

Procedures for Transportation Workplace Drug and Alcohol Testing Programs

Overview of 49 CFR Part 40

The Department of Transportation's (DOT) rule, 49 CFR Part 40, describes required procedures for conducting workplace drug and alcohol testing for the Federally regulated transportation industry.

- [View the current 49 CFR Part 40 in its entirety](#)

To view 49 CFR Part 40 by section and related Q&As, click on the relevant subpart below.

Subpart A - Administrative Provisions

Subpart A

§ 40.1 [Who does this regulation cover?](#)

§ 40.3 [What do the terms used in this regulation mean?](#)

Q&A [Section 40.3 Questions & Answers](#)

§ 40.5 [Who issues authoritative interpretations of this regulation?](#)

§ 40.7 [How can you get an exemption from a requirement in this regulation?](#)

Subpart B - Employer Responsibilities

Subpart B

§ 40.11 [What are the general responsibilities of employers under this regulation?](#)

§ 40.13 [How do DOT drug and alcohol tests relate to non-DOT tests?](#)

§ 40.14 [What collection information must employers provide to collectors?](#)

§ 40.15 [May an employer use a service agent to meet DOT drug and alcohol testing requirements?](#)

Q&A [Section 40.15 Question & Answers](#)

§ 40.17 [Is an employer responsible for obtaining information from its service agents?](#)

§ 40.19 [Reserved]

§ 40.21 [May an employer stand down an employee before the MRO has completed the verification process?](#)

Q&A [Section 40.21 Questions and Answers](#)

§ 40.23 [What actions do employers take after receiving verified test results?](#)

§ 40.25 [Must an employer check on the drug and alcohol testing record of employees it is intending to use to perform safety-sensitive duties?](#)

Q&A [Section 40.25 Questions and Answers](#)

§ 40.26 [What form must an employer use to report Management Information System \(MIS\) data to a DOT agency?](#)

§ 40.27 [May an employer require an employee to sign a consent or release in connection with the DOT drug and alcohol testing program?](#)

Q&A [Section 40.27 Questions and Answers](#)

§ 40.29 [Where is other information on employer responsibilities found in this regulation](#)

Subpart C - Urine Collection Personnel

Subpart C

§ 40.31 [Who may collect urine specimens for DOT drug testing?](#)

§ 40.33 [What training requirements must a collector meet?](#)

Q&A [Section 40.33 Questions and Answers](#)

§ 40.35 [What information about the DER must employers provide to collectors?](#)

Q&A [Section 40.35 Questions and Answers](#)

§ 40.37 [Where is other information on the role of collectors found in this regulation?](#)

Subpart D - Collection Sites, Forms, Equipment and Supplies Used in DOT Urine Collections

Subpart D

§ 40.41 [Where does a urine collection for a DOT drug test take place?](#)

§ 40.43 [What steps must operators of collection sites take to protect the security and integrity of urine collections?](#)

Q&A [Section 40.43 Questions and Answers](#)

§ 40.45 [What form is used to document a DOT urine collection?](#)

Q&A [Section 40.45 Questions and Answers](#)

§ 40.47 [May employers use the CCF for non-Federal collections or non-Federal forms for DOT collections?](#)

§ 40.49 [What materials are used to collect urine specimens?](#)

§ 40.51 [What materials are used to send urine specimens to the laboratory?](#)

Subpart E - Urine Specimen Collections

Subpart E

§ 40.61 [What are the preliminary steps in the collection process?](#)

Q&A [Section 40.61 Questions and Answers](#)

§ 40.63 [What steps does the collector take in the collection process before the employee provides a urine specimen?](#)

§ 40.65 [What does the collector check for when the employee presents a specimen?](#)

Q&A [Section 40.65 Questions and Answers](#)

§ 40.67 [When and how is a directly observed collection conducted?](#)

Q&A [Section 40.67 Questions and Answers](#)

§ 40.69 [How is a monitored collection conducted?](#)

Q&A [Section 40.69 Questions and Answers](#)

§ 40.71 [How does the collector prepare the specimens?](#)

§ 40.73 [How is the collection process completed?](#)

Q&A [Section 40.73 Questions and Answers](#)

