



U.S. Department  
of Transportation  
**Federal Transit  
Administration**  
Office of Safety and Security

# FTA Drug And Alcohol Regulation *Updates*

Fall 2000

Issue 16

## Introduction...

The Federal Transit Administration (FTA) published its final rules on prohibited drug use (49 CFR Part 653) and the prevention of alcohol misuse (49 CFR Part 654) on February 15, 1994. Shortly thereafter, the FTA published the *Implementation Guidelines for Drug and Alcohol Regulations in Mass Transit* to provide a comprehensive overview of the regulations.

Since the *Guidelines* were published there have been numerous amendments, interpretations, and clarifications to the Drug and Alcohol testing procedures and program requirements.

This publication is being provided to update the *Guidelines* and inform your transit system of all of these changes. This Update is the sixteenth in a series.

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## New Custody and Control Form

The Substance Abuse and Mental Health Services Administration (SAMHSA) revised the Federal Drug Testing Custody and Control Form (CCF) to make it easier to use. The new form makes it easier for the collector to follow the collection process and standardizes the test result reporting methodology. The revision was announced in the Federal Register published on June 23, 2000 (Vol. 65, No. 122, pages 39155-39169). On July 25, 2000 the Department of Transportation (DOT) subsequently announced in the Federal Register (Volume 65, Number 143, pages 45815-45817) that employers regulated by the DOT are permitted to use the new CCF as of August 1, 2000. The old CCF forms can be used until supplies are exhausted, but not to be used beyond July 31, 2001. The new forms will remain valid for use until June 30, 2003.

The new form is a five-part form compared to the seven-part form currently used. The second laboratory copy of the

old form was eliminated as it was believed the laboratories could use photocopies of the original form as necessary. The split specimen copy was eliminated as the split specimen test results are to be recorded on the original laboratory copy if the split is tested. The reduction in the number of form copies will help make handwritten information recorded on the form appear more legible on the later copies.

The new form also moves the specimen bottle seals from the right side of the form to the bottom of Copy 1 standardizing the width of the form and making it easier to print, store and handle the documents. The third major change includes the simplification of the chain of custody step by requiring the collector to sign the form only once. The single signature on the certification statement clearly describes that the collector has possession of the specimen from the time the collector receives the specimen from the donor until the collector

releases the specimen for shipment and thus the additional signatures are not necessary.

The form provides a wider choice of terms that a laboratory can use to report results including invalid test, test cancelled, adulterated, substituted, dilute, or rejected for testing. The form also places the Medical Review Officer (MRO) steps for both the primary and split specimens on the MRO copy of the form.

For further information regarding the use of this form, contact Don Shatinsky, DOT Office of Drug and Alcohol Policy and Compliance at (202) 366-3784.

## New Handbooks Available To Reflect Changes

The Department of Health and Human Services (DHHS) has revised the Collection Handbook to reflect changes in the Federal CCF and how collectors are to complete the form. In addition, the MRO Manual has also been revised to reflect changes in the Federal CCF and how laboratories will be reporting results. The MRO

Manual has also incorporated recent guidance concerning specimen adulteration and substitution. Both revised handbooks are available on the SAMHSA website ([www.health.org/workpl.htm](http://www.health.org/workpl.htm)) as an electronic “.pdf” file that can be opened, saved, and printed.

# FOR YOUR INFORMATION

## Where To Find?.....

**49 CFR Part 653, Prevention of Prohibited Drug Use in Transit Operations**  
February 15, 1994  
Federal Register Vol. 59  
Pages 7572-7611

**Amended:**  
August 2, 1995  
Federal Register Vol. 60  
Pages 39618-39620  
Primary Topic: Exemption of Volunteers and Post-Accident Testing Provision

December 8, 1998  
Federal Register Vol. 63  
Pages 61612-67613  
Primary Topic: Use of Law Enforcement Post-Accident Test Results

December 14, 1998  
Federal Register Vol. 63  
Pages 68818-68819  
Primary Topic: Random Drug Testing Rate at 50%

January 5, 1999  
Federal Register Vol. 64  
Pages 425-427  
Primary Topic: Safety-sensitive Maintenance Functions

**Technical Corrections:**  
March 6, 1995  
Federal Register Vol. 60  
Pages 12296-12300  
Primary Topic: Corrections and Clarifications

The information presented on this page should be used to update Chapter 5 of the *Implementation Guidelines*.

