

Record Retention Requirements and Best Practices

Trent Fontanella, Cahill Swift

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Federal Transit Administration



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What to keep and for how long?

- “Employers are required to thoroughly document their program, decision-making and compliance with respective DOT regulations. The drug & alcohol testing documents [within] will only make up a part of the overall records you will need to keep.”
 - *ODAPC’s Employer Record Keeping Requirements for Drug & Alcohol Testing Information*

What to keep and for how long?

- § 655.71 Retention of records; § 40.333 What records must employers keep?

1 Year		Negative Drug Tests, < 0.02 Alcohol Tests & Canceled Tests
2 Years		Collection Process & Employee Training; Inspection, Maintenance, and Calibration of EBTs
3 Years		Previous Employer Requests
5 Years		Positive Drug Tests, ≥ 0.02 Alcohol Tests, Refusals, SAP reports, Return to Duty, & MIS Reports

The “Big 3”

- Custody & Control Form
- MRO-verified result
- Alcohol Testing Form



The “Big 3”

- Custody and Control Form (CCF)

FEDERAL DRUG TESTING CUSTODY AND CONTROL FORM

Claim Number: [REDACTED] Service Date: 10/09/23
Phone: [REDACTED] Fax: [REDACTED]

Non-Injury Work Status Report

Patient: [REDACTED]
SSN: XXXXX [REDACTED]
Address: [REDACTED]
Home: [REDACTED] Ext.: [REDACTED]
Work: [REDACTED] Ext.: [REDACTED]

Employer Location: [REDACTED] Address: [REDACTED]
Contact: [REDACTED] Role: Primary Contact
Phone: [REDACTED] Fax: [REDACTED] Ext.: [REDACTED]

Auth. by: [REDACTED]

This Visit:
Time In: 10:45 am Time Out: 11:25 am Visit Type: New

PrePlacement
Custom Service Package
Alcohol Test
UDS 65304

FEDERAL DRUG TESTING CUSTODY AND CONTROL FORM

[Barcode]

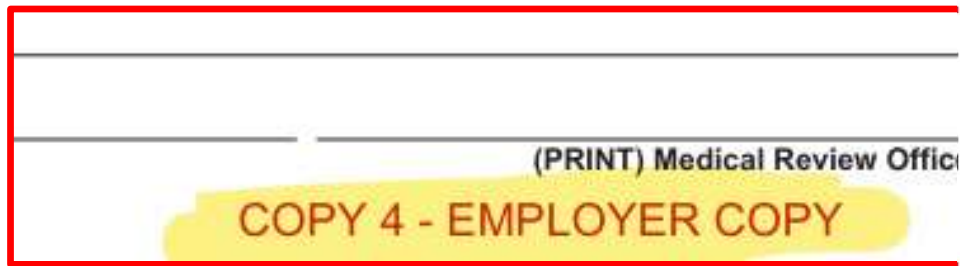
SPECIMEN ID NO. **0000001** ACCESSION NO.

COLLECTOR OR EMPLOYER REPRESENTATIVE

Result Status:

No Status Required

Remarks:



The "Big 3"

- MRO-verified result

Note: All names and SSNs in this presentation are fictitious.

