/tools>
- Observation by a trained company official or supervisor
 - Only one trained company official/supervisor is required



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Reasonable Suspicion Testing – Why?

- You detect odor of alcohol?
- Receive anonymous phone tip?
- Employees in verbal or physical fight?
- A notable conduct or safety violation?
- Documentable change in job performance?
- Workplace accident?
- Covering yourself or the company?



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Reasonable Suspicion Testing – When?

- **Drugs** – anytime on duty
- **Alcohol** – only if observations are made just before, during, or just after the performance of safety sensitive functions
- Employees must proceed immediately to collection site for testing (should be transported)
- Same time limits as Post-Accident alcohol tests
 - 2 hours – document reason for delay
 - 8 hours – cease if no test



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Reasonable Suspicion Testing – Key Points

- ✓ Physical signs and symptoms observed
- ✓ Ordered by trained company official/supervisor
- ✓ Drugs (anytime on duty), alcohol (just before, during, just after ss function)
- ✓ Document, document, document



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POST-ACCIDENT TESTING

- ✓ What is an accident?
- ✓ Testing decision
- ✓ Who to test?
- ✓ When to test?
- ✓ Acceptance of other test results



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Post-Accident Testing Criteria

FTA defines an **accident** 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 a bodily injury and immediately receives medical treatment away from the scene
 - One or more vehicles (including third-party vehicles) incurs disabling damage and must be towed away from the scene
 - A rail car, trolley car or trolley bus, or vessel, is removed from operation



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Post-Accident Testing Criteria

- What is a **fatality**?
 - Any individual dies at the scene
 - The death was associated with the occurrence



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Post-Accident Testing Criteria

- What is **medical treatment away from the scene**?
 - Any individual goes directly from the scene to receive medical treatment
 - Transported by any means
 - Does not require verification by the employer



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Post-Accident Testing Criteria

- What is **disabling damage**?
 - Vehicle cannot proceed under its own power without further damage
 - Vehicle cannot be easily repaired at the scene (headlights/taillights, turn signals, horn, tires, mirrors, etc.)
 - Usually requires towing or transport away from the scene by another vehicle
 - Determined by responding company official... *not* police or insurance agent



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Post-Accident Testing Criteria

- Factors that *do not* trigger FTA Post-Accident testing:
 - Dollar amount of damage
 - Driver citation (that’s FMCSA/Part 382)
 - Insurance or company requirement
 - “Just to be safe”
 - At fault vs. preventable



Post-Accident Testing – Who to Test

- **Fatality:**
 - Each surviving covered employee operating the public transit vehicle at the time of the accident
 - Any other covered employee whose performance could have contributed to the accident
- **No fatality:**
 - 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

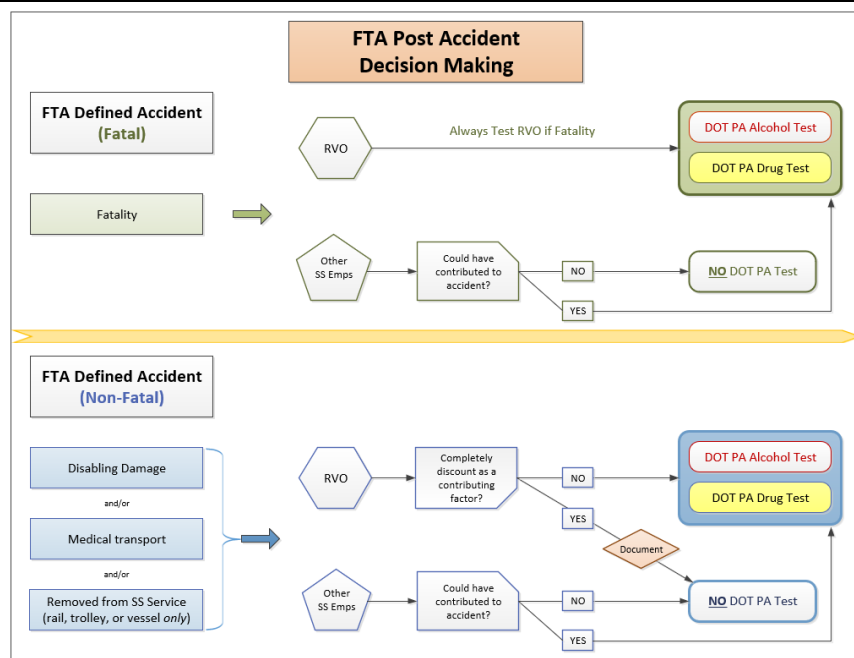


Post-Accident Testing Decision

- Decision to test/not to test
 - Made by employer (company official, supervisor) **at the scene**
 - do not return to the garage/office to review video first
 - Use **best information available** at the time
 - any and all information on-site
 - do not ‘reverse’ decision based on facts that may emerge later
 - » E.g., after reviewing video the next day
 - Document decision-making process



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Post-Accident Testing – When to Test

- **Alcohol and drug** tests must be performed as soon as possible
 - Always treat injuries and cooperate with law enforcement first
- Clock starts at the time of the accident
 - Alcohol test (conducted first)
 - If no test within **2 hours** – document why
 - Cannot test after **8 hours**
 - Drug test
 - Cannot test after **32 hours**
- Employee must give consent (cannot test if deceased/unconscious)



Acceptance of Other Test Results

- Can use results from Federal, State, or Local officials in limited cases (if results are released)
 - Urine, blood, breath
- Must document why FTA test could not be performed within required time period



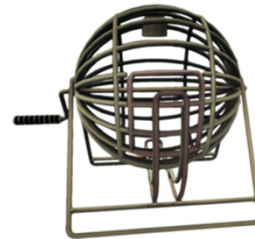
Post-Accident Testing – Key Points

- ✓ Establish that at least 1 of the 3 criteria is met
- ✓ FTA testing is either REQUIRED or PROHIBITED
- ✓ Test any covered employee who could have contributed – ALWAYS alcohol and drug
- ✓ Document, document, document



RANDOM TESTING

- ✓ Minimum testing rates
- ✓ Random selection
- ✓ Consortiums
- ✓ Random testing
- ✓ Records Review



Minimum Random Testing Rates

- Alcohol: 10% of total average covered employees*
- Drugs: 50% of total average covered employees*
- Testing rates describe the required number of tests each year, *not* the number of individuals tested
- Testing above minimum rates is allowed
 - Does **not** need to be stated in the D&A policy

*Rates subject to change (published in Federal Register each year)



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Random Selection: Who gets selected?

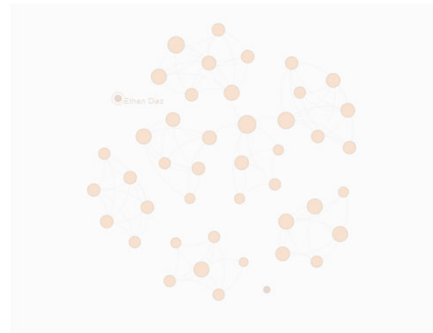
- Random pool must be kept up-to-date
 - New hires
 - Terminations
 - Transfers to safety-sensitive positions
 - Long term leave (FMLA, Workers' Comp, etc.)
 - Optional to remove; allowable to leave in pool
- Only DOT safety-sensitive employees
 - May include other modes (FMSCA, FAA, FRA, PHMSA, USCG)



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Random Selection Method

- Each employee must have **equal chance** of being selected
- Scientifically valid selection method
 - Random num. generator (e.g., Microsoft Excel)
 - Random selection applications (commercial)
- Human hand may not be involved
 - Cannot pull name out of hat
 - Cannot determine type of test after selection



Random Selection – Using Alternates

- Alternates may only be used if the originally selected employee cannot be tested during **entire** selection period
 - Must have a legitimate reason for excusing the original employee (document excusal)
 - E.g., FMLA, LoA
- Alternates...
 - Must be identified as an alternate
 - If multiple alternates generated, use in order listed
 - Test type (Drug/Alcohol/Both) must be decided via random (🎲) process; if not, you must use the same test type(s) as assigned to the excused employee.



