

Department of Transportation
Office of the Secretary
SUPPORTING STATEMENT
49 CFR Part 40
Procedures for Transportation Workplace
Drug and Alcohol Testing Programs
OMB Control # 2105-0529

Summary:

This is a request for renewal of the previously approved information collection 2105-0529. The number of annual burden hours has increased by 69,210 hours and 673, 324 more responses were estimated compared to the previous estimate. We believe these increases were primarily due to the increase in the number of drug and alcohol tests being performed. See item #15 for more detailed explanation.

Response to Terms of Clearance: None.

Justification

1. Explain the circumstances that make the collection of information necessary. Attach a copy of the appropriate statute or regulation mandating or authorizing the collection of information.

Five of the Department's Operating Administrations (OA) – Federal Motor Carrier Safety Administration (FMCSA), Federal Aviation Administration (FAA), Federal Transit Administration (FTA), Federal Railroad Administration (FRA) and the Pipeline and Hazardous Materials Safety Administration (PHMSA) and the United States Coast Guard (USCG)¹ – require drug and alcohol testing for safety-sensitive employees in their regulated industries. With very few exceptions, however, all the drug and alcohol tests performed under the five OA and USCG regulations are conducted using a single source of drug and alcohol testing procedures – 49 CFR Part 40. The Office of the Secretary of Transportation (OST) is the proponent of Part 40.

The Department of Transportation (DOT) first published drug testing procedures – 49 CFR Part 40 – on November 21, 1988 [53 FR 47002] as an interim final rule and a year later on December 1, 1989 issued a final rule [54 FR 49852]. Part 40 prescribed the technical testing process that had to be adhered to by those required to implement existing OA drug testing regulations.

On October 28, 1991, the President of the United States signed Public Law 102 - 143, the Omnibus Transportation Employee Testing Act of 1991 (“the Act”) [Appendix A]. The Act

¹ For purposes of following the requirements of 49 CFR Part 40, “DOT, The Department, DOT Agency” is defined, at 40.3, to include the United States Coast Guard. The USCG has a memorandum of understanding [see appendix E] in which it follows 49 CFR Part 40 regulations.

compelled the Department to prescribe regulations that would require testing of safety-sensitive employees in the aviation, highway, rail, and transit industries. The Act specifically mandated, among other things, privacy in collection techniques, incorporation of Department of Health and Human Services' (HHS) mandatory guidelines for drug testing and comparable safeguards for alcohol testing, collection of split samples of a specimen, and confidentiality of test results. It required pre-employment, random, post-accident, and reasonable suspicion testing. Regulations prescribed by the Act needed to include provisions for identification of, and opportunity for treatment for, covered employees in need of assistance due to misuse of alcohol or illegal use of controlled substances.

The Act required changes to Part 40 (e.g., split specimen testing for drugs and provisions for alcohol testing) and to some of the OA regulations. The changes to Part 40, as directed by the Act, were published on February 15, 1994 [59 FR 7340].

In December 2000 [65 FR 79462], Part 40 was revised to produce a cleaner, better organized, simpler-to-follow rule that incorporated the most important guidance and interpretations and dealt creatively with numerous changes in the transportation and testing industries. It also served to introduce procedures designed to strengthen the quality and integrity of the testing program. Since the December 2000 revision, Part 40 was amended several times.

Overall, Part 40 directs the activities of numerous persons in the drug and alcohol testing process. Among these are transportation employees and employers, as well as, service agents – urine collectors, forensic laboratory testing personnel, Medical Review Officers (MRO), Breath Alcohol Technicians, Screening Test Technicians, and Substance Abuse Professionals.

DOT Goal: The Office of Drug and Alcohol Policy and Compliance (ODAPC) regulation and associated paperwork burdens support the Department of Transportation's goals of Safety and Environmental Sustainability. The regulatory requirement helps to promote the safety of the traveling public by working toward the elimination of drug and alcohol related transportation deaths and injuries; and protecting the natural environment by working toward reduction of drug and alcohol use being factors in toxic spills and releases.

2. Indicate how, by whom, and for what purpose the information is to be used, and the actual use made of the information.

Part 40 requires the collection of information from a variety of transportation employers, employees and service agents. To ensure the required quality (e.g., privacy, accuracy and confidentiality) of the drug and alcohol testing services provided, OST requires documentation in the collection of urine, breath, and saliva specimens; screening and confirmation of specimen tests; the medical review of results; and the treatment recommendations for those refusing to test or for testing positive for drug use or alcohol misuse. This information is used by employers and Department representatives to ensure that those refusing or testing positive are removed from safety-sensitive functions, that program problems are immediately identified and corrected, that quality assurance efforts are working, that security and privacy measures are upheld, and that the fairness and credibility of the Department's testing efforts are maintained.

3. Describe whether, and to what extent the collection of information involves the use of automated, electronic, mechanical, or other forms of information technology. Also describe any consideration of using information technology to reduce burden.

The Department believes the increased use of electronic methods is both inevitable and beneficial. Since the program's inception, Part 40 was updated to permit scanned computer images for reporting drug and alcohol test results. The Department also permits the electronic transmission of laboratory results reports to MROs and the electronic storage of certain testing data and information. Almost all the laboratories submit their reports to MROs electronically. Furthermore, laboratories are required to submit semi-annual statistics to the Department. They can mail, fax, or submit them electronically. All the laboratories submit them electronically.

In April 2015, the Department issued a Final Rule to permit employers to use laboratories that have been approved by the Department of Health and Human Services for the use of electronic drug testing custody and control forms (eCCF). Currently, there are twelve such drug testing laboratories which together receive and process approximately 80% of the industries specimens for testing. Use of the eCCF benefits the DOT drug testing program by:

- 1) reducing the number of 5-part paper CCFs that laboratories have to print and ship to employers,
- 2) improving the accuracy of the data entered onto the eCCF, and
- 3) generating legible copies each and every time the eCCF is used.

The Department also permits employers to submit year end aggregate testing data (MIS reports - see Appendix D) via the Internet. Previous submissions were all completed by hand and mailed to the respective OAs. A majority of the reports are being submitted via the internet. In our estimation, approximately 97% of the 2014 MIS reports were submitted electronically.

4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purpose described in item 2 above.

This information does not readily exist elsewhere.

5. If the collection of information impacts small businesses or other small entities describe any methods used to minimize burden.

Most employers regulated by the Department's drug and alcohol testing regulations and the USCG are required to submit annual aggregate drug and alcohol testing statistics by completing the MIS form [see Appendix D]. In the past, this required the employer to complete the MIS form and then mail or fax it to the respective regulating DOT Operating Administration. Regulated employers with fewer than 50 employees may be required to submit MIS data when requested to do so by the regulating DOT Operating Administration. Employers regulated by the FTA, FRA, and USCG are required to submit MIS data regardless of size. The Department developed a computer-based application that permits employers to submit year end aggregate testing data (MIS form) electronically via the Internet. We estimate, approximately 97% of the 2014 MIS reports were submitted electronically.

6. Describe the consequences to Federal program or policy activities if the collection is not conducted or conducted less frequently, as well as any technical or legal obstacles to reducing burdens.

Many DOT and USCG regulated employers rely on a number of persons or groups to coordinate and carry out their drug and alcohol testing responsibilities. Without this collection or by reducing the collection, program auditors and inspectors would not have information adequate to identify and address problems or compliance efforts in this safety program. In addition, custody and control is imperative in ensuring that an individual's drug and alcohol test is an accurate reflection of the collection and testing event as well as in assigning a scientific result to a particular individual.

7. Explain any special circumstances that would cause an information collection that would be inconsistent with the guidelines in 5 CFR 1320.5(d)(2)(i) - (viii).

The information required is not in conflict with these guidelines.

8. If applicable describe efforts to:

Notify the public of information collection prior to OMB submission:

On March 15, 2017, the Office of Drug and Alcohol Policy and Compliance (ODAPC) published a 60-day notice in the Federal Register [82 FR 13924] Docket # DOT-OST-2017-0027, informing the public of ODAPC's intention to extend an approved information collection.