## Adulterant Use Up

Quest Diagnostics, Inc. semi-annual Drug Testing Index (DTI) revealed a significant increase in adulteration rates over the last two years. The DTI reported that the adulteration rate for 1998 was 0.63 percent of the positive tests analyzed by Quest laboratories compared to 2.6 percent in 1999. The survey is based on over six million drug tests performed in 1999. Of the 650,000 federally mandated tests for safety-sensitive workers, 1998 test results revealed a 0.32 percent adulteration rate compared to a 4.06 percent in 1999.

The adulterant testing process includes analyses for oxidizers such as bleach, nitrites and chromates (including pyridinium chlorochromate), interfering substances such as gluteraldehyde and acids, bases, and soaps. Substituted samples with low specific gravity and creatinine levels were also reported.

Federally mandated testing agencies experienced a 3.2 percent positive rate for all testing categories compared to 4.6 percent for the Combined U.S. Workforce (Federal Safety-Sensitive and General

Workforce). Of the federally mandated positive tests, 3.1 percent were adulterated by oxidizing agents, while 0.96 percent were substituted. Of the Combined U.S. Workforce, only 1.7 percent were adulterated and 0.81 percent were substituted. From this data it can be concluded that even though individuals in a federally mandated testing program are less likely to test positive, those that do are nearly twice as likely to adulterate or substitute a sample as those in the General Workforce.

## Last Seminar of the Year

FTA will sponsor its last of four drug and alcohol regulatory seminars scheduled this year on October 31 - November 1, in Atlanta. The seminar will present the regulatory requirements, current interpretations, and other information necessary to facilitate grantees' self-assessment and compliance with the regulations. For further information or to register for the seminars, contact Jennifer Whalley of the Volpe Center National Transportation System Center at (617) 494-2686, or e-mail at Whalley@volpe.dot.gov.

## Federal Register Access

The U.S. Government Printing Office (USGPO) maintains an internet repository of electronic versions of Federal Register documents. To access these electronic documents, use your web browser to navigate to the home page at [www.access.gpo.gov](http://www.access.gpo.gov). Click on Quick Links, then click on "Federal Register". From there you can locate articles by date, title, and key word.

## Response To Rx/OTC Drug Initiative

Transit systems have begun to develop new or enhance existing prescription and over-the-counter (OTC) medication policies in response to the Dear Colleague Letter sent to all grantees in May by Nuria Fernandez, Acting Administrator of FTA. The programs are taking on different characteristics depending on the unique nature of each system, but some commonalities are beginning to emerge. Common Prescription/OTC program components include the following:

- ◆ Safety-sensitive employees are required to enter into a dialogue with their prescribing physician regarding the side effects of prescription or OTC medications and to inquire into alternative treatment options.
- ◆ Safety-sensitive employees are often required to report prescription/OTCs to the transit system medical department or MRO for review. In the event, the transit system does not have medical staff, transit systems commonly require their employees to obtain a release to work statement from their prescribing physician.
- ◆ Individuals taking prescription/OTC medication that may jeopardize their ability to safely perform their safety-sensitive job function are medically disqualified for as long as they are taking the medication.
- ◆ The risk associated with the use of Prescription/OTCs is included in employee training programs and a list of potential problem drugs is provided to increase employee awareness.

# Self-Assessment Checklist

## Alcohol Testing Procedures

The Department of Transportation Procedures for Transportation Workplace Drug and Alcohol Testing Programs (49CFR Part 40) define the procedures to be used for alcohol testing. All FTA grantees, subgrantees, and safety-sensitive contractors are required to follow these procedures when conducting alcohol tests under FTA authority. To assist in clarifying the alcohol test by procedures, the FTA has developed this checklist for use by employers in their individual program assessments. The checklist includes regulatory requirements, but should not be construed as the “last word” in regulatory compliance. The checklist is merely provided for guidance.