Making Random Selections: Myths & Confusions

- Random testing does not test everyone
 - Randomization is NOT systematic testing
- There is no MAXIMUM level of testing
 - There are only minimums
- You can alter the frequency of random draws



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Random Selection Lists

- Restrict access to selection list (only you or your designee)
- Keep list secure (locked cabinet, password-protected, etc.)
- If random selection by TPA or other service provider:
 - Selection must occur just prior to new testing period
 - DER should dictate date and transmission method
 - List transmitted to DER in a secure, confidential manner



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Life of the Selection List

- When new selection list is received, previous list becomes invalid
 - Do not attempt to test individuals from previous lists
- After testing, keep selection list (along with master roster used to generate list) for at least **2 years**



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Consortium

- A pool of safety-sensitive employees from several smaller distinct groups
 - Multiple employers
 - FTA grantee with contractors and/or subrecipients
 - State DOT with subrecipients
 - National contractor with multiple locations



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Consortium

- Consortiums must be compliant with testing minimums
 - Individual employers might end up with testing rates above or below minimums at year-end
 - May include employees covered by multiple DOT agencies
 - Test at highest applicable rate



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Random Testing

- Testing must be unannounced and unpredictable
- Spread testing reasonably throughout
 - All **times of the day** that SS functions are performed
 - Not only during DER's workday
 - All **days of the week** that SS functions are performed
 - All **weeks of the month, and months of the year**
- An employee notified must proceed immediately for testing
 - Track when they arrive



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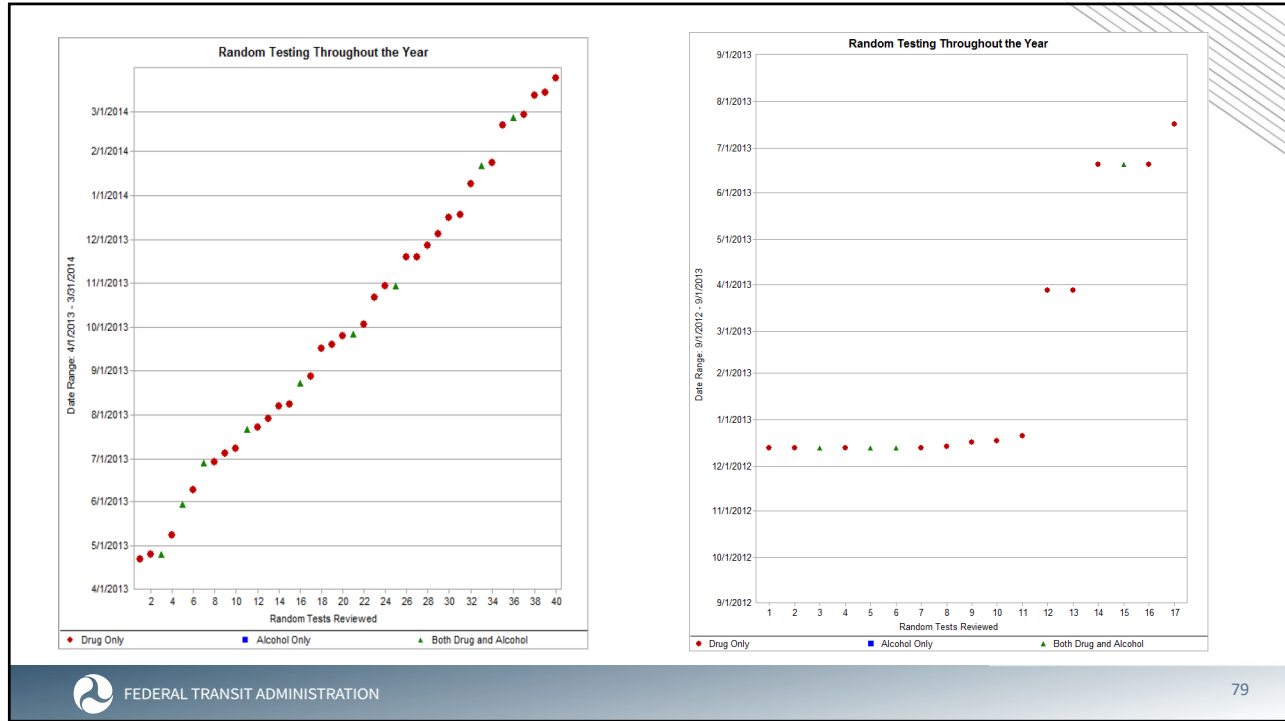
Random Testing

- What happens if the collection site closes early?
 - Back-up collection site
 - After-hours agreement
 - May pay a premium
 - Hospital
 - Ensure DOT qualified collectors
 - Agreement with individual collector



Records Review: Graphic Analysis

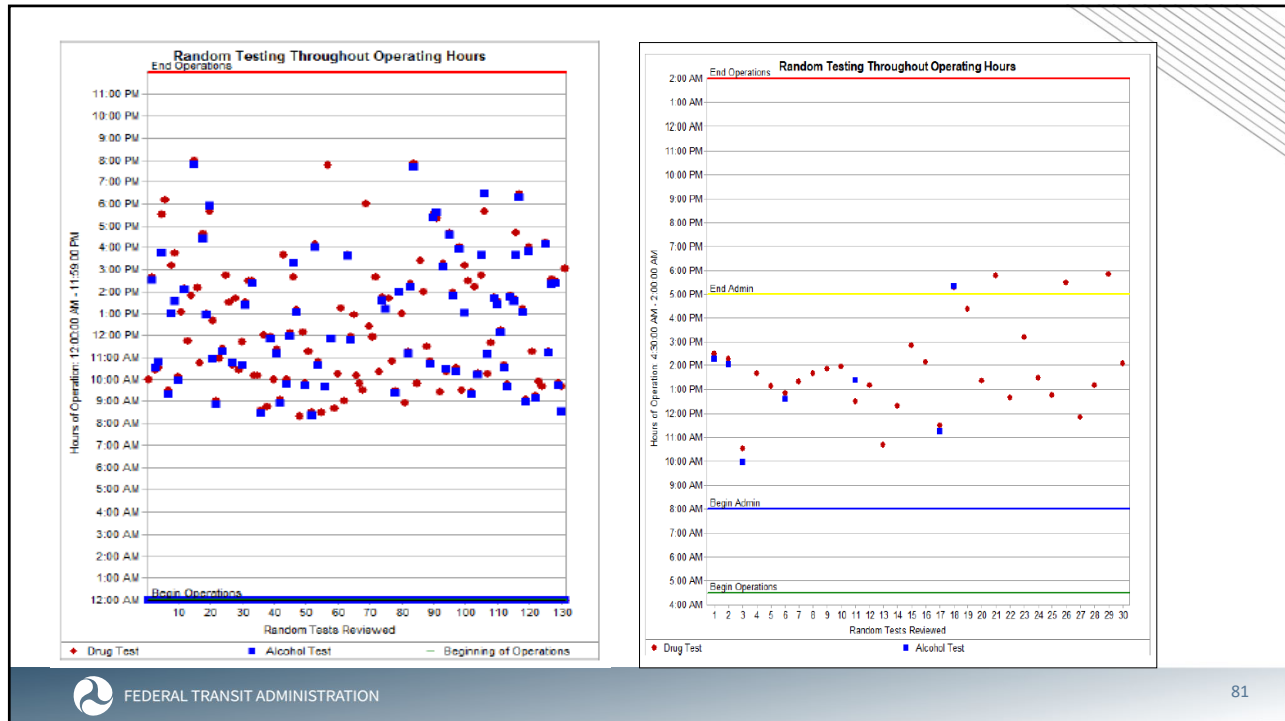




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Records Review – Graphic Analysis