On June 16, 2017, ODAPC also published the required 30-day notice in the Federal Register [82 FR 27762] again informing the public of ODAPC's request to extend an approved information collection.

In both Federal Register notices, ODAPC solicited comments on whether the information collection is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility.

We asked whether the Department's estimate of the burden of the proposed information collection was accurate and for ways to enhance the quality, utility, and clarity of the information to be collected. The Department sought ways to minimize the burden for those who would have to provide the information, including the use of automated collection techniques or other forms of information technology.

There were no comments to the 60-day Federal Register notice. Comments to the 30-day Federal Register notice are to be sent directly to the Office of Management and Budget.

Consultations outside of agency to obtain other views:

OST regularly consults with representatives from the Department's OAs, the USCG, and HHS. OST regularly consults with service agents regarding their concerns with the regulations.

Consultations with representatives of the effected population:

OST regularly consults with DOT OAs, the USCG, employers, and service agents (e.g., Medical Review Officers, Substance Abuse Professionals, Urine Specimen Collectors, Screening Test Technicians, Breath Alcohol Technicians, and Consortia/Third Party Administrators), regarding their concerns with the regulations.

9. Explain any decision to provide payment or gift to respondents, other than remuneration of contracts or grantees.

There are no circumstances of any payments or gifts to respondents.

10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulations, or agency policy.

Some of the information to be collected contains information covered under the Federal Privacy Act and conditions of the provisions of privacy contained therein. The United States Supreme Court has upheld the privacy and confidentiality elements of the Department's testing program and chain-of-custody procedures contained in the Part 40 procedures. Some information required of Part 40 can be released to third parties only after the appropriate releases of information are signed by the employee.

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.

There are no issues pertaining to questions of this nature.

12. Provide estimates of the hour burden of the collection of information.

- A. Total Number of Respondents: 3,034,690 (see table below for an itemization)
- B. Total Number of Responses: 7,221,367 (see table below and worksheets in Appendix F for an explanation)
- C. Total Annual Hours Requested: 748,196 (see table below and worksheets in Appendix F for explanation)
- D. Current OMB Inventory: 678,986
- E. Difference: 69,210 (see item # 15 for an explanation)
- F. Explanation for Difference:
 - 1. Program Change: 0
 - 2. Adjustment: 69,210

PRA Item	Number of Respondents	Number of Responses	Burden Hours	Salary Costs (\$)
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Exemptions from Regulation Provisions Requests [40.7(a)]	1	1	3	\$90
Employer Stand-down Waiver Requests [40.21(b)]	5	5	40	\$1,200
Employee Testing Records from Previous Employers [40.25(a)]	558,484	2,306,837	307,578	\$9,227,347
Employee Release of Information [40.25(f)]	2,306,837	2,306,837	153,789	\$4,613,673
MIS Form Submission [40.26]	23,333	601	902	\$27,045
Collector (Qualification and Refresher) Training Documentation (40.33(b) & (e))	5,000	5,000	333	\$9,990
Collector Error Correction Training Documentation [40.33(f)]	10,000	10,144	676	\$20,288
Laboratory Reports to DOT Regarding Unlisted Adulterant [40.91(e)]	0	0	0	\$0
Semi-Annual Laboratory Reports to Employers [40.111(a)]	34	368,599	24,573	\$737,199
Semi-Annual Laboratory Reports to DOT [40.111(d)]	34	68	5	\$136
Medical Review Officer (MRO) (Qualifications and Continuing Education) Training Documentation [40.121(c) & (d)]	1,000	1,000	66	\$2,000
MRO Review of Negative Results Documentation [[40.127(b)(2)(ii)]	5,000	311,294	20,752	\$622,587
MRO Failure to Contact Donor Documentation [40.131(c)(1)]	5,000	33,600	2,240	\$67,200
MRO Effort to Contact DER Documentation [40.131(c)(2)(iii)]	5,000	33,600	2,240	\$67,200
DER Successful Contact Employee Documentation [40.131(d)]	26,880	26,880	1,792	\$53,760
DER Failure to Contact Employee Documentation [40.131(d)(2)(i)]	6,720	6,720	448	\$13,440
MRO Verification of Positive Result Without Interview Documentation [40.133].	5,000	6,720	448	\$11,648
Adulterant/Substitution Evaluation Physician Statements [40.145(g)(2)(ii) (d)]	0	0	0	\$0
MRO Cancellation of Adulterant / Substitution for Legitimate Reason Reports [40.145(g)(5)]	0	0	0	\$0
Employee Admission of Adulterating / Substituting Specimen MRO Determination [40.159(c)]	40	40	3	\$90
PRA Item (cont'd)	Number of Respondents	Number of Responses	Burden Hours	Salary Costs (\$)

Split Specimen Requests by MRO [40.171(c)]	4,970	4,970	331	\$9,940
Split Failure to Reconfirm for Drugs Reports by MRO [40.187(b)]	33	33	2	\$60
Split Failure to Reconfirm for Adulterant / Substitution Reports by MRO [40.187(c)]	6	6	1	\$30
Shy Bladder Physician Statements [40.193(f)]	634	634	53	\$1,585
MRO Statements Regarding Physical Evidence of Drug Use [40.195(b) & (c)]	0	0	0	\$0
Drug Test Correction Statements [40.205(b)(1) & (2)]	25,000	126,800	16,907	\$507,200
Breath Alcohol Technician (BAT) / Screening Test Technician (STT) (Qualification and Refresher) Training Documentation [40.213(b)(c)&(e)]	2,000	2,000	133	\$3,990
BAT/STT Error Correction Training Documentation [40.213(f)]	77	77	5	\$150
Complete DOT Alcohol Testing Forms [40.225(a)]	10,000	1,548,000	206,400	\$6,192,000
Evidential Breath Testing Device Quality Assurance / Calibration Records [40.233(c)(4)]	10,000	10,000	666	\$19,980
Shy Lung Physician Statements [40.265(c)(2)]	77	77	5	\$155
Alcohol Test Correction Statements [40.271(b)(1)&(2)]	155	155	10	\$310
Substance Abuse Professional (SAP) (Qualification and Continuing Education) Training Documentation [40.281(c)&(d)]	3,334	3,334	222	\$6,660
Employer SAP Lists to Employees [40.287]	10,000	71,000	4,733	\$142,000
SAP Reports to Employers [40.311(c),(d) & (e)]	10,000	36,000	2,400	\$72,000
Correction Notices to Service Agents [40.373(a)]	25	25	250	\$7,500
Notice of Proposed Exclusion (NOPE) to Service Agents [40.375(a)]	2	2	20	\$600
Service Agent Requests to Contest Public Interest Exclusions (PIE) [40.379(b)]	2	2	2	\$60
Service Agent Information to Argue PIE [40.379(b)(2)]	2	2	8	\$240
Service Agent Information to Contest PIE [40.381(a) & (b)]	2	2	8	\$240
PRA Item (cont'd)	Number of Respondents	Number of Responses	Burden Hours	Salary Costs(\$)

Notices of PIE to Service Agents [40.399]	1	1	1	\$30
Notices of PIE to Employer and Public [40.401 (b) & (d)]	1	1	1	\$30
Service Agent PIE Notices to Employers [40.403 (a)]	1	300	150	\$4,500
Total New	3,034,690	7,221,367	748,196	\$22,444,153

* pro-rated over a 5 year period based upon frequency of training requirement

The salary cost is based upon the Department of Labor's bureau of Labor Statistics average employee compensation hourly cost in 2014.