Drug Test Summary Report									
Total									
Client Name:	X Public Transportation								
Test Type:	All								
Regulation:	All								
Agency:	All								
Donor Name	COC	SSN	Client	Reason	Regulation	Test Type	Collection Date/Time	Final Verification Date/Time	Result
Guillermo Tanner		7049976158 039-40-721		ansportation	DOT-FTA	URINE	6/26/2023 9:13:00	6/28/2023 2:02:20 PM	NEGATIVE
Miles Pruitt		7049976149 002-09-125		ansportation	DOT-FTA	URINE	6/16/2023 12:54:06	6/19/2023 8:00:14 AM	NEGATIVE
Neveah Johnson		465277079.3 003-98-127		ansportation	DOT-FTA	URINE	12/21/2022 2:27:00	12/28/2022 10:55:17 AM	NEGATIVE
Alijah Lang		7053308055 004-82-785		ansportation	DOT-FTA	URINE	10/11/2022 3:20:00	10/14/2022 1:00:47 PM	NEGATIVE
Nickolas Harding		7049976141 006-88-165		ansportation	DOT-FTA	URINE	6/12/2023 2:29:00	6/14/2023 7:36:59 AM	NEGATIVE
Esperanza Bush		466053866.9 014-70-272		ansportation	DOT-FTA	URINE	6/8/2023 5:10:00	6/12/2023 11:26:36 AM	NEGATIVE
Matias Pugh		465277090 023-01-407		ansportation	DOT-FTA	URINE	12/22/2022 1:28:00	12/29/2022 2:43:25 PM	NEGATIVE
Kasen Good		465277099.8 077-86-937		ansportation	DOT-FTA	URINE	2/8/2023 3:28:00	2/13/2023 8:07:30 AM	NEGATIVE
Sage Molina		7042778201 212-15-105		ansportation	DOT-FTA	URINE	8/24/2022 12:19:08	8/26/2022 1:32:49 PM	NEGATIVE
Liberty Yang		7049977864 224-83-842		ansportation	DOT-FTA	URINE	10/18/2022 12:53:10	10/20/2022 12:46:49 PM	NEGATIVE
Kayden Bates		7042778204 277-13-117		ansportation	DOT-FTA	URINE	8/25/2022 1:27:00	8/30/2022 2:24:39 PM	NEGATIVE
Carmen Ashley		7050689659 351-48-788		ansportation	DOT-FTA	URINE	6/1/2022 1:09:00	6/3/2022 7:40:34 AM	NEGATIVE
Brooklynn Huff		7050783753 376-46-780		ansportation	DOT-FTA	URINE	6/16/2023 1:48:00	6/19/2023 7:58:52 AM	NEGATIVE
Payton Odom		466852778.1 380-13-465		ansportation	DOT-FTA	URINE	5/10/2023 8:31:00	5/15/2023 10:21:15 AM	NEGATIVE
Tianna Clark		7042779320 396-34-435		ansportation	DOT-FTA	URINE	6/17/2022 9:06:00	6/20/2022 3:52:08 PM	NEGATIVE
Isabella Zavala		7053307990 398-92-415		ansportation	DOT-FTA	URINE	9/1/2022 3:42:00	9/6/2022 11:11:51 AM	NEGATIVE
Zachary Foster		7049978997 402-78-552		ansportation	DOT-FTA	URINE	2/8/2023 10:51:00	2/21/2023 1:17:19 PM	NEGATIVE
Amani Olsen		7057558946 428-50-886		ansportation	DOT-FTA	URINE	8/22/2023 11:51:08	8/24/2023 8:31:50 AM	NEGATIVE
Sanai Robinson		465277091.8 470-34-285		ansportation	DOT-FTA	URINE	12/28/2022 9:15:00	12/30/2022 12:07:39 PM	NEGATIVE
Israel Allen		7053307977 484-76-211		ansportation	DOT-FTA	URINE	8/26/2022 12:39:08	8/30/2022 2:27:29 PM	NEGATIVE
Alani Rivers		7042778177 504-60-611		ansportation	DOT-FTA	URINE	8/11/2022 3:43:00	8/16/2022 10:35:07 AM	NEGATIVE

The "Big 3"

- Alcohol Testing Form (ATF)

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

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

COMPLETED BY ALCOHOL TECHNICIAN

Signature of Employee

Form DOT F 1380 (Rev. 5/2008)

COPY 1 – ORIGINAL – FORWARD TO THE EMPLOYER

Alcohol Test Information

DONOR INFORMATION

Donor ID: [REDACTED]
Donor Name: [REDACTED]
Employer: [REDACTED] - PMA

TEST INFORMATION

Test Reason: Random
Test Type: DOT
Test Facility: [REDACTED]
Technician: [REDACTED]

RESULT INFORMATION - SCREENING

Test Date: 07/30/2020 2:03 PM
Test #: 0830
Result: 0.000
Device Type: Breath
Device Name: Intoxilyzer 240
Test Entered on 08/04/2020 12:05 PM

* This report does not meet DOT record requirements. Employers must maintain the employer copy of the DOT Alcohol Test Form.

The “Big 3” | Supplemental Documents

- Notification form (best practice)
- Initial & re-tests
 - E.g., After canceled test; if directed by MRO



Records Types

New Hires

Extended Leave

Random

Reasonable
Suspicion

Post-Accident

Canceled

0.02+, Violations,
and Return to
Duty

Data

Service Agents

New Hires

§§ 655.71 and 40.333

- 1 Year: Negative pre-employment drug test
- 1 Year: <0.02 pre-employment alcohol test
- Big 3 (CCF, MRO-verified result, ATF)

(Including for applicants not hired)



New Hires

§§ 40.25 and 40.333

- 3 Years: Previous employer requests
 - Information released from previous employer
 - Violations, information about employee's return-to-duty
 - If information is not obtained, documentation of the good faith efforts made to obtain the information.
 - Call log, email, certified mail, etc.