- Create your own random testing charts using Microsoft Excel
 - <http://transit-safety.fta.dot.gov/drugandalcohol/tools/>



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Random Testing – Key Points

- ✓ At least 50% for drugs, 10% for alcohol
- ✓ Update random pool before selection; keep list secure
- ✓ Spread testing reasonably and unpredictably
- ✓ Employees must proceed immediately



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RETURN-TO-DUTY AND FOLLOW-UP TESTING

- ✓ Zero tolerance vs. second chance policy
- ✓ Return-to-duty testing
- ✓ Follow-up testing



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Zero Tolerance vs. Second Chance

- For both “Zero Tolerance” & “Second Chance”:
- If a covered employee does any of the following...
 - refuses a test
 - has a verified positive drug test result
 - has a confirmed alcohol test result of 0.04 or greater

...the employee must be removed from safety-sensitive duty immediately, and referred to a qualified substance abuse professional



Zero Tolerance vs. Second Chance

- Zero tolerance: employee is terminated
 - Contact information for at least two DOT-qualified SAPs (or a SAP network) must still be provided
- Second chance: employee may be allowed to return to safety sensitive duty after completion of the return-to-duty process



Return-to-Duty Testing

- Return-to-duty means second chance
 - Not conducted if an employee is returning from long-term leave (FMLA, Workers' Comp, etc. → pre-employment)
- Conducted after employee successfully completes SAP's treatment and/or education requirements
- Test is employer's responsibility
 - Employer decides **if** and **when** test will take place



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Return-to-Duty Testing

- **Required** in order to return an employee to DOT safety-sensitive duty
- Test can be for drugs, alcohol, or both
 - SAP's decision
- Drug test must be directly observed
 - If not, must send employee back for a second test
- Must receive verified negative result to return



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Follow-Up Testing

- Conducted once employee returns to safety sensitive functions
- According to SAP's written follow-up testing plan
 - Minimum 6 tests in first 12 months
 - Maximum: 60 months (5 years) of testing
 - Duration extended for breaks in service
 - Can be for drugs, alcohol, or both
 - Only SAP can revise plan



Follow-Up Testing

- Testing schedule
 - Must be unannounced and unpredictable
 - Drugs – any time employee is on duty
 - Alcohol – just before, during, or just after safety-sensitive duty (Just as for random and reasonable-suspicion tests!)
- All drug tests must be directly observed
- Employee remains in random testing pool
 - A random test is not a substitute for a follow-up test



Return-to-Duty and Follow-Up Testing – Key Points

- ✓ Return-to-duty test after completion of SAP's treatment plan
- ✓ Follow-up schedule according to SAP's plan
- ✓ Follow-up tests unannounced and unpredictable
- ✓ All tests directly observed



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RECORDS RETENTION AND RELEASE

- ✓ Storage
- ✓ Retention Period
- ✓ Confidentiality



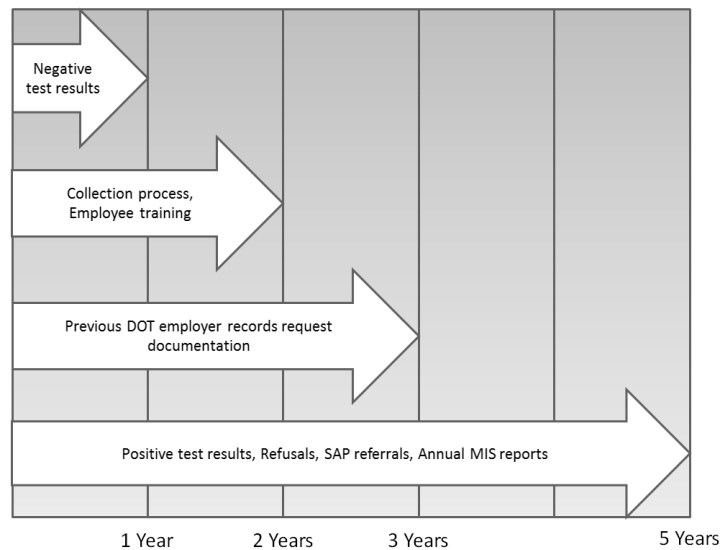
92

Records Storage

- Secure location – with controlled access
 - Locked cabinets
 - Electronic – password protected
 - Keep DOT records separate from non-DOT testing records, personnel records, etc.

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Minimum Retention - Summary



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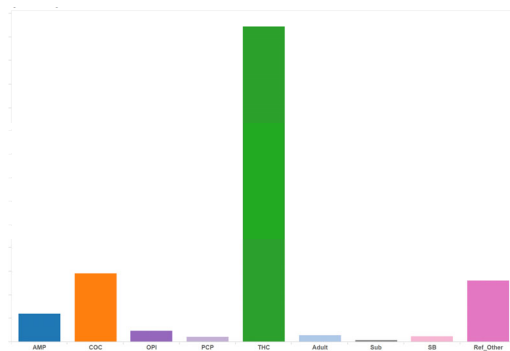
Confidentiality

- Employer may release drug and alcohol information to:
 - **Employee/Third Party** (specific written consent)
 - **State oversight agency (SSO)**
 - **Grantee** required to certify compliance
 - **DOT** Agency and Office of the Secretary (OST)
 - **Lawsuit or grievance** or other proceeding undertaken by the employee or on their behalf
 - e.g., worker’s compensation, unemployment compensation
 - **National Transportation Safety Board (NTSB)** as part of an accident investigation



MANAGEMENT INFORMATION SYSTEM (MIS)

- ✓ FTA reporting requirements
- ✓ Reporting responsibilities
- ✓ Multi-modal employers
- ✓ How to submit



MIS – FTA Reporting Requirements

- Prepare and maintain annual summary of testing results
- MIS report is “employer based”
 - Each employer submits a separate MIS with FTA results
 - No consortium reports
 - No combined reports
- Submit results to FTA
 - When requested (e.g., annual reporting, audit, triennial, etc.)
 - March 15 for annual MIS
- Ensure accuracy and timeliness
 - Grantees → contractors, subrecipients, TPAs, etc.



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Reporting Responsibilities

- Grantees – Direct Recipients, State DOTs, etc.
 - Ensure FTA has record of all subrecipients, covered contractors
 - FTA requests this information – December
 - Pass-through agencies – MPOs, county or city governments must still submit annual MIS
 - Likely “zeroed out” (no safety-sensitive employees or tests)
 - May NOT include contractor/subrecipient results



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MIS – Multi-Modal Employers

- When an employer is regulated by multiple DOT agencies, but: individual employees perform duties regulated by a **single** DOT agency
 - Ex: Employer operates transit buses (FTA) and school buses (FMCSA), but each employee operates only one type of bus
- Submit separate agency-specific MIS forms
- **Do not double report**



MIS – Multi-Modal Employers

- If regulated by multiple DOT agencies, and: individual employees perform duties regulated by **multiple** DOT agencies
 - Ex: Employer operates transit buses (FTA) and school buses (FMCSA), and an employee could operate either vehicle
- Report employees under DOT agency for which majority of safety sensitive duties are conducted;
- If 50/50, choose *one*
- Note: FTA-covered ferry operators should report full number of covered employees to both FTA and USCG



MIS Annual Report: How to Submit

- Internet-based online reporting
 - <https://damis.dot.gov>
- Username and Password
 - Grantees – look for reporting letter in late December
 - Subrecipients/Contractors – receive log in information from grantee
- Due March 15th each year



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MIS Reporting Questions?