NOTE: See Appendix F for explanation worksheets

Supplemental Program Information:

A. Number of Employers Regulated by DOT's drug and alcohol testing program

FMCSA	530,000
FRA	750
FAA	6,900
FTA	3,384
PHMSA	2,450
USCG	15,000
Total	558,484

[Based on 2014 DOT Operating Administration data]

B. Number of Employees Regulated by DOT's drug and alcohol testing program

FMCSA	3,900,000
FRA	1 11,300
FAA	450,000
FTA	290,756
PHMSA	190,000
USCG	150,000
Total	5,092,056

[Based on 2014 DOT Operating Administration data]

C. Service Agents:

Urine Collectors	25,000
Laboratories	34
Medical Review Officers (MRO)	5,000
Substance Abuse Professional (SAP)	15,000
Breath Alcohol Technician (BAT) & Screening Test Technician (STT)	10,000

[Based on ODAPC and HHS data]

Drug Testing:

Drug Tests Annually	6,340,000
Laboratory Non-negative Rate	1.76%
Laboratory Non-negatives	112,000

MRO Verified Positive Rate	1.12%
MRO Verified Positives	71,000

[Based on 2014 MIS and laboratory data]

D. Alcohol Testing:

Alcohol Tests Annually	1,548,000
Alcohol Positive Rate	.39%
Alcohol Positive Tests	6,000

[Based on 2014 MIS]

13. Provide estimates of total annual cost burden to respondents or record keepers resulting from the collection of information.

There are no costs to the respondents.

14. Provide estimates of annualized cost to the Federal government.

There are no additional costs to the Federal Government.

15. Explain the reasons for any changes or adjustments reported in items 13 or 14 of the OMB form 83-1.

Overall the total burden hours have increased by 69,210 (adjustments). The increase in the burden hours was due to an increase in the number of tests conducted by employers, which was probably due to an improving economy.

The adjustment of 69,210 burden hours is represented by an increase in the number of drug and alcohol tests performed by employers. The adjustments are mostly represented by an increase in:

- The number of requests for information from previous employers (47,251 hours)
- The number of employee's authorizing release of their testing information (23,626 hours)

(See the table below for an itemization of the changes in burden hours)

PRA Item	Number of Responses	Burden Hours
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Exemptions from Regulation Provisions Requests [40.7(a)]	1	3
New	1	3
Difference	0	0
Employer Stand-down Waiver Requests [40.21(b)]	5	40
New	5	40
Difference	0	0
Employee Testing Records from Previous Employers [40.25(a)]	1,952,459	260,327
New	2,306,837	307,578
Difference	354,378	47,251
Employee Release of Information [40.25(f)]	1,952,459	130,163
New	2,306,837	153,789
Difference	354,378	23,626
MIS Form Submission [40.26]	1,681	2,521
New	601	902
Difference	-1,080	-1,619
Collector (Qualification and Refresher) Training Documentation (40.33(b) & (e))	5,000	333
New	5,000	333
Difference	0	0
Collector Error Correction Training Documentation [40.33(f)]	8,960	597
New	10,144	676
Difference	1,184	79
Laboratory Reports to DOT Regarding Unlisted Adulterant [40.91(e)]	1	1
New	0	0
Difference	-1	-1
Semi-Annual Laboratory Reports to Employers [40.111(a)]	480,693	32,046
New	368,599	24,573
Difference	-112,094	-7,473
Semi-Annual Laboratory Reports to DOT [40.111(d)]	74	5
New	68	5
Difference	-6	0
Medical Review Officer (MRO) (Qualifications and Continuing Education) Training Documentation [40.121(c) & (d)]	1,000	66
New	1,000	66
Difference	0	0
MRO Review of Negative Results Documentation [[40.127(b) (2)(ii)]	278,800	18,586
New	311,294	20,752
Difference	32,494	2,166
PRA Item	Number of Responses	Burden Hours
MRO Failure to Contact Donor Documentation [40.131(c)(1)]	31,200	2,080

	New	33,600	2,240
	Difference	2,400	160
MRO Effort to Contact DER Documentation [40.131(c)(2)(iii)]		31,200	2,080
	New	33,600	2,240
	Difference	2,400	160
DER Successful Contact Employee Documentation [40.131(d)]		24,960	1,664
	New	26,880	1,792
	Difference	1,920	128
DER Failure to Contact Employee Documentation [40.131(d)(2)(i)]		6,240	416
	New	6,720	448
	Difference	480	32
MRO Verification of Positive Result Without Interview Documentation [40.133].		6,240	416
	New	6,720	448
	Difference	480	32
Adulterant/Substitution Evaluation Physician Statements [40.145(g)(2)(ii)(d)]		0	0
	New	0	0
	Difference	0	0
MRO Cancellation of Adulterant / Substitution for Legitimate Reason Reports [40.145(g)(5)]		0	0
	New	0	0
	Difference	0	0
Employee Admission of Adulterating / Substituting Specimen MRO Determination [40.159(c)]		40	3
	New	40	3
	Difference	0	0
Split Specimen Requests by MRO [40.171(c)]		4,690	313
	New	4,970	331
	Difference	280	18
Split Failure to Reconfirm for Drugs Reports by MRO [40.187(b)]		32	2
	New	33	2
	Difference	1	0
Split Failure to Reconfirm for Adulterant / Substitution Reports by MRO [40.187(c)]		2	1
	New	6	1
	Difference	4	0
PRA Item		Number of Responses	Burden Hours
Shy Bladder Physician Statements [40.193(f)]		568	47
	New	634	53

	Difference	66	6
MRO Statements Regarding Physical Evidence of Drug Use [40.195(b) & (c)]		0	0
	New	0	0
	Difference	0	0
Drug Test Correction Statements [40.205 (b)(1) & (2)]		113,780	15,170
	New	126,800	16,907
	Difference	13,020	1,737
Breath Alcohol Technician (BAT) / Screening Test Technician (STT) (Qualification and Refresher) Training Documentation [40.213(b)(c)&(e)]		2,000	133
	New	2,000	133
	Difference	0	0
BAT/STT Error Correction Training Documentation [40.213(f)]		77	5
	New	77	5
	Difference	0	0
Complete DOT Alcohol Testing Forms [40.225(a)]		1,531,000	204,133
	New	1,548,000	206,400
	Difference	17,000	2,267
Evidential Breath Testing Device Quality Assurance / Calibration Records [40.233(c)(4)]		10,000	666
	New	10,000	666
	Difference	0	0
Shy Lung Physician Statements [40.265(c)(2)]		76	5
	New	77	5
	Difference	1	0
Alcohol Test Correction Statements [40.271(b)(1)&(2)]		151	10
	New	155	10
	Difference	4	0
Substance Abuse Professional (SAP) (Qualification and Continuing Education) Training Documentation [40.281(c)&(d)]		3,334	222
	New	3,334	222
	Difference	0	0
Employer SAP Lists to Employees [40.287]		67,000	4,466
	New	71,000	4,733
	Difference	4,000	267
SAP Reports to Employers [40.311(c),(d) & (e)]		34,000	2,266
	PRA Item	Number of Responses	Burden Hours
	New	36,000	2,400
	Difference	2,000	134
Correction Notices to Service Agents [40.373(a)]		10	10

	New	25	250
	Difference	15	240
Notice of Proposed Exclusion (NOPE) to Service Agents [40.375(a)]			
	New	2	20
	Difference	0	0
Service Agent Requests to Contest Public Interest Exclusions (PIE) [40.379(b)]			
	New	2	2
	Difference	0	0
Service Agent Information to Argue PIE [40.379(b)(2)]			
	New	2	8
	Difference	0	0
Service Agent Information to Contest PIE [40.381(a) & (b)]			
	New	2	8
	Difference	0	0
Notices of PIE to Service Agents [40.399]			
	New	1	1
	Difference	0	0
Notices of PIE to Employer and Public [40.401 (b) & (d)]			
	New	1	1
	Difference	0	0
Service Agent PIE Notices to Employers [40.403 (a)]			
	New	300	150
	Difference	0	0
Total Old		6,548,043	678,986
Total New		7,221,367	748,196
Net responses/burden hours		673,324	69,210

16. For collections of information whose results will be published, outline plans for tabulation and publication.

The proposed information collection is not slated for publication.

