

CT State-Wide Drug and Alcohol Testing Consortium Newsletter

e-CFR Title 49 Part 40-Procedures for Transportation Workplace Drug and Alcohol Testing Programs

Who does this regulation cover?

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. It concerns the activities of transportation employers, safety-sensitive transportation employees (including self-employed individuals, contractors and volunteers as covered by DOT agency regulations), and service agents. Part 40 covers the following:

- Administrative Provisions
- Employer Responsibilities
- Urine Collection Personnel
- Collection Sites, Forms

Equipment and Supplies Used in DOT Urine Collections

- Urine Specimen Collections
- Drug Testing Laboratories
- Medical Review Officers and the Verification Process

- Split Specimen Tests
- Problems in Drug Tests
- Alcohol Testing Personnel
- Testing Sites, Forms,

Equipment and Supplies Used in Alcohol Testing

- Alcohol Screening Tests
- Alcohol Confirmation Tests
- Problems in Alcohol Testing
- Substance Abuse

Professional and the Return-To-Duty Process

- Confidentiality and Release of Information
- Roles and responsibilities of Service Agents
- Public Interest Exclusions.

October 2018

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Part 40 can be downloaded at:
<https://www.ecfr.gov/cgi-bin/text-idx?SID=44edbc0e557a4c55ff03365810ee5b1c&mc=true&node=pt49.1.40&rgn=div5>

e-CFR Title 49 Part 655-Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations

The purpose of this part is to establish programs to be implemented by employers that receive financial assistance from the Federal Transit Administration (FTA) and by contractors of those employers, that are designed to help prevent accidents, injuries, and fatalities resulting from the misuse of alcohol and use of prohibited drugs by employees who perform safety-sensitive functions. This part applies to: (1) Each recipient and sub-recipient

receiving Federal assistance under 49 U.S.C. 5307, 5309, or 5311; and (2) Any contractor of a recipient or sub-recipient of Federal assistance under 49 U.S.C. 5307, 5309, 5311.

This part includes nine subparts:

- General
- Program Requirements
- Prohibited Drug Use
- Prohibited Alcohol Use
- Types of Testing
- Drug and Alcohol Testing Procedures

- Consequences
- Administrative Requirements
- Certifying Compliance

Part 655 must be read in conjunction with 49 CFR Part 40, Procedures for Transportation Workplace Drug and Alcohol Testing Programs. This part can be downloaded at:
<https://transit-safety.fta.dot.gov/drugandalcohol/regulations/regulations/49cfr655/49cfr655.pdf>

Previous Employer Testing History

Form can be downloaded at:

<http://www.hartfordtransit.org/pdfs/Previous%20DOT%20Employer%20Inquiry%20Form.pdf>

Must an employer check on the drug and alcohol testing record of employees it is intending to use to perform safety-sensitive duties?

(a) Yes, as an employer, you must, after obtaining an employee's written consent, request the information about the employee listed in paragraph (b) of this section. This requirement applies only to employees seeking to begin performing safety-sensitive

duties for you for the first time (*i.e.*, a new hire, an employee transfers into a safety-sensitive position). If the employee refuses to provide this written consent, you must not permit the employee to perform safety-sensitive functions.

(b) You must request the information listed in this paragraph (b) from DOT-regulated employers who have

employed the employee during any period during the two years before the date of the employee's application or transfer:

- (1) Alcohol tests with a result of 0.04 or higher alcohol concentration;
- (2) Verified positive drug tests;
- (3) Refusals to be tested (including verified adulterated or substituted drug test results);

Previous Employer Testing History (Continued)

(4) Other violations of DOT agency drug and alcohol testing regulations; and

(5) With respect to any employee who violated a DOT drug and alcohol regulation, documentation of the employee's successful completion of DOT return-to-duty requirements (including follow-up tests). If the previous employer does not have information about the return-to-duty process (e.g., an employer who did not hire an employee who tested positive on a pre-employment test), you must seek to obtain this information from the employee.

(c) The information obtained from a previous employer includes any drug or alcohol test information obtained from previous employers under this section or other applicable DOT agency regulations.

(d) If feasible, you must obtain and review this information before the employee first performs safety-sensitive functions. If this is not feasible, you must obtain and review the information as soon as possible. However, you must not permit the employee to perform safety-sensitive functions after 30 days from the date on which the employee first performed safety-sensitive functions, unless you have obtained or made and

documented a good faith effort to obtain this information.

(e) If you obtain information that the employee has violated a DOT agency drug and alcohol regulation, you must not use the employee to perform safety-sensitive functions unless you also obtain information that the employee has subsequently complied with the return-to-duty requirements and DOT agency drug and alcohol regulations.

(f) You must provide to each of the employers from whom you request information under paragraph (b) of this section written consent for the release of the information cited in paragraph (a) of this section.