- **FTA Drug and Alcohol Hotline (Volpe Center)**
 - Call (617) 494-6336
 - Email fta.damis@dot.gov
- Online guidance
 - <http://transit-safety.fta.dot.gov/DrugAndAlcohol/DAMIS>



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PART 40

Purpose, Subparts, Key *Employer* Subparts, Tests and Results Processing, Testing Problems & Refusals, Section 40.25 (Previous-Employer Checks), Public Interest Exclusions (PIEs)



Part 40's Purpose

- Title: "Procedures for Transportation Workplace Drug and Alcohol Testing Programs"
- Section 40.1(a) states: "This part tells all parties who conduct drug and alcohol tests required by Department of Transportation (DOT) agency regulations how to conduct these tests and what procedures to use."
- An umbrella regulation that tells employers and their vendors – across all regulated modes – how to conduct drug and alcohol testing



Eighteen Subparts

- Subpart A—Administrative Provisions
- Subpart B—Employer Responsibilities
- Subpart C—Urine Collection Personnel
- Subpart D—Collection Sites, Forms, Equipment and Supplies Used in DOT Urine Collections
- Subpart E—Urine Specimen Collections
- Subpart F—Drug Testing Laboratories
- Subpart G—Medical Review Officers and the Verification Process
- Subpart H—Split Specimen Tests
- Subpart I—Problems in Drug Tests
- Subpart J—Alcohol Testing Personnel
- Subpart K—Testing Sites, Forms, Equipment and Supplies Used in Alcohol Testing
- Subpart L—Alcohol Screening Tests
- Subpart M—Alcohol Confirmation Tests
- Subpart N—Problems in Alcohol Testing
- Subpart O—Substance Abuse Professionals and the Return-to-Duty Process
- Subpart P—Confidentiality and Release of Information
- Subpart Q—Roles and Responsibilities of Service Agents
- Subpart R—Public Interest Exclusions



Key Subparts for the Transportation Employer

- Subpart B—Employer Responsibilities
- Subpart E—Urine Specimen Collections
- Subpart I—Problems in Drug Tests
- Subpart L—Alcohol Screening Tests
- Subpart M—Alcohol Confirmation Tests
- Subpart N—Problems in Alcohol Testing
- Subpart O—Substance Abuse Professionals and the Return-to-Duty Process

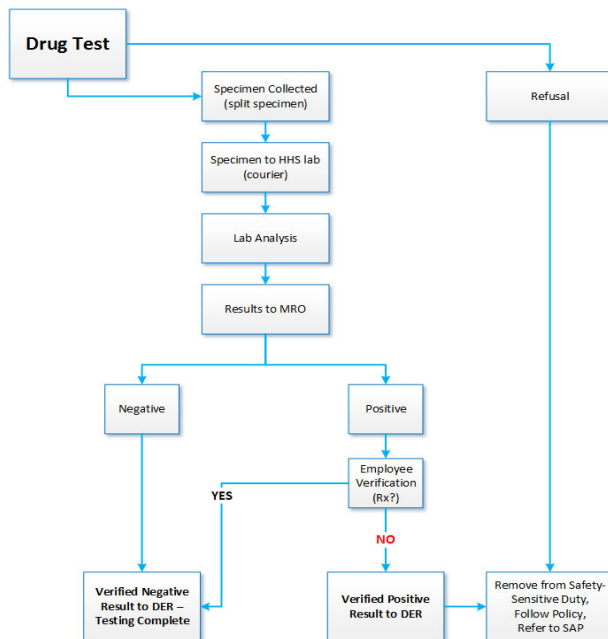


Drug Test Results: Employer Action

- Notification of a verified positive drug test result or refusal to test:
 - Immediately remove the employee from safety-sensitive duties
 - By DER (Designated Employer Representative)
 - Refer employee (or applicant) to qualified SAP



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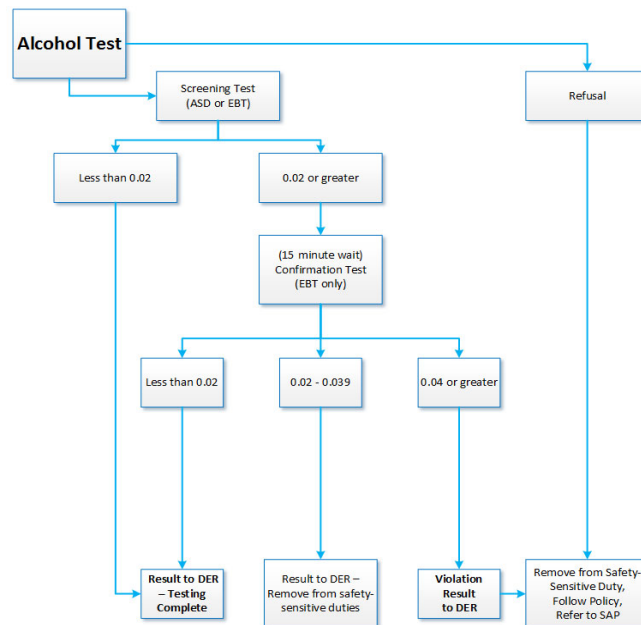
Alcohol Test Results: Employer Action

- Confirmation result of **0.04 or greater** or refusal to test:
 - Immediately remove the employee from safety-sensitive duties
 - By DER
 - Refer employee to qualified SAP

- Confirmation result of 0.02-0.039:
 - Immediately remove the employee from safety sensitive duties for at least 8 hours or until next scheduled shift
 - **NO** SAP referral
 - *May apply disciplinary policy under own authority*



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Problems in Testing & Testing Refusals

- Refusal to test (see slides 35-36)
 - Make determination
 - Take action (same DOT consequences as positive)
- “Shy Bladder” (§ 40.193) and “Shy Lung” (§ 40.265)
 - Five days for medical evaluation (employee keeps working)
 - For drug test, physician must be acceptable to MRO
- Dilute-negative drug test
 - You must have a policy in place
- Canceled test
 - Neither positive nor negative; can’t count toward MIS total



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Previous Employer Records Check

- As a potential employer, you must:
 - Obtain written consent from applicants to obtain drug and alcohol testing information from DOT employers during previous **two years**
 - Contact previous employers – written consent must accompany the request
 - *Separately*, ask applicant/transferee whether he or she has tested positive or refused a DOT pre-employment test in the previous two years - § 40.25(j)



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Previous Employer Records Check

- Request this information from any previous DOT employers:
 - Alcohol test results higher than 0.04
 - Verified positive drug tests
 - Test refusals
 - Other violations of the DOT drug and alcohol regulation
 - If applicable, documentation of successful completion of return-to-duty process



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A Note on Consent

- Can't do it! (see § 40.27)
- There's *always* consent, but it's between DOT and Donor

Central Area Transit

CONSENT TO CONDUCT DRUG & ALCOHOL TESTING

I hereby give my permission for Central Area Transit (CAT) to conduct a drug and/or alcohol test(s) as outlined in the Employer's Drug and Alcohol Testing Policy. I am aware that this testing will be done by means of urine and breath sampling, unless otherwise stated...