17. If seeking approval not to display the expiration date for OMB approval of the information collection, explain.

Testing for alcohol (and drugs) as required by the Omnibus Transportation Employee Testing Act of 1991, is considered a long-term program. There are currently no plans to modify the content of the information on the alcohol form or the method of conducting alcohol tests. With this in mind, the DOT considers this form one that will be used well into the future. An expiration date could, in and of itself, create a problem in the field for the technicians (e.g. an employee might refuse to take a test because it appears that the form is outdated). Also in order to take advantage of the economy of scale, many printers of the form – including the Federal Government Printing Office – print this form in large quantities. An expiration date may

unnecessarily reduce the value of these forms, and place an undue burden on employers to have more reprinted solely because of the date.

Similar to the alcohol testing form, the Management Information Form (MIS) has not been modified and there are no plans to modify the content of the form. The current form has not changed since its inception. The DOT considers this form one that will be used within the DOT Operating Administrations and their regulated industries well into the future. The DOT Operating Administrations would not want any employer to be out of compliance if they used an MIS form with the incorrect expiration date.

18. Explain each exception to the certification statement identified in item 19 “Certification for Paperwork Reduction Act Submissions,” of OMB form 83-1.

Not applicable.

List of Appendices:

- A. Omnibus Transportation Employees Testing Act of 1991
- B. 49 CFR Part 40
- C. Part 40 ATF Form
- D. Part 40 MIS Form
- E. USCG Memorandum Of Understanding
- F. PRA Worksheets

APPENDIX A:
Omnibus
Act

Appendix B:

49 CFR Part 40

Appendix C:
Part 40
ATF Form

Appendix D:
Part 40
MIS Form

Appendix E:
USCG
Memorandum
of
Understanding

Appendix F: PRA Worksheets

PRA Cost Indicator Worksheet

PRA Task: *Exemptions from Regulation Provisions Requests*

Regulation Citation: *40.7(a)*

Narrative: Based upon past performance, we believe there will be few requests for exemptions to requirements in Part 40. We estimate that there will be 1 request per year and that each request will take approximately 3 hours to write. Wage estimates were based upon Department of Labor's Bureau of Labor Statistics average employee compensation hourly cost in 2014.

Exemption Requests: 1 annually

Annual Burden Hours: 3

Annual Burden \$ Cost: \$90.00

PRA Cost Indicator Worksheet

PRA Task: *Employer Stand-down Waiver Requests*

Regulation Citation: *40.21(b)*

Narrative: Based upon data from the Department's Operating Administrations and the USCG, there are 558,484 employers within the transportation industries. Operating Administration and ODAPC estimate that there will be 5 requests per year and that each request will take approximately 8 hours to write. Wage estimates were based upon Department of Labor's Bureau of Labor Statistics average employee compensation hourly cost in 2014.

Waiver Requests: 5 annually

Annual Burden Hours: 40

Annual Burden \$ Cost: \$1,200.00

PRA Cost Indicator Worksheet

PRA Task; *Employee Testing Records from Previous Employers*

Regulation Citation: *40.25(a)*

Narrative: *Based upon MIS data from the Department's Operating Administrations and the USCG, we estimated there are 2,306,837 safety-sensitive employees hired annually within the transportation industries. Employers will have to obtain drug and alcohol testing records from previous employers for each of these employees. Both the gaining employer and the previous employer(s) will have roles in this process. We estimate that each report will take approximately 8 minutes to document. Wage estimates were based upon Department of Labor's Bureau of Labor Statistics average employee compensation hourly cost in 2014.*

Record Requests: *2,306,837 annually*

Annual Burden Hours: *307,578*

Annual Burden \$ Cost: *\$9,227,347*

PRA Cost Indicator Worksheet

PRA Task: *Employee Releases of Information*

Regulation Citation: *40.25(f)*

Narrative: *Based upon MIS data from the Department's Operating Administrations and the USCG, we estimated there are 2,306,837 safety-sensitive employees hired annually within the transportation industries. Employers will have to obtain drug and alcohol testing records from previous employers for each of these employees. Employees must sign releases of information before the information can be requested and provided. Both the employer and the employee will have roles in this release process. We estimate it will take approximately 4 minutes to write the release. Wage estimates were based upon Department of Labor's Bureau of Labor Statistics average employee compensation hourly cost in 2014.*

Releases of Information: *2,306,837 annually*

Annual Burden Hours: *153,789*

Annual Burden \$ Cost: *\$4,613,673*

PRA Cost Indicator Worksheet

PRA Task: *MIS Form Submission*

Regulation Citation: *40.26*

Narrative: Based upon data from the Department's Operating Administrations, there are 558,484 employers within the transportation industries. Depending on the Operating Administration regulations, some of these employers may be required to submit aggregate annual drug and alcohol testing data via the Drug and Alcohol Testing MIS Data Collection Form. Based on the MIS data, 23,333 companies were required to submit a completed MIS Form. Of the 23,333 MIS reports submitted, 97% were submitted electronically. We estimate that it will take approximately 90 minutes to complete the form. Wage estimates were based upon Department of Labor's Bureau of Labor Statistics average employee compensation hourly cost in 2014.

MIS Form: 601 annually

Annual Burden Hours: 902

Annual Burden \$ Cost: \$27,045

PRA Cost Indicator Worksheet

PRA Task: *Collector (Qualification and Refresher) Training Documentation*

Regulation Citation: *40.33(b)&(e)*

Narrative: *Based upon collection industry and DOT data, there are approximately 25,000 urine collectors. This number has remained steady from year to year (as new collectors enter the field and seasoned collectors leave) for the past several years. All collectors must be trained and must document the fact that training took place. Documentation of the training is usually in the form of a letter or statement acknowledging the name of the participant, the date and location of training, and the name of the trainer attesting to the error-free collections, Because training requirements are on a 5-year cycle, we have calculated the training documentation requirement pro-rated over a 5-year period. We estimate it will take 4 minutes to document the training. Wage estimates were based upon Department of Labor's Bureau of Labor Statistics average employee compensation hourly cost in 2014.*

Collector Training Documentation: *5,000 annually*

Annual Burden Hours: *333*

Annual Burden \$ Cost: *\$9,990*

PRA Cost Indicator Worksheet

PRA Task; *Collector Error Correction Training Documentation*

Regulation Citation: *40.33(f)*

Narrative: *Based upon laboratory data, we have determined that 6,340,000 drug tests annually are accomplished under DOT authority within the transportation industries. Of these tests, laboratories report that approximately .16% have fatal errors caused by collectors. When such errors occur, collectors must receive training focusing upon the error that resulted in a canceled test Documentation of this training must be made and is usually in the form of a letter or statement acknowledging the name of the participant, the date and location of training, and the name of the person attesting to the error-free collections. We estimate it will take approximately 4 minutes to write the error-correction statement. Wage estimates were based upon Department of Labor's Bureau of Labor Statistics average employee compensation hourly cost in 2014.*

Collector Error Training Documentation: *10,144 annually*

Annual Burden Hours: *676*

Annual Burden \$ Cost: *\$20,288*

PRA Cost Indicator Worksheet

PRA Task: *Laboratory Reports to DOT Regarding Unlisted Adulterant*

Regulation Citation: *40.91(e)*

Narrative: *Based upon past performance, we believe there will be no new adulterants reported annually to DOT. If there were any reports of new adulterants, we estimate that each report will take approximately .5 hours to write. Wage estimates were based upon Department of Labor's Bureau of Labor Statistics average employee compensation hourly cost in 2014.*

Unlisted Adulterant Reports: *0 annually*

Annual Burden Hours: *0*

Annual Burden \$ Cost: *\$0*

PRA Cost Indicator Worksheet

PRA Task: *Semi-Annual Laboratory Reports to Employers*

Regulation Citation: *40.111(a)*

Narrative: *Based upon data from the Department's Operating Administrations, there are 558,484 employers within the transportation industries. Approximately one-third of these employers are to receive a report (showing the drug testing accomplished) on a semi-annual basis from the laboratory they are using. Employers who do not conduct more than 5 tests during the 6-month period will not receive any report. We estimate it will take approximately 4 minutes to write the semi-annual report. Wage estimates were based upon Department of Labor's Bureau of Labor Statistics average employee compensation hourly cost in 2014.*