- 3 Years: Written record of information released to gaining employers

New Hires | Best Practices

- Date employee starts performing safety-sensitive duties
 - Compare to MRO-verified result date
- Record of policy dissemination
- DOT employment history



Training Records

§ 655.71

- 2 Years: Employee drug awareness training
 - Date and time of prohibited drug use training and names of covered employees who attended
 - Training materials used
 - Certification of compliance with section 655.14(b)(1)
 - Length of training, topics covered
- 2 Years: Supervisor reasonable suspicion training records
 - Documentation of training provided
 - Certification of compliance with section 655.14(b)(2)
 - Length of training, topics covered
- 2 Years: Copy of employer's policy on prohibited drug use and alcohol misuse

Training Records | Best Practices

- Maintain documentation that employee completed training (e.g., drug awareness and/or reasonable suspicion) until employee terminated



Return from Extended Leave

§§ 655.71 and 40.333

- 1 Year: Negative pre-employment drug test
- 1 Year: <0.02 pre-employment alcohol test
- Big 3 (CCF, MRO-verified result, ATF)



Return from Extended Leave | Best Practices

- Leave dates
 - Last date of safety-sensitive duty
 - First date of safety-sensitive duty
 - Date removed from random testing pool
 - Date returned to random testing pool

Random Testing

§§ 655.71 and 40.333

- 1 Year: Negative random drug test
- 1 Year: <0.02 random alcohol test
- Big 3 (CCF, MRO-verified result, ATF)

Random Testing

§§ 655.71

- 2 Years: “Collection Process” - documents generated in connection with decisions to administer tests
 - Random selection lists
 - Date generated or received
 - Testing period
 - Test type
 - Alternates (if applicable)
 - Random pool at time of each selection
 - Excusals from testing

Random Testing | Best Practices

- Random testing spread – hours, days, year
- Documentation of annual testing rates
 - In-house calculations
 - Statement from consortium affirming minimum random testing rates were met

Post-Accidents

§§ 655.71 and 40.333

- 1 Year: Negative post-accident drug test
- 1 Year: <0.02 post-accident alcohol test
- Big 3 (CCF, MRO-verified result, ATF)



Post-Accidents

§ 655.71

- 2 Years: “Collection Process” - documents generated in connection with decisions to administer tests
 - All post-accident reports
 - Decision making form (if applicable)
 - Decision to not test after qualifying accident
 - Inability to conduct drug and/or alcohol test within required time limits

Post-Accidents | Best Practices

- Post-accident decision making form after all vehicle incidents

Reasonable Suspicion

§§ 655.71 and 40.333

- 1 Year: Negative reasonable suspicion drug test
- 1 Year: <0.02 reasonable suspicion alcohol test
- Big 3 (CCF, MRO-verified result, ATF)



Reasonable Suspicion

§ 655.71

- 2 Years: “Collection Process” - documents generated in connection with decisions to administer tests
 - Documentation of signs and symptoms
 - Referral for testing form (if applicable)
 - Inability to conduct alcohol test within 2 hours and 8 hours

Reasonable Suspicion | Best Practices

- Documentation of all reasonable suspicion observations



Canceled Tests

§§ 655.71 and 40.333

- 1 Year: Canceled tests
 - Big 3 (CCF, MRO-verified result, ATF)
 - Documentation related to the cancelation (if applicable)
 - e.g., statement from collection site, attempt to correct flaw



Canceled Tests | Best Practices

- Collector/Technician error correction training



Insufficient Specimen

§ 655.71

- 2 Years: Documents verifying legitimate medical explanation for a shy bladder, ~~dry mouth~~, or shy lung



Alcohol Tests 0.02 – 0.039

§§ 655.71 and 40.333

- 5 Years: Confirmation alcohol test results 0.02 or greater
 - ATF
 - Documentation of temporary removal of employee from safety-sensitive duty
 - ATF for subsequent test (if applicable)



DOT Violations

§§ 655.71 and 40.333

- 5 Years: Positive drug test / Alcohol confirmation test results ≥ 0.04
 - Big 3 (CCF, MRO-verified result, ATF)
 - SAP referral



DOT Violations

§§ 655.71 and 40.333

- 5 Years: Refusals to test
 - Big 3 (CCF, MRO-verified result, ATF) (if applicable)
 - Any documentation related to the refusal of the employee to take test, e.g.:
 - time of notification vs. time of arrival at collection site
 - statement from collection site regarding employee leaving
 - DER's account of events that occurred at collection site
 - failure of employee to undergo a medical examination as part of insufficient specimen situation
 - SAP referral
- 5 Years: Documents presented by employee to dispute results

DOT Violations | Best Practices

- Time and date of removal from safety-sensitive duty following a violation



2nd Chance

§§ 655.71 and 40.333

- 5 Years: SAP reports
 - Initial SAP report
 - Follow-up SAP report(s)
 - Follow-up testing plan
- 5 Years: Return-to-duty & follow-up testing paperwork
 - Big 3 (CCF, MRO-verified result, ATF)

2nd Chance

- Paperwork and documentation related to a DOT violation (e.g., initial violation testing paperwork, SAP referral) should be kept for five years following the final related event (e.g., final follow-up test, employee termination).