(g) The release of information under this section must be in any written form (e.g., fax, e-mail, letter) that ensures confidentiality. As the previous employer, you must maintain a written record of the information released, including the date, the party to whom it was released, and a summary of the information provided.

(h) If you are an employer from whom information is requested under paragraph (b) of this section, you must, after reviewing the employee's specific, written consent, immediately release the requested information to the

employer making the inquiry.

(i) As the employer requesting the information required under this section, you must maintain a written, confidential record of the information you obtain or of the good faith efforts you made to obtain the information. You must retain this information for three years from the date of the employee's first performance of safety-sensitive duties for you.

(j) As the employer, you must also ask the employee whether he or she has tested positive, or refused to test, on any pre-employment drug or alcohol test administered by an employer to which the employee applied for, but did not obtain, safety-sensitive transportation work covered by DOT agency drug and alcohol testing rules during the past two years. If the employee admits that he or she had a positive test or a refusal to test, you must not use the employee to perform safety-sensitive functions for you, until and unless the employee documents successful completion of the return-to-duty process (see paragraphs (b)(5) and (e) of this section).

Drug and Alcohol Testing Program Third Party Administrator

Occupational Drug Testing, LLC

Contacts:

Program Administrator

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jbernier@occupationaldrugtesting.com

1-800-211-4469 X 1031

Fax# 603-218-6874

Medical Review Officers:

Dr. Joseph H. Ray

Dr. Patrick Leong

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1-800-211-4469 X 1021

Fax# 603-218-7779

On-Site Scheduling

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Scheduling@occupationaldrugtesting.com

1-800-211-4469 X 1041

Fax# 603-218-6511

24-Hour Drug & Alcohol Testing On-Site

Post-Accident

Reasonable Suspicion

1-800-967-3135 Toll-Free Emergency Line

Be prepared to provide the following information:

Your Name

Agency Name

Phone Number

Location of Incident

Reason for Call (Post-Accident or Reasonable Suspicion)

Enhance Awareness of Employee Assistance Program (EAP)

Reminder: A copy of The Lexington Group re-announcement letter should be made available to safety-sensitive employees and also posted in the Break Room.



The Lexington Group, Inc.

*Providing Employee Assistance and Organizational Development Services Nationwide
A CT DAS Certified Small Business and Woman Owned Enterprise*

December 2017

Dear CT Drug Consortium Employees and Family Members:

The Lexington Group Employee Assistance Program (EAP) provides CONFIDENTIAL services to assist employees in identifying and resolving personal problems. Examples include marriage and family issues, job stress, alcohol and drug abuse, depression and other emotional problems. This confidential service also includes referral resources for legal, financial, eldercare, and childcare services. While the CT StateWide Drug & Alcohol Testing Consortium (Consortium) has no desire to interfere in your private lives, this service is offered to help you resolve any of your personal problems.

Because employee lives may be affected by problems with a spouse or other family members, this program is extended to household family members. You or your family members may contact the EAP directly at any time. No matter what your situation, any assistance you seek through the EAP is held in the strictest confidence. Involvement will not jeopardize your job security, future promotional opportunities or reputation.

The Consortium uses The Lexington Group, an Employee Assistance Program, to provide confidential EAP services to all of its employees and their families. You may call The Lexington Group 24/7 for immediate and confidential access at:

1-800-676-HELP (4357)

You may also request clinical services online directly from the web site at:

www.The-Lexington-Group.com

To log on, your customer name is “CT Drug Consortium”

And your unique employee password is “CTDrugConsort”

We know you will share our enthusiasm for the Employee Assistance Program, and for the opportunity it presents to help you and your family.

Sincerely,

The Lexington Group, Inc.

Contact & Resource Info

Occupational Drug Testing, LLC

www.occupationaldrugtesting.com

Toll Free # 800-211-4469

The Lexington Group

www.The-Lexington-Group.com

Toll Free # 800-571-0197

Employee Assistance Program

1-800-676-HELP (4357)

Request clinical services online directly from the web site at:

www.The-Lexington-Group.com

To log on, your customer name is "CT Drug Consortium"

And your unique employee password is "CTDrugConsort"

Are you aware of the availability of program forms and resource documents on

GHTD's website?

Go to www.hartfordtransit.org Drug and Alcohol Testing Consortium.

Also, checkout the following materials:

What Employers Need to Know About DOT Drug and Alcohol Testing

What Employees Need to Know About DOT Drug and Alcohol Testing

Resources For The Designated Employer Representative (DER)

Lexington Newsletters

FTA Regulation Update Issues

The following FTA website provides a wealth of information such as trainings, newsletters, etc. on the Drug and Alcohol Testing Program that you might find very helpful:

www.fta.dot.gov/12533.html

You may also find Title 49 Parts 40 and 655 (FTA regulations on the drug and alcohol testing program) by using the Search engine.