Laboratory Reports: *368,599 annually*

Annual Burden Hours: *24,573*

Annual Burden \$ Cost: *\$737,199*

PRA Cost Indicator Worksheet

PRA Task: *Semi-Annual Laboratory Reports to DOT*

Regulation Citation: *40.111(d)*

Narrative: *Based upon the Department of Health and Human Services listing of certified laboratories, there are 34 laboratories that provide drug testing services for DOT regulated employers. All of these laboratories are required to provide a report to DOT on a semi-annual basis. We estimate it will take approximately 4 minutes to write the semi-annual report. Wage estimates were based upon Department of Labor's Bureau of Labor Statistics average employee compensation hourly cost in 2014.*

Laboratory Reports: *68 annually*

Annual Burden Hours: *5*

Annual Burden \$ Cost: *\$136*

PRA Cost Indicator Worksheet

PRA Task: *Medical Review Officer (MRO) (Qualification and Continuing Education) Training Documentation*

Regulation Citation: *40.121 (c)&(d)*

Narrative: *Based upon industry and DOT data, there are approximately 5,000 MROs. All MROs must be trained and must document the fact that training took place. Documentation of the training is usually in the form of a letter or statement acknowledging the name of the participant, the date and location of training, and the name of the trainer. Because training requirements are on a 5-year cycle, we have calculated the training documentation requirement pro-rated over a 5-year period. We estimate it will take 4 minutes to write the letter or statement. Wage estimates were based upon Department of Labor's Bureau of Labor Statistics average employee compensation hourly cost in 2014.*

MRO Training Documentation: *1,000 annually*

Annual Burden Hours: *66*

Annual Burden \$ Cost: *\$2,000*

PRA Cost Indicator Worksheet

PRA Task: *MRO Review of Negative Results Documentation*

Regulation Citation: *40.127(b)(2)(ii)*

Narrative: *Based upon industry and MIS data, there are 6,340,000 drug tests annually accomplished under DOT authority within the transportation industries. Of these, approximately 98.2%, or 6,226,000 are laboratory negative results. MROs are required to review 5% of these negative results per year and document that review by initialing the CCF. We estimate it will take approximately 4 minutes to document the review of a negative result. Wage estimates were based upon Department of Labor's Bureau of Labor Statistics average employee compensation hourly cost in 2014.*

Negative Results Reviews: *311,294 annually*

Annual Burden Hours: *20,752*

Annual Burden \$ Cost: *\$622,587*

PRA Cost Indicator Worksheet

PRA Task: *MRO Failure to Contact Donor Documentation*

Regulation Citation: *40.131 (c)(1)*

Narrative: *There are 6,340,000 drug tests annually accomplished under DOT authority within the transportation industries. Laboratories report that 1.76% of all tests result in a confirmed laboratory positive result ~ 112,000 annually. MROs are required to contact all employees with a laboratory positive result. When an MRO is unable to contact an employee who has a positive test result, the MRO is required to document the failed attempt MROs report that they cannot contact the employee in approximately 30% of these instances. We estimate it will take approximately 4 minutes to write the documentation. Wage estimates were based upon Department of Labor's Bureau of Labor Statistics average employee compensation hourly cost in 2014.*

MRO Documentation: *33,600 annually*

Annual Burden Hours: *2,240*

Annual Burden \$ Cost: *\$67,200*

PRA Cost Indicator Worksheet

PRA Task: *MRO Effort to Contact DER Documentation*

Regulation Citation: *40.131 (c)(2)(iii)*

Narrative: There are 6,340,000 drug tests annually accomplished under DOT authority within the transportation industries. Laboratories report that 1.76 % of all tests result in a confirmed laboratory positive result – 112,000 annually. MROs are required to contact all employees with a laboratory positive result. When an MRO is unable to contact an employee who has a positive test result, the MRO must contact the employer for assistance in contacting the employee and document the event. MROs report that they must contact the employer in approximately 30% of these instances. We estimate it will take approximately 4 minutes to write the documentation. Wage estimates were based upon Department of Labor's Bureau of Labor Statistics average employee compensation hourly cost in 2014.

MRO Documentation: 33,600 annually

Annual Burden Hours: 2,240

Annual Burden \$ Cost: \$67,200

PRA Cost Indicator Worksheet

PRA Task: *DER Successful Contact Employee Documentation*

Regulation Citation: *40.131(d)*

Narrative: *There are 6,340,000 drug tests annually accomplished under DOT authority within the transportation industries. Laboratories report that 1.76% of all tests result in a confirmed laboratory positive result ~ 112,000 annually. MROs are required to contact all employees with a positive result. When an MRO is unable to contact an employee who has a positive test result, the MRO must contact the employer for assistance in contacting the employee. MROs report that they must contact the employer in approximately 30% of these instances. If the employer is able to contact the employee, they must document this contact. We estimate it will take approximately 4 minutes to write the documentation. Employers report being mostly successful in contacting the employee. We estimate, based upon contacts with employers and MROs, that 80% of those that must be contacted by the employer, are contacted. Wage estimates were based upon Department of Labor's Bureau of Labor Statistics average employee compensation hourly cost in 2014.*

DER Documentation: *26,880 annually*

Annual Burden Hours: *1,792*

Annual Burden \$ Cost: *\$53,760*

PRA Cost Indicator Worksheet

PRA Task: *DER Failure to Contact Employee Documentation*

Regulation Citation: *40.131(d)(2)(i)*

Narrative: *There are 6,340,000 drug tests annually accomplished under DOT authority within the transportation industries. Laboratories report that 1.76% of all tests result in a confirmed laboratory positive result ~ 112,000 annually. MROs are required to contact all employees with a positive result. When an MRO is unable to contact an employee who has a positive test result, the MRO must contact the employer for assistance in contacting the employee. MROs report that they must contact the employer in approximately 30% of these instances. If the employer is able to contact the employee, they must document this contact. Employers report being mostly successful in making contact with the employee. We estimate, based upon contacts with employers and MROs, that 20% of those that must be contacted by the employer, are unable to be contacted. We estimate it will take approximately 4 minutes to write the documentation. Wage estimates were based upon Department of Labor's Bureau of Labor Statistics average employee compensation hourly cost in 2014.*

DER Documentation: *6,720 annually*

Annual Burden Hours: *448*

Annual Burden \$ Cost: *\$13,440*

PRA Cost Indicator Worksheet

PRA Task: *MRO Verification of Positive Result Without Interview Documentation*

Regulation Citation: 40.133

Narrative: There are 6,340,000 drug tests annually accomplished under DOT authority within the transportation industries. Laboratories report that 1.76% of all tests result in a confirmed laboratory positive result ~ 112,000 annually. MROs are required to contact all employees with a positive result. When an MRO is unable to contact an employee who has a positive test result, the MRO must contact the employer for assistance in contacting the employee. MROs report that they must contact the employer in approximately 30% of these instances. If the employer is able to contact the employee, it must document this contact. Employers report being mostly successful in making contact with the employee. We estimate, based upon contacts with employers and MROs, that 20% of those that must be contacted by the employer, are unable to be contacted. This 20% will be reported as positive by the MRO. We estimate it will take approximately 4 minutes to write the documentation. Wage estimates were based upon Department of Labor's Bureau of Labor Statistics average employee compensation hourly cost in 2014.