Subpart F - Drug Testing Laboratories

Subpart F

§ 40.81 [What laboratories may be used for DOT drug testing?](#)

§ 40.83 [How do laboratories process incoming specimens?](#)

Q&A [Section 40.83 Questions and Answers](#)

§ 40.85 [What drugs do laboratories test for?](#)

§ 40.87 [What are the cutoff concentrations for drug tests?](#)

§ 40.89 [What is validity testing, and are laboratories required to conduct it?](#)

§ 40.91 [What validity tests must laboratories conduct on primary specimens?](#)

§ 40.93 [What criteria do laboratories use to establish that a specimen is dilute or substituted?](#)

§ 40.95 [What are the adulterant cutoff concentrations for initial and confirmation tests?](#)

§ 40.96 [What criteria do laboratories use to establish that a specimen is invalid?](#)

§ 40.97 [What do laboratories report and how do they report it?](#)

Q&A [Section 40.97 Questions and Answers](#)

§ 40.99 [How long does the laboratory retain specimens after testing?](#)

Q&A [Section 40.99 Questions and Answers](#)

§ 40.101 [What relationship may a laboratory have with an MRO?](#)

§ 40.103 [What are the requirements for submitting blind specimens to a laboratory?](#)

Q&A [Section 40.103 Questions and Answers](#)

§ 40.105 [What happens if the laboratory reports a result different from that expected for a blind specimen?](#)

§ 40.107 [Who may inspect laboratories?](#)

§ 40.109 [What documentation must the laboratory keep, and for how long?](#)

§ 40.111 [When and how must a laboratory disclose statistical summaries and other information it maintains?](#)

§ 40.113 [Where is other information concerning laboratories found in this regulation?](#)

Subpart G - Medical Review Officers and the Verification Process

Subpart G

§ 40.121 [Who is qualified to act as an MRO?](#)

§ 40.123 [What are the MRO's responsibilities in the DOT drug testing program?](#)

§ 40.125 [What relationship may an MRO have with a laboratory?](#)

§ 40.127 [What are the MRO's functions in reviewing negative test results?](#)

Q&A [Section 40.127 Questions and Answers](#)

§ 40.129 [What are the MRO's functions in reviewing laboratory confirmed non-negative drug test results?](#)

§ 40.131 [How does the MRO or DER notify an employee of the verification process after receiving laboratory confirmed non-negative drug test results?](#)

Q&A [Section 40.131 Questions and Answers](#)

§ 40.133 [Without interviewing the employee, under what circumstances may the MRO verify a test result as positive, or as a refusal to test because of adulteration or substitution, or as a cancelled because the test was invalid?](#)

§ 40.135 [What does the MRO tell the employee at the beginning of the verification interview?](#)

§ 40.137 [On what basis does the MRO verify test results involving marijuana, cocaine, amphetamines, or PCP?](#)

§ 40.139 [On what basis does the MRO verify test results involving opiates?](#)

§ 40.141 [How does the MRO obtain information for the verification decision?](#)

Q&A [Section 40.141 Question and Answers](#)

§ 40.143 [Reserved]

§ 40.145 [On what basis does the MRO verify test results involving adulteration or substitution?](#)

§ 40.147 [Reserved]

§ 40.149 [May the MRO change a verified drug test result?](#)

Q&A [Section 40.149 Question and Answers](#)

§ 40.151 [What are MROs prohibited from doing as part of the verification process?](#)

§ 40.153 [How does the MRO notify employees of their right to a test of the split specimen?](#)

§ 40.155 [What does the MRO do when a negative or positive test result is also dilute?](#)

§ 40.157 [Reserved]

§ 40.159 [What does the MRO do when a drug test result is invalid?](#)

§ 40.160 [What does the MRO do when a valid test result cannot be produced and a negative result is required?](#)

§ 40.161 [What does the MRO do when a drug test specimen is rejected for testing?](#)

§ 40.162 [What must MROs do with multiple verified results for the same testing event?](#)

§ 40.163 [How does the MRO report drug test results?](#)

Q&A [Section 40.163 Questions and Answers](#)

§ 40.165 [To whom does the MRO transmit reports of drug test results?](#)