I agree to hold harmless the following companies, contractors an individuals and their respective employees, vendor , and contractors: CAT; its Drug and Alcohol Program Manager; and any and all other company personnel; CAT's Third Party Administrator; the Medical Review Officer; the collection site; and the clinical laboratory; from any and all claims or liabilities...



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Public Interest Exclusions (PIEs)

- Used by DOT to protect public interest
- Used to remedy serious (generally ongoing) noncompliance
- Bars service agent from participating in DOT testing
 - Can apply to all divisions/affiliates/departments
- Can last up to five (5) years



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VENDORS

“Service Agents,” Employer’s Responsibility & Role, Common Oversight Methods



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Service Agents

- Includes (but not limited to):
 - TPA
 - MRO
 - SAP
 - Collectors
 - BATs/STTs
 - Consultants
- All must follow Part 40 guidance
- May not act as employer/DER
- Must (individually) subscribe to ODAPC's email list serve



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Employer's Responsibility & Role

- § 40.15(c) states:

“You remain responsible for compliance with all applicable requirements of this part and other DOT drug and alcohol testing regulations, even when you use a service agent.”
- You are responsible for obtaining information (§ 40.17)
- You are responsible for ensuring your vendors are qualified (§ 40.15(b))
 - You may require they show you documentation to this effect

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Common Oversight Methods

- If your vendors are not compliant, you are not compliant
- Specifics not prescribed by DOT
 - DOT allows you to request qualifications, exam certifications, etc.
- Best Practices (for Collection Site oversight)
 - Perform periodic on-site reviews
 - Review testing records – CCFs and ATFs
 - Require correction/cancellation when appropriate



Collection Sites – On-Site Review

- Mock collection
 - Instructional video available at ODAPC website
 - Review urine collection steps in § 40.61 – § 40.73
 - Review steps on the back of CCF (Copy 5)
 - Review alcohol testing process in § 40.241 – § 40.255
 - Review steps on the back of ATF (Copy 3)



Collection Sites – On-Site Review

- Review:
 - Collector Qualifications – § 40.33
 - BAT / STT Qualifications – § 40.213

 - EBT on NHTSA Conforming Products List?
 - Ensure EBT prints
 - Calibration Logbook – Follows Quality Assurance Plan (QAP) for the device (§ 40.233)
 - Clock on EBT is correct – Daylight Savings



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Collection Site Integrity – The Risks

- Substitution of specimen
 - Donor’s ability to dispose of or conceal paraphernalia brought into the enclosure
 - Donor’s ability to access paraphernalia already in the enclosure
 - Hiding places even for small objects

- Dilution of specimen

- Adulteration of specimen



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Collection Site Integrity – The Solutions

- Secure all water sources
- Remove sources of adulterants
- Eliminate undetected access
- Secure/eliminate areas for hiding/concealing
 - Ledges, cabinets, trash receptacles, under sink areas, drop-ceiling tiles



Collection Site – CCF Review

- Step 1
 - A: Employer name, address, phone # - required information
 - TPA information allowed – must transmit to employer
 - B: MRO – current contact information
 - D: DOT Agency – FTA, not FMCSA (most common error)
 - E: Reason for test



Quest
Diagnostics®
800-877-7484
www.questdiagnostics.com/mydrugtest

10906648 0587582 SPECIMEN ID NO. 10906648 0587582

STEP 1: COMPLETED BY COLLECTOR OR EMPLOYER REPRESENTATIVE LAB ACCESSION NO. **8D4500020**

<p>A. Employer Name, Address, I.D. No.</p> <p>MetroTran 2 Park Plaza #305 Boston, MA 02116 Ph: 617-314-9208 Fx: 617-314-9216</p>	<p>B. MRO Name, Address, Phone No. and Fax No.</p> <p>Dr. John C. Spelman, MD 1 Medical Way, Suite 555 Williamstown, MA 01267 Ph: 413-555-9292 Fx: 413-555-9393</p>
---	--


C. Donor SSN, Employee I.D., or CDL State and No.

D. Specify Testing Authority: HHS NRC FMCSA FAA FRA FTA PHMSA USCG

E. Reason for Test: Pre-employment Random Reasonable Suspicion/Cause Post Accident Return to Duty Follow-up Other (specify)

F. Drug Tests to be Performed: THC, COC, PCP, OPI, AMP THC & COC Only Other (specify)

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OMB No. 0930-0158




FEDERAL TRANSIT ADMINISTRATION

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Collection Site – CCF Review

- Step 2
 - Indicate Urine or Oral Fluid*
 - Directly observed
 - Always for return-to-duty and follow up tests
 - Other reasons per § 40.67
 - Observed not checked when required?
 - » Call collection site... if not observed, send donor back immediately
 - Remarks required if:
 - Shy bladder
 - Directly observed by a same gender observer (if different than collector)
 - Temperature out of range
 - Employee not cooperating (won't sign CCF, print name, etc.)



FEDERAL TRANSIT ADMINISTRATION

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STEP 2: COMPLETED BY COLLECTOR (make remarks when appropriate) Collector reads specimen temperature within 4 minutes.			
Temperature between 90° and 100° F ?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No, Enter Remark	Collection:	<input checked="" type="checkbox"/> Split <input type="checkbox"/> Single <input type="checkbox"/> None Provided, Enter Remark <input type="checkbox"/> Observed, Enter Remark
REMARKS			50517

FEDERAL TRANSIT ADMINISTRATION 127

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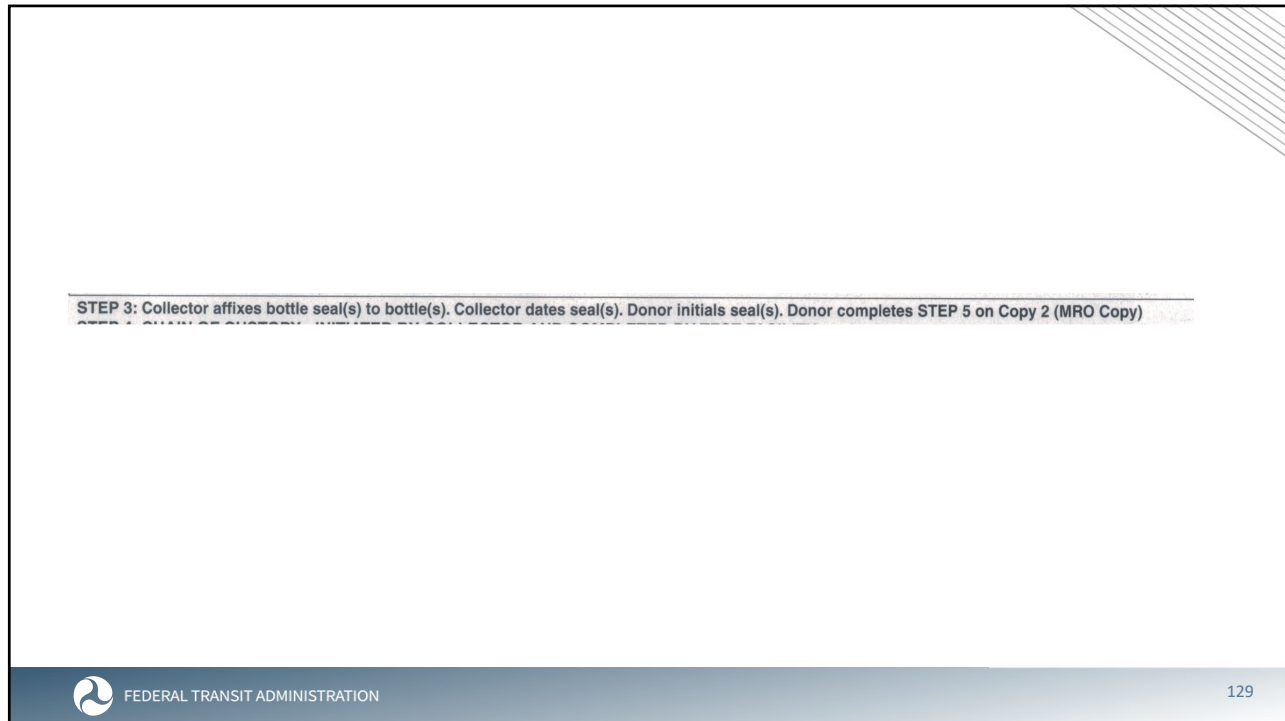
Collection Site – CCF Review