MRO Documentation: 6,720 annually

Annual Burden Hours: 448

Annual Burden \$ Cost: \$13,440

PRA Cost Indicator Worksheet

PRA Task: *Adulterant /Substitution Evaluation Physician Statements*

Regulation Citation: *40.145(g)(2)(ii)(d)*

Narrative: There are 6,340,000 drug tests annually accomplished under DOT authority within the transportation industries. When a drug test is reported by the laboratory as adulterated or substituted, the MRO must determine if the donor has a legitimate reason for presenting a specimen with such a result. If the MRO believes that a donor may have a medical condition causing such a result, the MRO must ensure that the donor has a physical examination verifying the condition. The physician conducting the evaluation must provide a short written statement to the MRO documenting the results of the examination. The physician, the MRO, and the employer all have roles in the process. We estimate each report will take 1/2 hour to write and that there will be no such reports. Wage estimates were based upon Department of Labor's Bureau of Labor Statistics average employee compensation hourly cost in 2014.

Physician Evaluation Documentation: 0 annually

Annual Burden Hours: 0

Annual Burden \$ Cost: \$0

PRA Cost Indicator Worksheet

PRA Task: *MRO Cancellation of Adulterant / Substitution for Legitimate Reason Reports*

Regulation Citation: *40.145(g)(5)*

Narrative: *There are 6,340,000 drug tests annually accomplished under DOT authority within the transportation industries. When a drug test is reported by the laboratory as adulterated or substituted, the MRO must determine if the donor has a legitimate reason for presenting a specimen with such a result. If the MRO believes that a donor may have a medical condition causing such a result, the MRO must ensure that the donor has a physical examination verifying the condition. The physician conducting the evaluation must provide a short written statement to the MRO documenting the results of the examination. When the MRO believes that a legitimate reason exists, the MRO must cancel the test and report that to the DOT. We estimate each report will take 1/2 hour to write and that there will be no such reports. Wage estimates were based upon Department of Labor's Bureau of Labor Statistics average employee compensation hourly cost in 2014.*

MRO Cancellation Reports: *0 annually*

Annual Burden Hours: *0*

Annual Burden \$ Cost: *\$0*

PRA Cost Indicator Worksheet

PRA Task: *Employee Admission of Adulterating / Substituting Specimen
MRO Documentation*

Regulation Citation: *40.159(c)*

Narrative: *There are 6,340,000 million drug tests annually accomplished under DOT authority within the transportation industries. A small percentage (~ .13%) of specimens is untested due to their unsuitability for testing. MROs are required to contact all employees with an unsuitable test in order to determine if medical reasons exist for the result. According to MROs, some donors admit to either adulterating or substituting the specimen to cause the unsuitable test result. We know, based upon contacts with MROs that few of these admissions occur. We estimate that approximately 40 admissions occur annually. When they occur, MROs must document the fact and that it will take approximately 4 minutes to do so. Wage estimates were based upon Department of Labor's Bureau of Labor Statistics average employee compensation hourly cost in 2014.*

.# MRO Documentation: 40 annually

Annual Burden Hours: 3

Annual Burden \$ Cost: \$90

PRA Cost Indicator Worksheet

PRA Task: *Split Specimen Requests by the MRO*

Regulation Citation: *40.171(c)*

Narrative: *There are 6,340,000 drug tests annually accomplished under DOT authority within the transportation industries. Of these, approximately 1.12% or 71,000 are verified by the MRO as being positive (for drugs, adulterants, or substitutions). Of these approximate 71,000 results, MROs report that approximately 7% of the employees request their split to be tested at a second laboratory. MROs are required to put requests for these additional tests in writing. We estimate it takes approximately 4 minutes to document the request. Wage estimates were based upon Department of Labor's Bureau of Labor Statistics average employee compensation hourly cost in 2014.*

Split Specimen Requests: *4,970 annually*

Annual Burden Hours: *331*

Annual Burden \$ Cost: *\$9,940*

PRA Cost Indicator Worksheet

PRA Task: *Split Failure to Reconfirm for Drugs Reports by MRO*

Regulation Citation: *40.187(b)*

Narrative: *There are 6,340,000 drug tests annually accomplished under DOT authority within the transportation industries. If a split specimen fails to reconfirm the positive drug test result of the primary specimen, the MRO must report that to the DOT. We estimate it takes approximately 4 minutes for the MRO to write the report. Our data shows that there were 33 such reports made to ODAPC in 2014. Wage estimates were based upon Department of Labor's Bureau of Labor Statistics average employee compensation hourly cost in 2014.*

MRO Reports: *33 annually*

Annual Burden Hours: *2*

Annual Burden \$ Cost: *\$60*

PRA Cost Indicator Worksheet

PRA Task: *Split Failure to Reconfirm for Adulterant / Substitution Reports by MRO*

Regulation Citation: *40.187(c)*

Narrative: *There are 6,340,000 drug tests annually accomplished under DOT authority within the transportation industries. If a split specimen fails to reconfirm the adulterant / substitution test result of the primary specimen, the MRO must report the failure to reconfirm to the DOT. Our data shows that there were 6 such reports made to ODAPC in 2014. We estimate it will take the MRO approximately 5 minutes to write the report. Wage estimates were based upon Department of Labor's Bureau of Labor Statistics average employee compensation hourly cost in 2014.*

MRO Reports: *6 annually*

Annual Burden Hours: *1*

Annual Burden \$ Cost: *\$30*

PRA Cost Indicator Worksheet

PRA Task: *"Shy Bladder" Physician Statement*

Regulation Citation: *40.193*

Narrative: There are 6,340,000 drug tests annually accomplished under DOT authority within the transportation industries. According to MROs and our experience with inquires on them, approximately one collection in 10,000 or .01% results in an employee not providing the adequate amount of urine. In such cases, the employee must be evaluated for having a medical or psychological condition that would have precluded the person from providing the requisite amount of urine. The physician conducting the evaluation must provide a short written statement to the MRO documenting the results of the examination. The physician, the MRO, and the employer all have roles in the process. We estimate it takes approximately 5 minutes for the evaluating physician to write the report to the MRO. Wage estimates were based upon Department of Labor's Bureau of Labor Statistics average employee compensation hourly cost in 2014.

"Shy Bladder" Evaluation Reports: 634 annually

Annual Burden Hours: 53

Annual Burden \$ Cost: \$1,585

PRA Cost Indicator Worksheet

PRA Task: *MRO Statements Regarding Physical Evidence of Drug Use*

Regulation Citation: *40.195(b)&(c)*

Narrative: *There are 6,340,000 drug tests annually accomplished under DOT authority within the transportation industries. According to MROs, collection sites, and our experience with inquires on the matter, approximately one collection in 10,000 or .01% results in an employee not providing the adequate amount of urine. In pre-employment, return-to-duty, and follow-up testing situations, when the employee cannot provide an adequate amount of urine because of a permanent or long-term disability, a physician must conduct an evaluation to determine if the employee demonstrates signs and symptoms of drug use. If there is physical evidence of drug use, the MRO must provide the employer a statement accordingly. Our experience shows that there have been no circumstances, to this point in time, when an employee with this type of permanent disability also exhibits physical evidence of drug use. Wage estimates were based upon Department of Labor's Bureau of Labor Statistics average employee compensation hourly cost in 2014.*

MRO Statements: *0 annually*

Annual Burden Hours: *0*

Annual Burden \$ Cost: *\$0*

PRA Cost Indicator Worksheet

PRA Task: *Drug Test Correction Statements*

Regulation Citation: *40.205(b)(1)&(2)*

Narrative: *Based upon MIS and laboratory data, we have determined that 6,340,000 drug tests annually are accomplished under DOT and USCG authority within the transportation industries. Of these tests, laboratories and MROs report that approximately 2% have correctable errors. When such errors occur, they can be corrected by submission of correction statements from the individuals (usually collectors) who have made the errors. We estimate it takes approximately 8 minutes for the collector to document the event. Wage estimates were based upon Department of Labor's Bureau of Labor Statistics average employee compensation hourly cost in 2014.*

Correction Statements: *124,800 annually*

Annual Burden Hours: *16,907*

Annual Burden \$ Cost: *\$507,200*

PRA Cost Indicator Worksheet

PRA Task: *Breath Alcohol Technician (BAT) /Screening Test Technician (STT) (Qualification and Refresher) Training Documentation*

