



## Office of the Secretary

[Docket No. DOT-OST-2023-0143]

### Information Collection Activities; Requests for Comments

**AGENCY:** Office of the Secretary (OST), DOT.

**ACTION:** Notice and request for public comment and submission to OMB for clearance of renewed approval of information collection.

**SUMMARY:** In compliance with the Paperwork Reduction Act of 1995, this notice announces that the Information Collection Request (ICR) abstracted below will be forwarded to the Office of Management and Budget (OMB) for review and comments. The ICR describes the nature of the information collection and its expected burden. A Federal Register Notice with a 60-day comment period soliciting comments on the following information collection was published on September 29, 2023. No public comments were received. The purpose of this Notice is to allow 30 days for public comment.

**DATES:** Comments to this notice must be received by **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to

[www.reginfo.gov/public/do/PRAMain](http://www.reginfo.gov/public/do/PRAMain). Find this information collection by selecting “Currently under Review – Open for Public Comments” or by using the search function. Please note that comments submitted in response to this Notice are public record. Before including any detailed personal information, you should be aware that your comments as submitted, including your personal identification information, will be available for public view.

**FOR FURTHER INFORMATION CONTACT:** Mike Huntley, Office of Drug and Alcohol Policy and Compliance, Office of the Secretary, U.S. Department of Transportation, 1200 New

Jersey Avenue, SE., Washington, DC 20590; 202-366-3784 (voice), 202-366-3897 (fax), or ODAPCWebmail@dot.gov (e-mail).

**SUPPLEMENTARY INFORMATION:**

*OMB Control Number:* 2105-0529

*Title:* Procedures for Transportation Workplace Drug and Alcohol Testing Programs

*Type of Review:* Clearance of a renewal of an information collection

*Form Numbers:* DOT F 1385; DOT F 1380

*Respondents:* The information will be used by transportation employers, Department representatives, and a variety of service agents.

*Abstract:* Under the Omnibus Transportation Employee Testing Act of 1991, DOT is required to implement a drug and alcohol testing program in various transportation-related industries. This specific requirement is elaborated in 49 CFR part 40, Procedures for Transportation Workplace Drug and Alcohol Testing Programs. This request for a renewal of the information collection for the program includes 45 burden items including the U.S. Department of Transportation Alcohol Testing Form (ATF) [DOT F 1380] and the DOT Drug and Alcohol Testing Management Information System (MIS) Data Collection Form [DOT F 1385].

The ATF includes the employee's name, the type of test taken, the date of the test, and the name of the employer. Data on each test conducted, including test results, is necessary to document that the tests were conducted and is used to take action, when required, to ensure safety in the workplace. The MIS form includes employer specific drug and alcohol testing information such as the reason for the test and the cumulative number of test results for the negative, positive, and refusal tests. No employee specific data is collected. The MIS data is used by each of the affected DOT Agencies (i.e., Federal Aviation Administration, Federal Transit Administration, Federal Railroad Administration, Federal Motor Carrier Safety Administration, and the Pipeline and Hazardous Materials Safety Administration) and the United

States Coast Guard when calculating their industry’s annual random drug and/or alcohol testing rate.

On May 2, 2023, part 40 was amended to include oral fluid testing as an additional methodology for drug testing that gives employers a choice that will help combat employee cheating on urine drug tests and provide a less intrusive means of achieving the safety goals of the program [88 FR 27596]. As a result of the rule to include oral fluid testing as an additional methodology for drug testing, two new burden items have been added to this collection: (1) Oral Fluid Collector (Qualification and Refresher) Training Documentation [§ 40.35(b) & (e)]; and (2) Oral Fluid Collector Error Correction Training Documentation [§ 40.35(f)]. These new burden items are analogous to the existing burden items for urine collectors and screening test technicians and breath alcohol technicians.

Also as a result of the May 2023 rule to include oral fluid as an additional methodology for drug testing, DOT will request OMB approval for a revision of the MIS Data Collection Form to facilitate the collection of oral fluid testing data from employers. Specifically, in Section III of the form, “Drug Testing Data,” DOT will add additional rows under each “Type of Test” (e.g., Pre-Employment, Random, Post-Accident, Reasonable Suspicion/Cause, Return-to-Duty, Follow-Up, and Total) for employers to enter the number of urine tests, the number of oral fluid tests, and the number of total tests conducted.

*Estimated total number of respondents:* 1,426,662.

*Estimated number of Responses:* 11,459,756

*Frequency of Response:* The information will be collected annually.

*Estimated Total Number Burden Hours:* 1,469,136

<b>PRA Item</b>	<b>Number of Respondents</b>	<b>Number of Responses</b>	<b>Burden per Response (minutes)</b>	<b>Total Burden (Hours)</b>	<b>Total Salary Costs (\$)¹</b>
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¹ All salary costs are based upon the Department of Labor’s bureau of Labor Statistics average employee compensation hourly cost in 2023.