- Step 3
 - Specimen is split into two bottles
 - Collector affixes seals to bottles
 - Collector writes date on seals
 - Collector instructs donor to initial each seal
 - Fold back page 1 and donor completes Step 5

FEDERAL TRANSIT ADMINISTRATION 128

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STEP 3: Collector affixes bottle seal(s) to bottle(s). Collector dates seal(s). Donor initials seal(s). Donor completes STEP 5 on Copy 2 (MRO Copy)

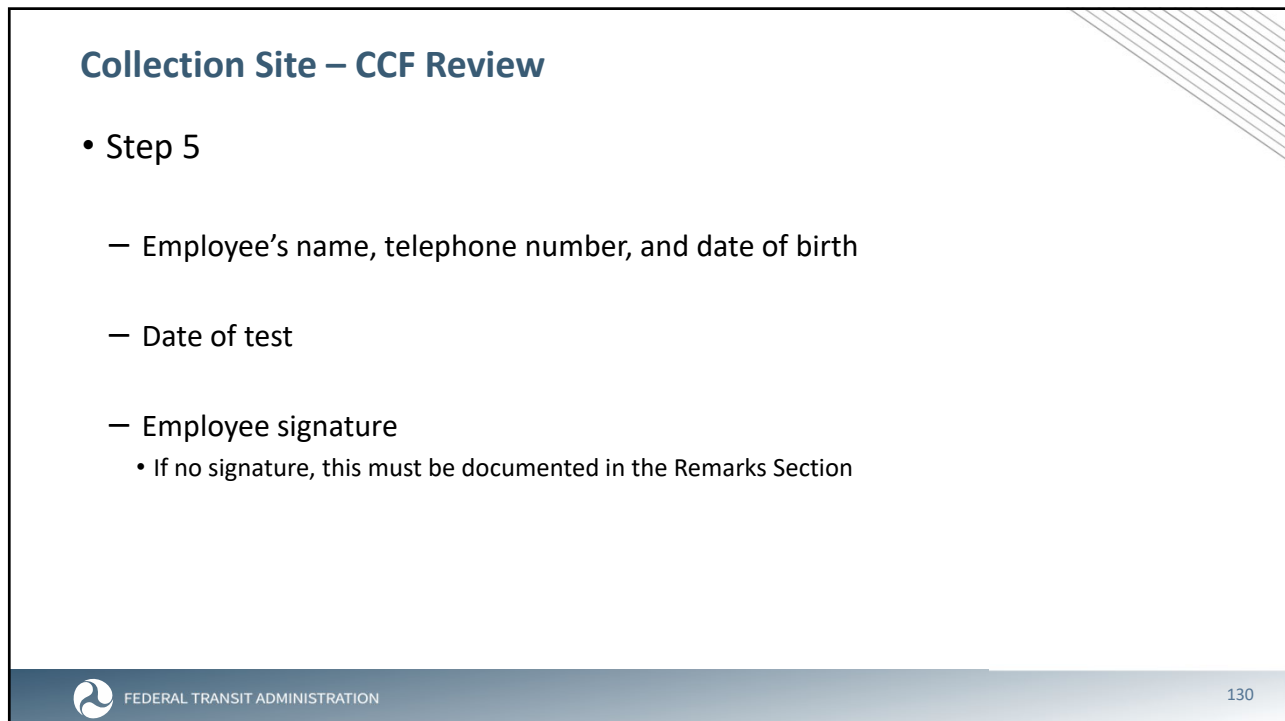


FEDERAL TRANSIT ADMINISTRATION 129

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Collection Site – CCF Review

- Step 5
 - Employee’s name, telephone number, and date of birth
 - Date of test
 - Employee signature
 - If no signature, this must be documented in the Remarks Section




FEDERAL TRANSIT ADMINISTRATION 130

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STEP 5: COMPLETED BY DONOR

I certify that I provided my specimen to the collector; that I have not adulterated it in any manner; each specimen bottle / tube used was sealed with a tamper-evident seal in my presence; and that the information provided on this form and on the label affixed to each specimen bottle is correct.

 Joe P. Giver 1/22/23
 Signature of Donor (PRINT) Donor's Name (First, MI, Last) Date (Mo./Day/Yr.)


Email address jpg@p.com Daytime Phone No. (617) 555-7222 Evening Phone No. (617) 555-8911 Date of Birth 7/4/95
 Mo. Day Yr.

After the Medical Review Officer receives the test results for the specimen identified by this form, he/she may contact you to ask about prescriptions and over-the-counter medications you may have taken. Therefore, you may want to make a list of those medications for your own records. THIS LIST IS NOT NECESSARY. If you choose to make a list, do so either on a separate piece of paper or on the back of your copy (Copy 5). – DO NOT PROVIDE THIS INFORMATION ON THE BACK OF ANY OTHER COPY OF THE FORM. TAKE COPY 5 WITH YOU.

STEP 6: COMPLETED BY MEDICAL REVIEW OFFICER – PRIMARY SPECIMEN URINE ORAL FLUID

In accordance with applicable federal requirements, my verification is:


NEGATIVE POSITIVE

 FEDERAL TRANSIT ADMINISTRATION 131

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Collection Site – CCF Review

- Step 4
 - § 40.209(b)(9) – Must include specific courier name
 - “Courier” not allowed - must be specific (e.g. FedEx, DHL, etc.)

 FEDERAL TRANSIT ADMINISTRATION 132

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Diagnostic marks are the trademarks of Quest Diagnostics.

STEP 3: Collector affixes seal(s) to bottle(s) / tube(s). Collector dates seal(s). Donor initials seal(s). Donor completes STEP 5 on Copy 2 (MRO Copy)
STEP 4: CHAIN OF CUSTODY - INITIATED BY COLLECTOR AND COMPLETED BY TEST FACILITY

I certify that the specimen given to me by the donor identified in the certification section on Copy 2 of this form was collected, labeled, sealed, and released to the Delivery Service noted in accordance with applicable Federal requirements.