### ALCOHOL TESTING PROCEDURES

- Are provisions made to conduct alcohol tests during all days and hours that the transit system employees perform safety-sensitive functions?
- Is the donor’s ID checked? Is there a procedure in place to confirm the donor’s identity if no ID is presented?
- Is there a procedure in place for notifying the employer if the employee does not report for the test in a timely manner?
- Is the initial screen performed by an evidential breath testing device or a non-evidential breath-testing device found on National Highway Traffic Safety Administration (NHTSA) respective conforming product list (GPL)?
- Is breath specimen for a confirmatory test being collected by a Breath Alcohol Technician (BAT) using an Evidential Breath Testing device (EBT) on the conforming products list?
- Are procedures in place to ensure that an employee with a breath alcohol concentration (BAC) of 0.04 or greater is not allowed to return to duty and perform a safety-sensitive duty until he/she has been evaluated by an SAP and has passed a return-to-duty test (employer with second chance policies)?
- Are procedures in place that ensure that employee with BAC of 0.02 or greater but less than 0.04 is removed from duty for eight (8) hours or until a retest shows an alcohol concentration of less than 0.02?
- Does the alcohol testing site:
  - Provide visual and aural privacy to the individual being tested?
  - Provide security with no unauthorized access at any time when the EBT is unsecured or when testing is occurring?
  - Provide all necessary materials and DOT alcohol testing forms?
- Is only one test conducted at a time?
- Is the collection site using the US DOT Alcohol Testing Form.
- Are procedures in place to ensure that the BAT and the employee complete, sign, and date the alcohol testing form prior to conducting the breath alcohol test?
- Is the collection site providing copies of the alcohol testing form to the correct individuals?
  - Copy 1: Breath Alcohol Technician/STT
  - Copy 2: Employee
  - Copy 3: Employer
- Is the EBT operated by a qualified Breath Alcohol Technician (BAT)?  
Are there procedures in place to ensure that the employer is complying with NHSTA-approved quality assurance plan by ensuring that the external calibration checks of each EBT are performed as described in the manufacturer’s plan?
- Does the transit agency maintain records of external calibration checks of the EBT and store it in a secure place?
- Has the transit system made provisions for the use of a back-up EBT for times when the primary EBT is unavailable (e.g., acquire a second EBT, arrange for a loaner, or arrange to use another transit system’s EBT)?
- If the transit system uses a non-evidential screening device, is it used only for initial alcohol screening tests and is it operated only by a qualified Screen Test Technician?

## Where To Find?.....

### **49CFR Part 654, Prevention of Alcohol Misuse in Transit Operation**

February 15, 1994  
Federal Register Vol. 59  
Pages 7532-7571

### **Amended:**

May 10, 1995  
Federal Register Vol. 60  
Pages 24765-24766

Primary Topic: Suspension of Pre-employment Alcohol Testing

August 2, 1995

Federal Register Vol. 60  
Pages 39618-39620

Primary Topic: Exemption of Volunteers and Post-Accident Testing Provision

December 8, 1998

Federal Register Vol. 63  
Pages 67612-67613

Primary Topic: Use of Law Enforcement Post-Accident Test Results

December 14, 1998

Federal Register Vol. 63  
Pages 68818-68819

Primary Topic: Random Alcohol Testing Rate at 10%

January 5, 1999

Federal Register Vol. 64  
Pages 425-427

Primary Topic: Safety-Sensitive Maintenance Functions

### **Technical Corrections:**

March 6, 1995

Federal Register Vol. 60  
Pages 12296-12300

Primary Topic: Corrections and Clarifications

The information presented on this page should be used to update Chapters 8 of the *Implementation Guidelines*.

# Testing Service/Products

## Where to Find? .....

### 49 CFR Part 40, Procedures for Transportation Workplace Drug Testing Programs

#### Amended

February 15, 1994

Federal Register Vol. 59

Pages 7340-7366

Primary Topic: DOT Alcohol Testing Procedures

Procedures for Split Sample

Procedures for Drug Testing

August 19, 1994

Federal Register Vol. 59

Pages 42996-43018

Primary Topic: Clarified Urine Specimen and Collection Procedures and Clarified Alcohol Testing Procedures

April 19, 1995

Federal Register Vol. 60

Pages 19535-19537

Primary Topic: Standardized Chain of Custody and Control Form

April 20, 1995

Federal Register Vol. 60

Pages 19675-19681

Primary Topic: Established Procedures for Use of Non-evidential Alcohol Screening Devices

The information presented on this page should be used to update Chapters 7 and 8 of the *Implementation Guidelines*.