Regulation Citation: *40.213(b),(c)&(e)*

Narrative: *Based upon collection industry and DOT data, there are approximately 10,000 BAT/STTs. This number has remained steady from year to year (as new technicians enter the field and seasoned technicians leave) for the past several years. All technicians must be trained and must document the fact that training took place. Documentation of the training is usually in the form of a letter or statement acknowledging the name of the participant, the date and location of training, and the name of the trainer. Because training requirements are on a 5~year cycle, we have calculated the training documentation requirement pro-rated over a 5-year period. We estimate it will take approximately 4 minutes to document the training.*

BAT/STT Training Documentation: *2,000 annually*

Annual Burden Hours: *133*

Annual Burden \$ Cost: *\$3,990*

PRA Cost Indicator Worksheet

PRA Task; *BAT/STT Error Correction Training Documentation*

Regulation Citation: *40.213(f)*

Narrative: Based upon MIS and collector data, we have determined that approximately 1,548,000 alcohol tests annually are accomplished under/DOT authority within the transportation industries. According to industry and OST estimates, a small portion of these tests .005%-have fatal errors caused by technicians. When such errors occur, technicians must receive training focusing upon the error that resulted in a canceled test. Documentation of this training must be made and is usually in the form of a letter or statement acknowledging the name of the participant, the date and location of training, and the name of the person attesting to the error-free tests. We estimate it takes approximately 4 minutes for the BAT/STT to write the letter or statement. Wage estimates were based upon Department of Labor's Bureau of Labor Statistics average employee compensation hourly cost in 2014.

BAT/STT Error Training Documentation: 77 annually

Annual Burden Hours: 5

Annual Burden \$ Cost: \$150

PRA Cost Indicator Worksheet

PRA Task: *Complete the DOT Alcohol Testing Forms*

Regulation Citation: *40.225(a)*

Narrative: *Based upon MIS and industry data, we estimate there are approximately 1,548,000 alcohol tests annually accomplished under DOT authority within the transportation industries. Each alcohol test must have a corresponding Alcohol Testing Form (ATF) which documents information related to the collection and testing of the saliva (for the screening test) or breath (for the screening test and the confirmation test). The STT and / or BA T, employee, and employer all have roles in filling out and / or filing and storing each ATF. We estimate it take the BAT/STT approximately 8 minutes to complete the ATF. Wage estimates were based upon Department of Labor's Bureau of Labor Statistics average employee compensation hourly cost in 2014.*

#ATFs: 1,548,000 annually

Annual Burden Hours: 206,400

Annual Burden \$ Cost: \$6,192,000

PRA Cost Indicator Worksheet

PRA Task: *Evidential Breath Testing Device (EBT) Quality Assurance / Calibration Records*

Regulation Citation: *40.233(c)(4)*

Narrative: *The National Highway Traffic Safety Administration (NHTSA) requires that each approved evidential breath testing device (EBT) have a QA Plan developed by the manufacturer. We require that the collection site file and store the plan that was provided with their EBT(s) and create calibration records every time EBTs are calibrated. From industry and MIS data, we estimate that there are 10,000 EBT records generated annually. We estimate it takes the collection site personnel approximately 4 minutes to complete the calibration record. Wage estimates were based upon Department of Labor's Bureau of Labor Statistics average employee compensation hourly cost in 2014.*

EBT Records: *10,000 annually*

Annual Burden Hours: *666*

Annual Burden \$ Cost: *\$19,980*

PRA Cost Indicator Worksheet

PRA Task: *"Shy Lung" Physician Statement*

Regulation Citation: 40.265 (c)(2)

Narrative: Based upon MIS and industry data, we estimate there are approximately 1,548,000 alcohol tests annually accomplished under DOT authority within the transportation industries. According to employer, BATs, MIS data, and our experience with inquires on the matter, approximately one collection in 20,000 or .005% results in an employee not providing the adequate amount of breath. In such cases, the employee must be evaluated for having a medical or psychological condition that would have precluded the person from providing the requisite breath. The physician conducting the evaluation must provide a short written statement to the employer documenting the results of the examination. The physician and the employer have roles in the process. We estimate it takes the physician approximately 4 minutes to complete the statement. Wage estimates were based upon Department of Labor's Bureau of Labor Statistics average employee compensation hourly cost in 2014.

"Shy Lung" Reports: 77 annually

Annual Burden Hours: 5

Annual Burden \$ Cost: \$155

PRA Cost Indicator Worksheet

PRA Task: *Alcohol Test Correction Statements*

Regulation Citation: *40.271(b)(1)&(2)*

Narrative: *Based upon MIS and industry data, we estimate there are approximately 1,548,000 alcohol tests annually accomplished under DOT authority within the transportation industries. Based upon industry and ODAPC estimates, approximately .01% has correctable errors. When such errors occur, they can be corrected by submission of correction statements from the individuals (usually BATs and STTs) who have made the errors. We estimate it takes the BAT/STT approximately 4 minutes to complete the error correction statement. Wage estimates were based upon Department of Labor's Bureau of Labor Statistics average employee compensation hourly cost in 2014.*

Correction Statements: *155 annually*

Annual Burden Hours: *10*

Annual Burden \$ Cost: *\$310*

PRA Cost Indicator Worksheet

PRA Task: *Substance Abuse Professional (SAP) (Qualification and Continuing Education) Training Documentation*

Regulation Citation: *40.281 (c)&(d)*

Narrative: *Based upon counseling industry and DOT data, there are approximately 10,000 SAPs. This number has remained steady for the past several years (as new SAPs enter the field and seasoned SAPs leave). All SAPs must be trained and must document the fact that training took place. Documentation of the training is usually in the form of a letter or statement acknowledging the name of the participant, the date and location of training, and the name of the trainer. Because training requirements are on a 3-year cycle, we have calculated the training documentation requirement pro-rated over a 3-year period. We estimate it takes approximately 4 minutes to complete the training statement. Wage estimates were based upon Department of Labor's Bureau of Labor Statistics average employee compensation hourly cost in 2041.*

SAP Training Documentation: *3,334 annually*

Annual Burden Hours: *222*

Annual Burden \$ Cost: *\$6,660*

PRA Cost Indicator Worksheet

PRA Task: *Employer SAP Lists to Employees*

Regulation Citation; *40.287*

Narrative: *Employees who test positive for drugs and alcohol or who refuse a test are required to be evaluated by a SAP prior to being considered for return to a safety-sensitive transportation job. Employers are required to provide these employees with listings of qualified SAPs. Based upon laboratory and MIS data, approximately 71,000 employees annually require the SAP process. We estimate it takes the employer approximately 4 minutes to document the list. Wage estimates were based upon Department of Labor's Bureau of Labor Statistics average employee compensation hourly cost in 2014.*

SAP Lists: 71,000 annually

Annual Burden Hours: 4,733

Annual Burden \$ Cost: \$142,000

PRA Cost Indicator Worksheet

PRA Task: *SAP Reports to Employers*

Regulation Citation: *40.311(c), (d)&(e)*

Narrative: *Employees who test positive for drugs and alcohol or who refuse a test are required to be evaluated by a SAP prior to being considered for return to a safety-sensitive transportation job. SAPs are required to provide reports regarding their initial evaluation and their follow-up evaluations to employers. Based upon MIS data, approximately 18,000 employees annually participate in the SAP process. We estimate it takes the SAP approximately 4 minutes to complete each report. Wage estimates were based upon Department of Labor's Bureau of Labor Statistics average employee compensation hourly cost in 2014.*