SPECIMEN BOTTLE(S) / TUBE(S) RELEASED TO:

Quest Diagnostics Courier
 FedEx
 Other **Careless Couriers**

Signature of Collector: *Cici F. Chequer*
(Print) Collector's Name (First, MI, Last): **Cici F. Chequer**
Date (Mo./Day/Yr.): **01/22/23**
Time of Collection: **1:02 AM**

STEP 5: COMPLETED BY DONOR

FEDERAL TRANSIT ADMINISTRATION 133

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Collection Site – CCF Review

- General:
 - DOT CCF?
 - “Federal Drug Testing Custody and Control Form”
 - All fields complete
 - Dates are correct and consistent
 - Writing is legible
 - You received the correct copy (Copy 4 – Employer)
 - If applicable, alcohol test before drug

QUEST DIAGNOSTICS

STEP 1: COMPLETED BY COLLECTOR OR EMPLOYER REPRESENTATIVE

A. Employer Name, Address, I.D. No. B. MRO Name, Address, Phone No. and Fax No.
 METROZIAN Dr. John F. Quikley, MD
 2 Park Plaza #305 1 Medical Way, Suite 505
 Boston, MA 02116 Willimington, MA 01267
 Ph: 617-314-2008 Fax: 617-314-2116 Ph: 413-555-9292 Fax: 413-555-9393

C. Donor SSN, Employee I.D., or CDC, State and No.
 D. Specify Testing Authority: HHS NRC Specify DOT Agency: FMCSA FAA PRA VTA HHS/MSA USDOJ
 E. Reason for Test: Pre-employment Random Reasonable Suspicion Post-Accident Return to Site Other (Specify):
 F. Drug Tests to be Performed: Urine, Coc, Pcr, Or, Amp Urine, Coc Only Other (Specify):

G. Collector Site Name: **Yardham OccMed** Collection Site Code: Collector Contact Info: Phone: **606-555-1111**
 Address: **2 Oak St** City, State and Zip: **Rockville, MD 20855** Fax: **606-555-2222**

STEP 2: COMPLETED BY COLLECTOR (make remarks when appropriate) URINE ORAL FLUID
 Urine: Collector made urine temperature within 4 minutes. Temperature between 90° and 100° F? Yes No. Enter Remark (if Observed, Enter Remark Observed) Spill Type: Serial Concurrent Subdivided (Each Device Within Expiration Date) Yes No Volume Indicator(s) Observed: None

STEP 3: Collector affixes seal(s) to bottle(s) / tube(s). Collector dates seal(s). Donor initials seal(s). Donor completes STEP 5 on Copy 2 (MRO Copy)

STEP 4: CHAIN OF CUSTODY - INITIATED BY COLLECTOR AND COMPLETED BY TEST FACILITY
 I certify that the specimen given to me by the donor identified in the certification section on Copy 2 of this form was collected, labeled, sealed, and released to the Delivery Service noted in accordance with applicable Federal requirements.

SPECIMEN BOTTLE(S) / TUBE(S) RELEASED TO:

Quest Diagnostics Courier
 FedEx
 Other **Careless Couriers**

Signature of Collector: *Cici F. Chequer*
(Print) Collector's Name (First, MI, Last): **Cici F. Chequer**
Date (Mo./Day/Yr.): **01/22/23**
Time of Collection: **1:02 AM**

Signature of Medical Review Officer: *Joe P. Giver*
(Print) Medical Review Officer's Name (First, MI, Last): **Joe P. Giver**
Date (Mo./Day/Yr.): **1/22/23**
Phone: **719-1925**
Fax: **617-555-7272** (Working Hours) **617-555-8911** (Date of Birth)

STEP 5: COMPLETED BY MEDICAL REVIEW OFFICER - PRIMARY SPECIMEN URINE ORAL FLUID
 NEGATIVE POSITIVE for: Urine TEST CANCELLED
 REFUSAL TO TEST because - check reason(s) below: ADULT TREATED (adult/reason): TEST CANCELLED
 Incomplete OTHER

REMARKS: **1/1**

Signature of Medical Review Officer: *Joe P. Giver*
(Print) Medical Review Officer's Name (First, MI, Last): **Joe P. Giver**
Date (Mo./Day/Yr.): **1/1**

STEP 7: COMPLETED BY MEDICAL REVIEW OFFICER - SPLIT SPECIMEN
 RECOMMENDED to: TEST CANCELLED
 FAILED TO RECONFIRM for: TEST CANCELLED

REMARKS: **1/1**

Signature of Medical Review Officer: *Joe P. Giver*
(Print) Medical Review Officer's Name (First, MI, Last): **Joe P. Giver**
Date (Mo./Day/Yr.): **1/1**

FEDERAL TRANSIT ADMINISTRATION 134

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Collection Site – CCF Review

- What if errors are found?
- **Employer must correct error** – contact collection site
 - Missing information (collector)
 - Supply missing information in writing
 - Supply statement that information is correct and accurate
 - Same business day
 - Non-DOT form for a DOT test (collector)
 - Supply affidavit (memorandum)
 - » Non-DOT form contains all required info
 - » Form used inadvertently or as a method to complete test
 - » Steps to prevent further use of non-DOT form
 - » Split specimen, sent to a HHS lab

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Collection Site – CCF Review

- What if errors are found?
- **Employer may correct some errors** – mark correction on CCF
 - Incorrect/Missing DOT Agency (most common error)
 - Incorrect/Missing Test Type
 - DOB and Current Date reversed

❖ Circle/cross out, initial, date

STEP 1: COMPLETED BY COLLECTOR OR EMPLOYER REPRESENTATIVE

A. Employer Name, Address, I.D. No. B. MPO Name, Address, Phone No. and Fax No. ACCESSION NO.

C. Donor SSN or Employee I.D. No.

D. Specify Testing Authority: HHS NRC DOT - Specify DOT Agency: FAA FAA FRA DOT PRMBA USCG

E. Reason for Test: Pre-employment Random Reasonable Suspicion/Cause Post Accident Return to Duty Follow-up Other (specify)

F. Drug Tests to be Performed: THC, COC, PCP, OPI, AMP THC & COC Only Other (specify)

G. Collection Site Address: Collector Phone No.

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Collection Site – ATF Review

• Step 1

(The instructions for completing this form are on the back of Copy 3)

Tamper Evident Tape

Step 1: TO BE COMPLETED BY ALCOHOL TECHNICIAN

A: Employee Name _____
 (Print) (First, M.I., Last)

B: SSN or Employee ID No. _____

C: Employer Name _____
 Street _____
 City, State, Zip _____

DER Name and Telephone No. _____ DER Phone Number _____

D: Reason for Test: Random Reasonable Susp Post Accident Return to Duty Follow-up Pre-employment

- A: Correct employee’s name
- C: Correct employer name and address, accurate DER information
- D: Reason for test



Collection Site – ATF Review

• Step 2

STEP 2: TO BE COMPLETED BY EMPLOYEE

I certify that I am about to submit to alcohol testing required by US Department of Transportation regulations and that the identifying information provided on the form is true and correct.

_____/_____/_____
 Signature of Employee Date Month Day Year

Print Confirmation Results Here or Affix with Tamper Evident Tape

- Employee signs and dates the form
 - No signature = refusal to test
 - » *Your BATs must know this!*



Collection Site – ATF Review

- Step 3

STEP 3: TO BE COMPLETED BY ALCOHOL TECHNICIAN
 (If the technician conducting the screening test is not the same technician who will be conducting the confirmation test, each technician must complete their own form.) I certify that I have conducted alcohol testing on the above named individual in accordance with the procedures established in the US Department of Transportation regulation, 49 CFR Part 40, that I am qualified to operate the testing device(s) identified, and that the results are as recorded.

TECHNICIAN: BAT STT DEVICE: SALIVA BREATH 15-Minute Wait: Yes No

SCREENING TEST: (For BREATH DEVICE: write in the space below only if the testing device is not designed to print.)