## New List of EBTs

The National Highway Traffic Safety Administration (NHTSA) has issued a revised Conforming Products List for Evidential Breath Testing Devices. The list that specifies the make and model of instruments that meet the NHTSA model specifications were expanded with the addition of two new models: the Intoxilyzer 400PA manufactured by CMI Inc. and the Alco Sensor IV-XL manufactured by Intoximeters Inc. The new list was published in the Federal

Register on July 21, 2000 (Vol. 65, No. 141, Pages 45419-45423). When reviewing the list, readers should note that the instruments without an asterisk (\*) meet the Model Specifications and were tested at BACs equal to 0.000, 0.020, 0.040, 0.080, and 0.16 and thus, meet the DOT requirements. The instruments that are marked with an asterisk were tested at different levels and cannot be used for DOT testing.

## Source of Blind Sample Specimens

The DOT drug testing procedures described in 49 CFR Part 40 require all regulated employers to conduct quality control checks on their respective DHHS –certified laboratories by providing three blind samples for every one hundred specimens collected. Even though, the number of blind specimens and employer applicability are likely to change with the publication of the Part 40 Final Rule, blind sample testing will remain a requirement of the regulations.

The Substance Abuse and Mental Health Services Administration (SAMHSA) has developed a list of suppliers who are selling urine quality control samples. SAMHSA is not endorsing any individual suppliers, but rather is providing the list for informational purposes.

The list of the fifteen suppliers provided by SAMHSA includes the names of companies that requested to be on the list. The companies that are currently on the list include:

- Abuse Control Associates 800-992-3526,
- A. T. Laboratories 913-599-3535
- Bensinger, DuPont & Associates, Inc. 301-881-8210
- Bio Rad Lab 800-224-6723
- Biomedical Products 913-341-3222
- Diversified Toxicology Consultants Inc. 901-757-2956
- Drug Testing Consultants 703-273-1757
- Duo Research Inc. 303-377-7984
- DynaGen Inc. 617-491-2527 x 239
- ElSohly Laboratories, Inc. 601-236-2609
- Protect Services 650-856-4225
- Quantimeatrix Corp. 800-624-8380
- Quality Assurance Co. 706-863-6536
- Sure-Tech Diagnostic Associates Inc. 800-678-8933
- University Services 800-624-3784

The blind sample must have documentation indicating that the specimen was certified by immunoassay and gas chromatography/mass spectrometry (GC/MS) and the specimen's expiration date.

## List of Certified Labs Shrinking

In recent months several modifications have been made to the list of DHHS-certified laboratories reflecting corporate mergers, consolidations, name changes and laboratories voluntarily withdrawing from the program. At the date of publication, the list included 64 certified laboratories that can be used to conduct

drug testing analysis by DOT-regulated employers. The most up-to-date list can be obtained by calling (301) 443-6014 or at the following website: <http://www.health.org/workpl.htm>. This list is updated during the first week of each month.

# Non-Evidential Testing Devices

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## Non-Evidential Testing Devices Finding Use

Non-evidential testing devices are capable of detecting alcohol concentrations of 0.02 or greater and are acceptable for use on an initial screen for a DOT alcohol test. If the initial screen results in an alcohol concentration of 0.02 or greater, then a confirmatory test must be conducted using an evidential breath testing device.

The initial list of non-evidential testing devices was published on the National Highway Traffic Safety Administration (NHTSA) Conforming Products List (CPL) in the Federal Register (Vol. 60, pages 42214-42215) on April 15, 1995. There have been no modifications to the list since. The CPL lists seven devices of which four are breath testing devices and the other three are saliva testing devices.

Since the DOT issued its final rule allowing the use of non-evidential screening devices, the use of these devices has been limited in the transit industry. Most program managers concluded that since the employer had to have ready access to an EBT for the confirmatory test anyway, it would be most cost-effective to use the EBT for both the initial

screen and the confirmatory test. However, in recent months, the interest in non-evidential screening devices appears to have increased.