(Including for applicants not hired due to pre-employment violation)

Service Agent Documentation

§ 40.333

- 2 Years: Inspection, maintenance, and calibration of EBTs
 - Typically maintained by service agent



Service Agent Documentation

- Documentation of technician and collector qualification
 - Refresher training required every 5 years (§§ 40.33, 40.35, 40.213)
- Documentation of MRO qualification
 - Requalification required every 5 years (§ 40.121)
- Documentation of SAP qualification
 - 12 professional development hours required every 3 years (§ 40.281)

Data Reports

§ 655.71

- 5 Years: Copy of annual MIS report submitted to FTA
- Laboratory statistical summary reports



Retention Recap

How Long Must You Keep?



U.S. Department of Transportation
Federal Transit Administration



How Long Must You Keep?

ATF for 0.04 alcohol confirmation test result

5 Years



How Long Must You Keep?

ATF for 0.039 alcohol confirmation test result

5 Years

How Long Must You Keep?

ATF for canceled 0.039 alcohol confirmation test result

1 Year

How Long Must You Keep?

ATF for 0.01 alcohol confirmation test result

1 Year

How Long Must You Keep?

Drug and alcohol information released to a gaining employer for a previous employee

3 Years



How Long Must You Keep?

Drug and alcohol information obtained from a previous employer for a new employee

3 Years



How Long Must You Keep?

MRO documents verifying existence of medical explanation for an insufficient specimen resulting in a canceled test

2 Years

How Long Must You Keep?

MRO documents determining there is no medical explanation for an insufficient specimen

5 Years



How Long Must You Keep?

SAP referral for applicant not hired after positive pre-employment test

5 Years



How Long Must You Keep?

Random selection lists

2 Years



How Long Must You Keep?

Knowledge & fond memories from this conference

Forever

(in your mind and in your heart)



Maintaining Records

How to store records: requirements & best practices



Model Forms

- Compliant record maintenance often starts with quality forms
- Good forms cue proper documentation
- [FTA's Tools and Resources](#)
 - Previous Employer Release of Information Form
 - Post-Accident Decision Making Form
 - Reasonable Suspicion Determination Report
 - Notification for Testing Form
 - Collection Site Affidavit Form

Access

- Kept in a secure location with controlled access (e.g., locked file cabinet)
- Only designated personnel with a “need-to-know” should have access
- Separate from personnel or medical records
 - Limits the number of individuals who have access



Access

§§ 40.321; 40.323; 655.73

- You are prohibited from releasing individual test results or medical information about an employee to third parties without the employee's specific written consent
 - Blanket releases are prohibited
 - Exceptions:
 - Lawsuit, grievance, or other proceeding brought by employee and resulting from the results of a drug or alcohol test
 - Release to employee or decisionmaker in proceeding; notify employee
 - Criminal or civil action resulting from employee's performance of safety-sensitive duties, in which court determines drug and alcohol information is relevant to the case and orders employer to produce information
 - Release to decisionmaker in proceeding; notify employee

Access

§§ 40.321; 40.323; 655.73

- You are prohibited from releasing individual test results or medical information about an employee to third parties without the **employee's specific written consent**
 - Blanket releases are prohibited
 - Exceptions:
 - Secretary of Transportation, DOT agency representatives
 - National Transportation Safety Board (NTSB) as part of an accident investigation
 - Federal, state, or local safety agency with regulatory authority
 - Grantee required to certify compliance with Parts 655 and 40
 - State CDL licensing authorities (if applicable)

Electronic Storage

- Collection site can electronically transmit CCFs & ATFs to MRO/DER
- MRO-verified results might only be available in online database
- Records received electronically may be maintained electronically
- Secure access rules apply
- If using online portal, employers should have access to Big 3 (CCF, MRO-verified result, ATF)