SAP Reports: *36,000 annually*

Annual Burden Hours: *2,400*

Annual Burden \$ Cost: *\$72,000*

PRA Cost Indicator Worksheet

PRA Task: *Correction Notices to Service Agents*

Regulation Citation: *40.373(a)*

Narrative: *Per industry estimates there are approximately 55,000 service agents serving the transportation industries. When a service agent performs in a manner that investigators find to be an egregious violation of DOT rules and they do not, or cannot, correct the problem, the service agent will receive a correction notice. Each notice will take approximately 1 hour to write. Based upon past examples, DOT estimates that there will be 25 of these issued annually. Wage estimates were based upon Department of Labor's Bureau of Labor Statistics average employee compensation hourly cost in 2014.*

Notices: *25 annually*

Annual Burden Hours: *250*

Annual Burden \$ Cost: *\$7,500*

PRA Cost Indicator Worksheet

PRA Task; *Notice of Proposed Exclusions (NOPE) to Service Agents*

Regulation Citation; *40.375(a)*

Narrative: *Per industry estimates there are approximately 55,000 service agents serving the transportation industries. When a service agent performs in a manner that investigators find to be an egregious violation of DOT rules and they do not, or cannot, correct the problem, the service agent will receive a correction notice. When the service agent does not correct the problem, a NOPE will be submitted to them. Based upon past examples, DOT estimates that there will be 2 of these issued annually. Each NOPE will take approximately 10 hour to write. Wage estimates were based upon Department of Labor's Bureau of Labor Statistics average employee compensation hourly cost in 2014.*

Notices: *2 annually*

Annual Burden Hours: *20*

Annual Burden \$ Cost: *\$600*

PRA Cost Indicator Worksheet

PRA Task; *Service Agent Requests to Contest Public Interest Exclusions (PIE)*

Regulation Citation: 40.379

Narrative: *Per industry estimates there are approximately 55,000 service agents serving the transportation industries. When a service agent performs in a manner that investigators find to be an egregious violation of DOT rules and they do not, or cannot, correct the problem, the service agent will receive a correction notice. When the service agent does not correct the problem, a NOPE will be submitted to them. When the NOPE is submitted, the service agent can submit a request to contest the issuance of a PIE. Based upon past examples, DOT estimates that there will be 2 of these submitted annually. We estimate this request will take approximately 1 hour to write. Wage estimates were based upon Department of Labor's Bureau of Labor Statistics average employee compensation hourly cost in 2014.*

Requests: *2 annually*

Annual Burden Hours: *2*

Annual Burden \$ Cost: *\$60*

PRA Cost Indicator Worksheet

PRA Task: *Service Agent Information to Argue PIE*

Regulation Citation: *40.379(b)(2)*

Narrative: *Per industry estimates there are approximately 55,000 service agents serving the transportation industries. When a service agent performs in a manner that investigators find to be an egregious violation of DOT rules and the service agent does not, or cannot, correct the problem, the service agent will receive a correction notice. When the service agent does not correct the problem, a Notice of Proposed Exclusion (NOPE) will be sent to them. The NOPE contains the initiating official's recommendations concerning the issuance of a Public Interest Exclusion (PIE). When the NOPE is sent, the service agent can submit a request to contest the issuance of a PIE. Services agents contesting the PIE are required to submit information that presents their supporting arguments against the issuance of a PIE. Based upon past examples, DOT estimates that there will be 2 of these submitted annually. We estimate it will take will take 4 hours to write. Wage estimates were based upon Department of Labor's Bureau of Labor Statistics average employee compensation hourly cost in 2014.*

Information to Argue PIE: *2 annually*

Annual Burden Hours: *8*

Annual Burden \$ Cost: *\$240*

PRA Cost Indicator Worksheet

PRA Task: *Service Agent Information to Contest PIE*

Regulation Citation: *40.381(a)&(b)*

Narrative: *Per industry estimates there are approximately 55,000 service agents serving the transportation industries. When a service agent performs in a manner that investigators find to be an egregious violation of DOT rules and they do not, or cannot, correct the problem, the service agent will receive a correction notice. When the service agent does not correct the problem, a NOPE will be submitted to them. When the NOPE is submitted, the service agent can submit a request to contest the issuance of a PIE. Services agents contesting the PIE are required to submit information that presents their supporting arguments against the issuance of a PIE. Afterward, the service agent must present information to contest the PIE, Based upon past examples, DOT estimates that there will be 2 of these submitted annually. We estimate it will take 4 hours to write. Wage estimates were based upon Department of Labor's Bureau of Labor Statistics average employee compensation hourly cost in 2014.*

Information to Contest PIE: *2 annually*

Annual Burden Hours: *8*

Annual Burden \$ Cost: *\$240*

PRA Cost Indicator Worksheet

PRA Task: *PIE Notice Decisions to Service Agents*

Regulation Citation: 40.399

Narrative: *Per industry estimates there are approximately 55,000 service agents serving the transportation industries. When a service agent performs in a manner that investigators find to be an egregious violation of DOT rules and they do not, or cannot, correct the problem, the service agent will receive a correction notice. When the service agent does not correct the problem, a Notice of Proposed Exclusion (NOPE) will be sent to them. When the NOPE is received, the service agent can submit a request to contest the issuance of a Public Interest Exclusion (PIE). Services agents contesting the PIE are required to submit information that presents their supporting arguments against the issuance of a PIE. Afterward, the service agent must present information to contest the PIE. When a decision on the issuance of the PIE is made, a notice will be issued to the service agent. Based upon past examples, DOT estimates that there will be 1 of these submitted annually. We estimate it will take 1 hour to write. Wage estimates were based upon Department of Labor's Bureau of Labor Statistics average employee compensation hourly cost in 2014.*

PIE Notices: 1 annually

Annual Burden Hours: 1

Annual Burden \$ Cost: \$30

PRA Cost Indicator Worksheet

PRA Task: *Notices of PIE to Employers and Public*

Regulation Citation: *40.401(b)&(d)*

Narrative: *Per industry estimates there are approximately 55,000 service agents serving the transportation industries. When a service agent performs in a manner that investigators find to be an egregious violation of DOT rules and they do not, or cannot, correct the problem, the service agent will receive a correction notice. When the service agent does not correct the problem, a NOPE will be submitted to them. When the NOPE is submitted, the service agent can submit a request to contest the issuance of a PIE. Services agents contesting the PIE are required to submit information that presents their supporting arguments against the issuance of a PIE. Afterward, the service agent must present information to contest the PIE. When a decision on the issuance of the PIE is made, a notice will be issued to the service agent. At this time, notice of the PIE will also be made to employers and the public in a Federal Register notice. Based upon past example, DOT estimates that there will be 1 of these made annually. This information will take approximately 1 hour to write. Wage estimates were based upon Department of Labor's Bureau of Labor Statistics average employee compensation hourly cost in 2014.*

Federal Register PIE Notices: *1 annually*

Annual Burden Hours: *1*

Annual Burden \$ Cost: *\$30*

PRA Cost Indicator Worksheet

PRA Task: *Service Agent PIE Notices to Employers*

Regulation Citation: *40.403(a)*

Narrative: Per industry estimates there are approximately 55,000 service agents serving the transportation industries. When a service agent performs in a manner that investigators find to be an egregious violation of DOT rules and they do not, or cannot, correct the problem, the service agent will receive a correction notice. When the service agent does not correct the problem, a NOPE will be submitted to them. When the NOPE is submitted, the service agent can submit a request to contest the issuance of a PIE. Services agents contesting the PIE are required to submit information that presents their supporting arguments against the issuance of a PIE. Afterward, the service agent must present information to contest the PIE. When a decision on the issuance of the PIE is made, a notice will be issued to the service agent. At this time, notice of the PIE will also be made to employers and the public in a Federal Register notice. Service agents receiving the PIE are required to notify all employers they serve. Based on past example and our knowledge of the industry, we estimate that a service agent could have a client list of at least 300 DOT regulated employers. This information will take approximately 1/2 hour to write. Wage estimates were based upon Department of Labor's Bureau of Labor Statistics average employee compensation hourly cost in 2014.

Service Agent Notices: 300 annually

Annual Burden Hours: 150

Annual Burden \$ Cost: \$4,500