The new interest is due in part to the perception that a saliva test may be a reasonable alternative for the initial screen of an employee with potential shy lung problems. In addition, some systems have found it difficult to get EBT alcohol tests performed during early mornings, late evenings, weekends and holidays when Breath Alcohol Technicians are unavailable or collection sites are closed. In these instances program managers have found it easier to use less expensive initial screen tests and to negotiate on-call BAT services for the rare instances when the confirmatory test is required (i.e., the initial test results in a BAC of 0.02 or greater). Given the low incidence of alcohol positives, the non-evidential screen test will be sufficient for the vast majority of tests and the BATs will seldom be called in these after-hour situations. In the event the BAT is needed, however, he/she will be on-call and available to complete the confirmatory test within 30

minutes of the initial screen.

A similar use has also been identified in rural areas where the only EBT in close proximity to the transit system is located at local law enforcement office. In many instances local police will not want to serve as BATs or be involved with the transit systems drug and alcohol testing program. Similarly, many transit system managers want to avoid the negative connotations associated with taking an employee to the police station for a random test. In these instances, an initial screen test using a non-evidential testing device could be very beneficial minimizing the instances when law enforcement would need to become involved.

For more information regarding applications of non-evidential screen tests, associated costs and training requirements, contact the product manufacturers or the DOT Office of Drug and Alcohol Policy and Compliance at (202) 366-3784. You may also access the NHTSA's Conforming Products List on their website at [www.nhtsa.dot.gov](http://www.nhtsa.dot.gov).

## Where To Find?.....

### Part 40 Amendments, Cont.

July 16, 1996  
Federal Register Vol.61  
Pages 37015-37017  
Primary Topic: Use of Labs Outside the U.S.

July 17, 1996  
Federal Register Vol.61  
Pages 37222-37224  
Primary Topic: Expansion of SAP Definition

July 19, 1996  
Federal Register Vol.61  
Pages 37693-37700  
Primary Topic: Insufficient Specimen

November 25, 1998  
Federal Register Vol. 63  
Pages 65128-65129  
Primary Topic: Opiate Threshold

Notice of Proposal Rulemaking  
December 9, 1999  
Federal Register Vol. 64  
Pages 69075 - 69136.  
Primary Topic: Enhance testing procedures and incorporate past interpretations and guidance.

## Fax Requests For Video

FTA recently announced the reissue and availability of the FTA sponsored reasonable suspicion training program for supervisors. The program includes a Leader's Guide and a video.

Future requests for the video should be faxed to Ms. Vicki Bellet, FTA Office of Safety and Security at (202) 366-7951. Be sure to include your name, agency, mailing address, and telephone number.

The information presented on this page should be used to update Chapter 7 & 8 of the *Implementation Guidelines*.

# Resource Materials

## Who Should Be Receiving This Update?

In an attempt to keep each transit system well informed, we need to reach the correct person within each organization. If you are not responsible for your system's Drug and Alcohol program, please forward this update to the person (s) who is and notify us of the correct listing. If you know of others who would benefit from this publication, please contact us at the following address to include them on the mailing list. This publication is free.

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**FTA home page:** [www.fta.dot.gov](http://www.fta.dot.gov)

*FTA Office of Chief Counsel:* [www.fta.dot.gov/office/counsel](http://www.fta.dot.gov/office/counsel)

*FTA Office of Safety & Security:* <http://transit-safety.volpe.dot.gov>

*FTA Letters of Interpretation:* [www.fta.dot.gov/library/legal](http://www.fta.dot.gov/library/legal)

*DHHS-Certified Laboratories: Center for Substance Abuse Prevention:* [www.health.org/labs/index.htm](http://www.health.org/labs/index.htm)

**FTA, Office of Safety and Security: (202) 366-2896**

*Drug and Alcohol Consortia Manual*

*Drug and Alcohol Testing Results: 1995, 1996, 1997, and 1998 Annual Reports*

*Random Drug Testing Manual*

*Implementation Guidelines for Drug and Alcohol Regulations in Mass Transit*

*Identification of Drug Abuse and/or Alcohol Misuse in the Workplace: An Interactive Training Program*

**USDOT Drug and Alcohol Documents FAX on Demand: 1 (800) 225-3784**

**USDOT, Office of Drug Enforcement and Program Compliance: (202) 366-3784**

*Urine Specimen Collection Procedures Guideline*

*SAP Procedures Guidelines for Transportation Workplace Drug and Alcohol Testing Programs*

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