§ 40.167 [How are MRO reports of drug results transmitted to the employer?](#)

§ 40.169 [Where is other information concerning the role of MROs and the verification process found in this regulation?](#)

Subpart H - Split Specimen Tests

Subpart H

§ 40.171 [How does an employee request a test of a split specimen?](#)

Q&A [Section 40.171 Questions and Answers](#)

§ 40.173 [Who is responsible for paying for the test of a split specimen?](#)

§ 40.175 [What steps does the first laboratory take with a split specimen?](#)

§ 40.177 [What does the second laboratory do with the split specimen when it is tested to reconfirm the presence of a drug or drug metabolite?](#)

§ 40.179 [What does the second laboratory do with the split specimen when it is tested to reconfirm an adulterated test result?](#)

§ 40.181 [What does the second laboratory do with the split specimen when it is tested to reconfirm a substituted test result?](#)

§ 40.183 [What information do laboratories report to MROs regarding split specimen results?](#)

§ 40.185 [Through what methods and to whom must a laboratory report split specimen results?](#)

§ 40.187 [What does the MRO do with split specimen laboratory results?](#)

Q&A [Section 40.187 Questions and Answers](#)

§ 40.189 [Where is other information concerning split specimens found in this regulation?](#)

Subpart I - Problems in Drug Tests

Subpart I

§ 40.191 [What is a refusal to take a DOT drug test, and what are the consequences?](#)

Q&A [Section 40.191 Questions and Answers](#)

§ 40.193 [What happens when an employee does not provide a sufficient amount of urine for a drug test?](#)

Q&A [Section 40.193 Questions and Answers](#)

§ 40.195 [What happens when an individual is unable to provide a sufficient amount of urine for a pre-employment follow-up or return-to-duty test because of a permanent or long-term medical condition?](#)

§ 40.197 [What happens when an employer receives a report of a dilute specimen?](#)

Q&A [Section 40.197 Questions and Answers](#)

§ 40.199 [What problems always cause a drug test to be cancelled?](#)

§ 40.201 [What problems always cause a drug test to be cancelled and may result in a requirement for another collection?](#)

§ 40.203 [What problems cause a drug test to be cancelled unless they are corrected?](#)

Q&A [Section 40.203 Questions and Answers](#)

§ 40.205 [How are drug test problems corrected?](#)

§ 40.207 [What is the effect of a cancelled drug test?](#)

§ 40.208 [What problem requires corrective action but does not result in the cancellation of a test?](#)

§ 40.209 [What procedural problems do not result in the cancellation of a test and do not require corrective action?](#)

Q&A [Section 40.209 Questions and Answers](#)

Subpart J - Alcohol Testing Personnel

Subpart J

§ 40.211 [Who conducts DOT alcohol tests?](#)

§ 40.213 [What training requirements must STTs and BATs meet?](#)

Q&A [Section 40.213 Questions and Answers](#)

§ 40.215 [What information about the DER do employers have to provide to BATs and STTs?](#)

§ 40.217 [Where is other information on the role of STTs and BATs found in this regulation?](#)

Subpart K - Testing Sites, Forms, Equipment and Supplies Used in Alcohol Testing

Subpart K

§ 40.221 [Where does an alcohol test take place?](#)

§ 40.223 [What steps must be taken to protect the security of alcohol testing sites?](#)

§ 40.225 [What form is used for an alcohol test?](#)

Q&A [Section 40.225 Questions and Answers](#)

§ 40.227 [May employers use the ATF for non-DOT tests, or non-DOT forms for DOT tests?](#)

§ 40.229 [What devices are used to conduct alcohol screening tests?](#)

Q&A [Section 40.229 Questions and Answers](#)

§ 40.231 [What devices are used to conduct alcohol confirmation tests?](#)

Q&A [Section 40.231 Questions and Answers](#)

§ 40.233 [What are the requirements for proper use and care of EBTs?](#)

§ 40.235 [What are the requirements for proper use and care of ASDs?](#)

Subpart L - Alcohol Screening Tests

§ 40.241 [What are the first steps in any alcohol screening test?](#)