Test #	Testing Device Name	Device Serial # OR Lot # & Exp Date	Activation Time	Reading Time	Result
CONFIRMATION TEST: Results MUST be affixed to each copy of this form or printed directly onto the form.					

REMARKS:

Alcohol Technician's Company _____ Company Street Address _____
 (PRINT) Alcohol Technician's Name (First, M.I., Last) _____ Company City, State, Zip _____ Phone Number _____
 Signature of Alcohol Technician _____ Date Month Day Year _____

Print Additional Results Here or Affix With Tamper Evident Tape

- BAT signs and dates ATF
- 15-minute wait – checked only if a confirmation test conducted
- Test result may be hand-written if < 0.02 and device not designed to print

Collection Site – ATF Review

- Step 4

STEP 4: TO BE COMPLETED BY EMPLOYEE IF TEST RESULT IS 0.02 OR HIGHER
 I certify that I have submitted to the alcohol test, the results of which are accurately recorded on this form. I understand that I must not drive, perform safety-sensitive duties, or operate heavy equipment because the results are 0.02 or greater.

Signature of Employee _____ Date Month Day Year _____

Form DOT F 1380 (Rev. 5/2008) OMR No. 2105-0598

- Employee signs and dates if *confirmation result* 0.02 or higher
 - If no signature – BAT remarks

Collection Site – ATF Review

- General:
 - DOT ATF?
 - “U.S. Department of Transportation Alcohol Testing Form”
 - All fields complete
 - Writing is legible
 - Result affixed to form with tamper evident tape
 - You received the correct copy (Copy 1 – Employer)
 - If applicable, alcohol test before drug

U.S. Department of Transportation (DOT)
Alcohol Testing Form

Step 1: TO BE COMPLETED BY ALCOHOL TECHNICIAN

A. Employee Name: _____ (Print) (First, M.I., Last)

B. Employee ID No. _____

C. Employee Name: _____ (Print)
City, State, Zip _____

D. Reason for Test: Random Reasonable Susp. Post-Accident Return to Duty Follow-up Other (specify) _____

Step 2: TO BE COMPLETED BY EMPLOYEE

I certify that I am above or below an alcohol testing program by U.S. Department of Transportation regulations and that I understand consequences as defined in the applicable laws and regulations.

Signature of Employee _____ Date: _____ Month _____ Day _____ Year _____

Step 3: TO BE COMPLETED BY ALCOHOL TECHNICIAN

If the technician conducting the screening test is not the technician who will be conducting the confirmation test, each technician must complete their own form. I certify that I have conducted alcohol testing in the area specified on this form and that I am qualified to operate the testing device(s) used, and that the results are as recorded.

TECHNICIAN: DAY NIGHT DAY/NIGHT UNKNOWN Missing Mark: Yes No

SCREENING TEST: PRELIMINARY Final (to be used for legal purposes only)

Time of Testing Device Name: _____ Device Serial # (DOT) _____ Test # _____ Activation Time: _____ Breaching Time: _____

COMPARISON TEST: Breathalyzer Other (specify) _____

REMARKS: _____

Alcohol Technician Company: _____ Company Street Address: _____
City, State, Zip: _____ Phone Number: _____

Printed Name of Employer: _____
City, State, Zip: _____

Signature of Alcohol Technician: _____ Date: _____ Month _____ Day _____ Year _____

Step 4: TO BE COMPLETED BY EMPLOYEE (IF TEST RESULTS IN A DOT VIOLATION)

I certify that I have submitted to the alcohol test, the results of which are accurately recorded on this form. I understand that I am not above or below an alcohol testing program because the results are 0.02 or greater.

Signature of Employee: _____ Date: _____ Month _____ Day _____ Year _____

Form DOT F 180 (Rev. 1/2008) OMB No. 1511-0024

COPY 1 - ORIGINAL - FORWARD TO THE EMPLOYER

Collection Site – ATF Review

- What if errors are found?
- **Employer must correct error – contact collection site**
 - Missing information (collector)
 - Supply missing information in writing
 - Same business day
 - Non-DOT form for a DOT test (collector)
 - Supply affidavit (memorandum)
 - » Non-DOT form contains all required info
 - » Form used inadvertently or as a method to complete test
 - » Steps to prevent further use of non-DOT form

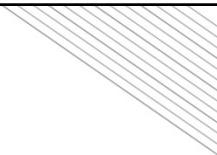


NEXT STEPS

... For Program Improvement


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Next Steps: Policy

- Use policy checklist
- Send draft to FTA for courtesy review
- Use FTA Policy Builder

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Next Steps: Self-audit

- What times are your earliest and latest random tests in the last 2 years?
- What day/time has no safety-sensitive employee ever been tested?
- Are your employees proceeding immediately to random tests?
- Are your post-accident tests conducted in a timely fashion?



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Next Steps: Vendor Relations

- Visit your collection site
- Examine your random selection program and request changes



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Next Steps: Plan & Create Systems

- Get in the loop on vendor billing
- Require a signature confirming a negative drug test before an employee may begin safety-sensitive duties



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TECHNICAL ASSISTANCE



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Help, please!

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- FTA D&A Project Office (USDOT/Volpe Center)
 - **Hotline:** (617) 494-6336, fta.damis@dot.gov
 - Mike Redington: (617) 494-2197, michael.redington@dot.gov
 - Lori DeCoste: (617) 494-2379, lori.decoste@dot.gov
 - Felicity Shanahan: (617) 494-3915, felicity.shanahan@dot.gov



transit-safety.fta.dot.gov

- Forms
 - Post-Accident, Reasonable Suspicion, Notification, Previous Employer
- Policy Help
 - Checklist, Sample Policies, Policy Tool
- Video
 - 1-hr Employee Training
 - Reasonable Suspicion
- Conference & Training Schedules
- Register for Newsletter



www.transportation.gov/odapc

U.S. Department of Transportation

Office of Drug & Alcohol Policy & Compliance

DOT COVID-19 Drug and Alcohol Testing Guidance...learn more

Overview

The Office of Drug and Alcohol Policy and Compliance advises the Secretary on national and international drug testing and control issues and is the principal advisor to the Secretary on issues related to the drug and alcohol testing of safety-sensitive transportation employees in aviation, trucking, railroads, mass transit, pipelines, and other transportation industries. The Office publishes regulations and provides technical information on drug and alcohol testing, including how to conduct tests, and the evaluation and treatment procedures necessary for returning employees to duty after testing violations. The Office also coordinates the Department's involvement with the President's National Drug Control Strategy annually.

Key Resources

- [How to Pass a Substance Abuse Professional](#)
- [Transportation Substance Abuse Testing with Technology](#)
- [Subsection 2012 Annual Drug and Alcohol Testing Update DOT](#)
- [DOT Safety Council Report on Alcohol Testing Program Information](#)
- [Subsection 2012 DOT/CAT Link State Update](#)

Most Viewed Pages

- [Drug and Alcohol Testing - 49 CFR Part 40](#)
- [Drug Testing Courts](#)
- [Guidance](#)
- [Subsection Abuse Professional](#)
- [Subsection and Courts](#)

Most Viewed Documents

- [Part 40 DOT - A Great History](#)
- [DOT Substance Abuse Testing](#)
- [DOT 2012 Update](#)
- [State Program Collection Guidelines](#)
- [Compliance Handbook](#)

Contact Us

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If you are deaf, hard of hearing or have speech disability, please call 1-877-832-7473.

Web communication only services.

Last updated: Thursday, January 26, 2023

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THANK YOU

FEDERAL TRANSIT ADMINISTRATION 152

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