Electronic Storage

- Anything maintained electronically must be easily accessible, legible, and able to be presented in an organized way (§40.333(e))
 - If electronic records don't meet these standards, employer must be able to convert records to printed documentation in a rapid and readily auditable manner
 - FTA auditors ask for paper copies
- Employer is responsible for legibility and accessibility of records
 - Employer is responsible for their copy of the CCF/ATF
 - Employer must ensure collection site is delivering records in a compliant way

Accuracy & Legibility

- If scanning paperwork, must be legible (i.e., high quality)
- If receiving illegible copies from vendors, you must ensure they resend or send original

Accuracy & Legibility

SPECIMEN ID NO. _____ LAB ACCESSION NO. _____

STEP 1: COMPLETED BY COLLECTOR OR EMPLOYER REPRESENTATIVE

A. Employer Name, Address, I.D. No. _____ B. MRO Name, Address, Phone No. and Fax No. _____

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

D. Specify Testing Authority: HHS NRC Specify DOT Agency: 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: Coc, Doc, PCP, OTC, AMP THC & COC Only Other (specify) _____

G. Collection Site Name: _____ Collection Site Code: _____ Collector Contact Info: _____
 Address: _____ Phone: _____
 City, State and Zip: _____ Fax: _____
 Other: _____

STEP 2: COMPLETED BY COLLECTOR (make remarks when appropriate) URINE ORAL FLUID

Collection: Split Single None Provided, Enter Remark _____

URINE: Collector reads urine temperature within 4 minutes. Temperature between 90° and 100° F? Yes No, Enter Remark Observed, Enter Remark _____

ORAL FLUID: Split Type: Serial Concurrent Subdivided | Each Device Within Expiration Date? Yes No Volume Indicator(s) Observed _____

REMARKS: _____

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.

_____ Signature of Collector _____ AM _____
(Print) Collector's Name (First, M, Last) Date (Mo./Day/Yr.) Time of Collection

Quest Diagnostics Courier
 FedEx
 Other _____
Name of Delivery Service

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.

_____ Signature of Donor _____ (PRINT) Donor's Name (First, M, Last) _____
Email address _____ Daytime Phone No. _____ Evening Phone No. () _____ Date of Birth _____

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 for: _____
 DILUTE

REFUSAL TO TEST because - check reason(s) below: TEST CANCELLED

ADULTERATED (adulterant/reason): _____
 SUBSTITUTED
 OTHER _____

REMARKS: _____

_____ Signature of Medical Review Officer _____ (PRINT) Medical Review Officer's Name (First, M, Last) _____
Date (Mo./Day/Yr.)

STEP 7: COMPLETED BY MEDICAL REVIEW OFFICER - SPLIT SPECIMEN

In accordance with applicable federal requirements, my verification for split specimen (if tested) is:

RECONFIRMED for: _____ TEST CANCELLED

FAILED TO RECONFIRM for: _____

REMARKS: _____

_____ Signature of Medical Review Officer _____ (PRINT) Medical Review Officer's Name (First, M, Last) _____
Date (Mo./Day/Yr.)

Accuracy & Legibility

- Review records to ensure they are complete and accurate
- Document any error in the testing process
- Obtain memorandum for the record, as necessary
- Maintain written documentation of correction with testing paperwork



Third-Party Administrators

§ 40.333, 40.349

- TPAs may maintain DOT drug and alcohol testing records.
- Must be available to employer within two business days.
- Employee consent for TPA to receive and maintain records is unnecessary.
- Employer's responsibility to ensure accurate and current records are maintained.
- TPA must keep records secure and limit access.

Organization

- No right/wrong way
- Present records in a readily auditable manner.



Organization

FTA Auditors will request records to be broken up by test type

- Pre-Employment
 - CCF, ATF, MRO-verified result, previous employer requests
- Random
 - CCF, ATF, MRO-verified result, notification forms, selection lists, employee rosters, excusal documentation
- Post-accident
 - CCF, ATF, MRO-verified result, accident reports, decision-making form, documentation of delays
- Reasonable Suspicion
 - CCF, ATF, MRO-verified result, supervisor documentation of event, documentation of supervisor's training

Organization

FTA Auditors will request records to be broken up by test type

- Positive/Refusal
 - CCF, ATF, MRO-verified result, documentation of refusal, evidence that employee was removed from safety-sensitive duty, SAP referral
- Return To Duty
 - SAP reports, follow-up testing schedule, RTD CCF, RTD ATF, RTD MRO-verified result, FU CCF, FU ATF, FU MRO-verified result, leave of absence dates
- Canceled tests
 - CCF, ATF, MRO-verified result, error-correction training

Thank you!

Trent Fontanella

Cahill Swift, LLC

617-314-9208 ext. 8006

tfontanella@cahillswift.com



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