§ 40.243 [What is the procedure for an alcohol screening test using an EBT or non-evidential breath ASD?](#)

Q&A [Section 40.243 Questions and Answers](#)

§ 40.245 [What is the procedure for an alcohol screening test using a saliva ASD or a breath tube ASD?](#)

§ 40.247 [What procedures does the BAT or STT follow after a screening test result?](#)

Subpart M - Alcohol Confirmation Tests

Subpart M

§ 40.251 [What are the first steps in an alcohol confirmation test?](#)

§ 40.253 [What are the procedures for conducting an alcohol confirmation test?](#)

§ 40.255 [What happens next after the alcohol confirmation test result?](#)

Subpart N - Problems in Alcohol Testing

Subpart N

§ 40.261 [What is a refusal to take an alcohol test, and what are the consequences?](#)

§ 40.263 [What happens when an employee is unable to provide a sufficient amount of saliva for an alcohol screening test?](#)

§ 40.265 [What happens when an employee is unable to provide a sufficient amount of breath for an alcohol test?](#)

Q&A [Section 40.265 Questions and Answers](#)

§ 40.267 [What problems always cause an alcohol test to be cancelled?](#)

§ 40.269 [What problems cause an alcohol test to be cancelled unless they are corrected?](#)

§ 40.271 [How are alcohol testing problems corrected?](#)

§ 40.273 [What is the effect of a cancelled alcohol test?](#)

§ 40.275 [What is the effect of procedural problems that are not sufficient to cancel an alcohol test?](#)

Q&A [Section 40.275 Questions and Answers](#)

§ 40.277 [Are alcohol tests other than saliva or breath permitted under these regulations?](#)

Subpart O - Substance Abuse Professionals and the Return-to-Duty Process

Subpart O

§ 40.281 [Who is qualified to act as a SAP?](#)

§ 40.283 [How does a certification organization obtain recognition for its members as SAPs?](#)

§ 40.285 [When is a SAP evaluation required?](#)

§ 40.287 [What information is an employer required to provide concerning SAP services to an employee who has a DOT drug and alcohol regulation violation?](#)

§ 40.289 [Are employers required to provide SAP and treatment services to employees?](#)

§ 40.291 [What is the role of the SAP in the evaluation, referral, and treatment process of an employee who has violated DOT agency drug and alcohol testing regulations?](#)

Q&A [Section 40.291 Questions and Answers](#)

§ 40.293 [What is the SAP's function in conducting the initial evaluation of an employee?](#)

Q&A [Section 40.293 Questions and Answers](#)

- § 40.295 [May employees or employers seek a second SAP evaluation if they disagree with the first SAP's recommendations?](#)
- § 40.297 [Does anyone have the authority to change a SAP's initial evaluation?](#)
- § 40.299 [What is the SAP's role and what are the limits on a SAP's discretion in referring employees for education and treatment?](#)
- § 40.301 [What is the SAP's function in the follow-up evaluation of an employee?](#)
- § 40.303 [What happens if the SAP believes the employee needs additional treatment, aftercare, or support group services even after the employee returns to safety-sensitive duties?](#)
- § 40.305 [How does the return-to-duty process conclude?](#)
- § 40.307 [What is the SAP's function in prescribing the employee's follow-up tests?](#)

Q&A [Section 40.307 Questions and Answers](#)

- § 40.309 [What are the employer's responsibilities with respect to the SAP's directions for follow-up tests?](#)
- § 40.311 [What are the requirements concerning SAP reports?](#)

Q&A [Section 40.311 Questions and Answers](#)

- § 40.313 [Where is other information on SAP functions and the return-to-duty process found in this regulation?](#)

Subpart P - Confidentiality and Release of Information

Subpart P

- § 40.321 [What is the general confidentiality rule for drug and alcohol test information?](#)
- § 40.323 [May program participants release drug or alcohol test information in connection with legal proceedings?](#)
- § 40.325 [Reserved]
- § 40.327 [When must the MRO report medical information gathered in the verification process?](#)

Q&A [Section 40.327 Questions and Answers](#)

§ 40.329 [What information must laboratories, MROs, and other service agents release to employees?](#)

Q&A [Section 40.329 Questions and Answers](#)