<b>PRA Item</b>	<b>Number of Respondents</b>	<b>Number of Responses</b>	<b>Burden per Response (minutes)</b>	<b>Total Burden (Hours)</b>	<b>Total Salary Costs (\$)¹</b>
Exemptions from Regulation Provisions Requests [40.7(a)]	1	1	180	3	\$122
Employer Stand-down Waiver Requests [40.21(b)]	0	0	480	0	\$0
Employee Testing Records from Previous Employers [40.25(a)]	549,029	990,596	8	132,079	\$5,387,502
Employee Release of Information [40.25(f)]	549,029	990,596	8	132,079	\$5,387,502
MIS Form Submission [40.26]	19,699	19,699	90	29,549	\$1,205,304
Urine Collector (Qualification and Refresher) Training Documentation (40.33(b) & (e))	5,000	5,000	4	333	\$13,583
Urine Collector Error Correction Training Documentation [40.33(f)]	17,980	17,980	4	1,199	\$48,907
Oral Fluid Collector (Qualification and Refresher) Training Documentation (40.35(b) & (e))	5,000	5,000	4	333	\$13,583
Oral Fluid Collector Error Correction Training Documentation [40.35(f)]	17,980	17,980	4	1,199	\$48,907
Laboratory Reports to DOT Regarding Unlisted Adulterant [40.87(e)]	0	0	30	0	\$0
Semi-Annual Laboratory Reports to Employers [40.111(a)]	19	365,983	4	24,399	\$995,235
Semi-Annual Laboratory Reports to DOT [40.111(d)]	19	456	4	30	\$1,224
Medical Review Officer (MRO) (Qualifications and Continuing Education) Training Documentation [40.121(c) & (d)]	1,000	1,000	4	67	\$2,733
MRO Review of Negative Results Documentation [[40.127(b)(2)(ii)]	5,000	351,135	4	23,409	\$954,853
MRO Failure to Contact Donor Documentation [40.131(c)(1)]	5,000	50,787	4	3,386	\$138,115

<b>PRA Item</b>	<b>Number of Respondents</b>	<b>Number of Responses</b>	<b>Burden per Response (minutes)</b>	<b>Total Burden (Hours)</b>	<b>Total Salary Costs (\$)¹</b>
MRO Effort to Contact DER Documentation [40.131(c)(2)(iii)]	5,000	57,624	4	3,842	\$156,715
DER Successful Contact Employee Documentation [40.131(d)]	46,099	46,099	4	3,073	\$125,348
DER Failure to Contact Employee Documentation [40.131(d)(2)(i)]	11,525	11,525	4	768	\$31,327
MRO Verification of Positive Result Without Interview Documentation [40.133].	5,000	11,525	4	768	\$31,327
Adulterant/Substitution Evaluation Physician Statements [40.145(g)(2)(ii)(d)]	0	0	30	0	\$0
MRO Cancellation of Adulterant / Substitution for Legitimate Reason Reports [40.145(g)(5)]	0	0	30	0	\$0
Employee Admission of Adulterating / Substituting Specimen MRO Determination [40.159(c)]	40	40	4	3	\$122
Split Specimen Requests by MRO [40.171(c)]	5,000	11,932	4	795	\$32,428
Split Failure to Reconfirm for Drugs Reports by MRO [40.187(b)]	70	70	4	5	\$204
Split Failure to Reconfirm for Adulterant / Substitution Reports by MRO [40.187(c)]	8	8	5	1	\$41
Shy Bladder Physician Statements [40.193(f)]	719	719	5	60	\$2,447
MRO Statements Regarding Physical Evidence of Drug Use [40.195(b) & (c)]	0	0	0	0	\$0
Drug Test Correction Statements [40.205 (b)(1) & (2)]	25,000	143,840	8	19,179	\$782,311
Breath Alcohol Technician (BAT) / Screening Test Technician (STT) (Qualification and Refresher) Training Documentation [40.213(b)(c)&(e)]	2,000	2,000	4	133	\$5,425

<b>PRA Item</b>	<b>Number of Respondents</b>	<b>Number of Responses</b>	<b>Burden per Response (minutes)</b>	<b>Total Burden (Hours)</b>	<b>Total Salary Costs (\$)¹</b>
BAT/STT Error Correction Training Documentation [40.213(f)]	401	401	4	27	\$1,101
Complete DOT Alcohol Testing Forms [40.225(a)]	10,000	8,025,159	8	1,070,021	\$43,646,157
Evidential Breath Testing Device Quality Assurance / Calibration Records [40.233(c)(4)]	10,000	10,000	4	667	\$27,166
Shy Lung Physician Statements [40.265(c)(2)]	401	401	4	27	\$1,101
Alcohol Test Correction Statements [40.271(b)(1)&(2)]	803	803	4	54	\$2,203
Substance Abuse Professional (SAP) (Qualification and Continuing Education) Training Documentation [40.281(c)&(d)]	3,334	3,334	4	222	\$9,055
Employer SAP Lists to Employees [40.287]	116,467	116,467	4	7,764	\$316,694
SAP Reports to Employers [40.311(c),(d) & (e)]	10,000	201,258	4	13,417	\$547,279
Correction Notices to Service Agents [40.373(a)]	25	25	60	25	\$1,020
Notice of Proposed Exclusion (NOPE) to Service Agents [40.375(a)]	5	5	600	50	\$2,040
Service Agent Requests to Contest Public Interest Exclusions (PIE) [40.379(b)]	2	2	60	2	\$82
Service Agent Information to Argue PIE [40.379(b)(2)]	2	2	240	8	\$326
Service Agent Information to Contest PIE [40.381(a) & (b)]	2	2	240	8	\$326
Notices of PIE to Service Agents [40.399]	1	1	60	1	\$41
Notices of PIE to Employer and Public [40.401 (b) & (d)]	1	1	60	1	\$41
Service Agent PIE Notices to Employers [40.403 (a)]	1	300	30	150	\$6,119
<b>Total New</b>	<b>1,426,662</b>	<b>11,459,756</b>	<b>2,328</b>	<b>1,469,136</b>	<b>\$59,926,016</b>

*Public Comments Invited:* 1) Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; 2) the accuracy of the Department's estimate of the burden of the proposed information collection; 3) ways to enhance the quality, utility and clarity of the information to be collected; and 4) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

(Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1:48)

Issued in Washington, DC on December 5, 2023.

Authority and Issuance.

**Bohdan S. Baczara,**

*Deputy Director,*

*DOT, Office of Drug and Alcohol Policy and Compliance.*

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