§ 40.331 [To what additional parties must employers and service agents release information?](#)

§ 40.333 [What records must employers keep?](#)

Q&A [Section 40.333 Questions and Answers](#)

Subpart Q - Roles and Responsibilities of Service Agents

Subpart Q

§ 40.341 [Must service agents comply with DOT drug and alcohol testing requirements?](#)

§ 40.343 [What tasks may a service agent perform for an employer?](#)

§ 40.345 [In what circumstances may a C/TPA act as an intermediary in the transmission of drug and alcohol testing information to employers?](#)

Q&A [Section 40.345 Questions and Answers](#)

§ 40.347 [What functions may C/TPAs perform with respect to administering testing?](#)

§ 40.349 [What records may a service agent receive and maintain?](#)

§ 40.351 [What confidentiality requirements apply to service agents?](#)

§ 40.353 [What principles govern the interaction between MROs and other service agents?](#)

§ 40.355 [What limitations apply to the activities of service agents?](#)

Subpart R - Public Interest Exclusions

Q&A [Public Interest Exclusion Q&A](#)

Subpart R

- § 40.361 [What is the purpose of a public interest exclusion \(PIE\)?](#)
- § 40.363 [On what basis may the Department issue a PIE?](#)
- § 40.365 [What is the Department's policy concerning starting a PIE proceeding?](#)
- § 40.367 [Who initiates a PIE proceeding?](#)
- § 40.369 [What is the discretion of an initiating official in starting a PIE proceeding?](#)
- § 40.371 [On what information does an initiating official rely in deciding whether to start a PIE proceeding?](#)
- § 40.373 [Before starting a PIE proceeding, does the initiating official give the service agent an opportunity to correct problems?](#)
- § 40.375 [How does the initiating official start a PIE proceeding?](#)
- § 40.377 [Who decides whether to issue a PIE?](#)
- § 40.379 [How do you contest the issuance of a PIE?](#)
- § 40.381 [What information do you present to contest the proposed issuance of a PIE?](#)
- § 40.383 [What procedures apply if you contest the issuance of a PIE?](#)
- § 40.385 [Who bears the burden of proof in a PIE proceeding?](#)
- § 40.387 [What matters does the Director decide concerning a proposed PIE?](#)
- § 40.389 [What factors may the Director consider?](#)
- § 40.391 [What is the scope of a PIE?](#)
- § 40.393 [How long does a PIE stay in effect?](#)
- § 40.395 [Can you settle a PIE proceeding?](#)
- § 40.397 [When does the Director make a PIE decision?](#)
- § 40.399 [How does the Department notify service agents of its decision?](#)

§ 40.401 [How does the Department notify employers and the public about a PIE?](#)

§ 40.403 [Must a service agent notify its clients when the Department issues a PIE?](#)

§ 40.405 [May the Federal courts review PIE decisions?](#)

§ 40.407 [May a service agent ask to have a PIE reduced or terminated?](#)

§ 40.409 [What does the issuance of a PIE mean to transportation employers?](#)

§ 40.411 [What is the role of the DOT Inspector General's office?](#)

§ 40.413 [How are notices sent to service agents?](#)

Appendices

Appendices

Appendix A to Part 40 [DOT Standards for Urine Collection Kits](#)

Appendix B to Part 40 [DOT Drug Testing Semi-Annual Laboratory Report to Employer](#)

Appendix C to Part 40 [DOT Drug Testing Semi-Annual Laboratory Report to DOT](#)

Appendix D to Part 40 [Report Format: Split Specimen Failure to Reconfirm](#)

Appendix E to Part 40 [SAP Equivalency Requirements for Certification Organizations](#)

Appendix F to Part 40 [Drug and Alcohol Testing Information that C/TPAs May Transmit to Employers](#)

Appendix G to Part 40 [Alcohol Testing Form \(Required for use beginning 01/01/2011. Authorized for use effective 2/25/2010.\)](#)

Q&A [Appendix G Questions and Answers](#)

Appendix H to Part 40 [MIS Form and Instructions \(Required for use beginning in 2011 to report calendar year 2010 MIS data.\)](#)

Updated: Wednesday, September 28, 2016