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 <u>renewal</u> of the previously approved information collection 2105-0529.**
- **The number of estimated annual burden hours has increased by 181,325 hours and the number of estimated responses has decreased by 399,026 compared to the previous estimate.**
- **The increase in total burden hours was due to an increase in the number of alcohol tests conducted. See item #15 for more detailed explanation.**
- **Response to Terms of Clearance:** No terms of clearance.

Justification

1. Explain the circumstances that make the collection of information necessary. Attach a copy of the appropriate statue 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.

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

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 B]. The Act 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. Most recently, 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 for (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 requirements are analogous to the existing requirements for urine collectors and screening test technicians and breath alcohol technicians. Additionally, the DOT Drug and Alcohol Testing Management Information System (MIS) Data Collection Form will need to be revised to add a new data collection section for oral fluid specimens.[2]

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 –

[2] A copy of the proposed changes to the MIS Form is provided in Appendix C.

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, Part 40 requires documentation in the collection of urine, oral fluid, 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 2021 MIS reports were submitted electronically.

Finally, in response to the Fighting Opioid Abuse in Transportation Act of 2018, the Department will be required to amend its drug and alcohol testing regulation 49 CFR Part 40 to permit the use of electronic forms, signatures and recordkeeping. As required by the Act, the Department will have 18 months to do so from when the DHHS/SAMHSA Division of Workplace Programs approves a laboratory for a completely paperless Federal Drug Testing Custody and Control Form. The Department published an advance notice of proposed rulemaking on August 5, 2022, to solicit public comments on how Part 40 could be amended to allow electronic signatures on documents required to be created and utilized under the regulations, to be able to use electronic versions of forms, and to electronically store forms and data.

We see the use of electronic forms, electronic storage and electronic signatures as greatly cost-reducing innovations that would improve the effectiveness of our program and allow for additional data collection for our programmatic needs.

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.

The source of the information collection requirements is unique for each separate occurrence and, therefore, there is no known duplication of this material. The information submitted or collected for recordkeeping purposes is unique, and no other existing effort can be used or modified for these purposes. The data collected is not available from any other source.

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. 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 2021 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 September 29, 2023, the Office of Drug and Alcohol Policy and Compliance (ODAPC) published a 60-day notice in the Federal Register [88 FR 67434; Docket # DOT-OST-2023-0143], informing the public of ODAPC's intention to extend an approved information collection.

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.

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 statue, regulations, or agency policy.

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: 1,426,662
B. Total Number of Responses: 11,459,756
C. Total Annual Hours Requested: 1,469,136
D. Current OMB Inventory: 1,287,811
E. Difference: 181,325 (see item # 15 for an explanation)
F. Explanation for Difference:
    1. Program Change: -441,945
    2. Adjustment: +623,270

PRA Item	Number of Respondents	Number of Responses	Burden per Response (min)	Burden Hours	Total Salary Costs($)
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

PRA Item	Number of Respondents	Number of Responses	Burden per Response (min)	Burden Hours	Total Salary Costs($)
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
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 /	0	0	30	0	$0

PRA Item	Number of Respondents	Number of Responses	Burden per Response (min)	Burden Hours	Total Salary Costs($)
Substitution for Legitimate Reason Reports [40.145(g)(5)]					
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

PRA Item	Number of Respondents	Number of Responses	Burden per Response (min)	Burden Hours	Total Salary Costs($)
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	2	2	60	2	$82

PRA Item	Number of Respondents	Number of Responses	Burden per Response (min)	Burden Hours	Total Salary Costs($)
Interest Exclusions (PIE) [40.379(b)]					
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
Total New	**1,426,662**	**11,459,756**	**2,328**	**1,469,136**	**$59,926,016**

* 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 2023.

NOTE: See Appendix E for explanation worksheets

Supplemental Program Information:

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

Mode	# of Employers	# of Employees
FMCSA	525,000	5,100,000
FRA	3,750	148,856
FAA	6,500	443,700
FTA	3,250	281,473
PHMSA	5,829	550,380
USCG	4,700	225,000
Total	549,029	6,749,409

[Based on 2023 DOT Operating Administration data and MIS Data]

B. Service Agents:

Role	#
Urine/Oral Fluid Collectors	25,000
Laboratories	19
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]

C. Drug Testing:

Activity	#
Drug Tests Annually	7,191,988
Laboratory Non-negative Rate	2.67%
Laboratory Non-negatives	192,080
MRO Verified Positive Rate	1.24%
MRO Verified Positives	89,351

[Based on 2021 MIS, laboratory data]

D. Alcohol Testing:

Activity	#
Alcohol Tests Annually	8,025,159
Alcohol Positive Rate	.34%

[Based on 2021 MIS, lab, and FMCSA data]

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.

Each of the line items in the attached PRA Cost Indicator Worksheet provides a narrative as to how the burden hours and costs were estimated. As indicated in the table below, there was an overall increase of 181,325 in the total estimated burden hours.

- The addition of two new burden items as a result of the final rule authorizing the use of oral fluids in the DOT drug testing program (increase of 1,532 hours).
- The implementation of the FMCSA Drug and Alcohol Clearinghouse (decrease of 443,477 hours).
- The increase in the number of alcohol tests conducted (4,646,705, resulting in an increase of 619,561 hours).

Itemization of burden is provided in the tables below

Exemptions from Regulation Provisions Requests [40.7(a)]PRA	Number of Responses	Burden Hours
Previously Approved	1	3
Increase due to change in Agency Estimate	0	0
Current Request	1	3

Employer Stand-down Waiver Requests [40.21(b)]		
Previously Approved	0	0
Increase due to change in Agency Estimate	0	0
Current Request	0	0

Employee Testing Records from Previous Employers [40.25(a)]	Number of Responses	Burden Hours
Previously Approved	3,538,179	471,757
Decrease due to Program Change	[2,547,583]	[339,678]
Current Request	990,596	132,079

Employee Release of Information [40.25(f)]	Number of Responses	Burden Hours
Previously Approved	3,538,179	235,878
Decrease due to Program Change	[2,547,583]	[103,799]
Current Request	990,596	132,079

MIS Form Submission [40.26]		
Previously Approved	17,840	26,760
Increase due to change in Agency Estimate	1,859	2,789
Current Request	19,699	29,549

Urine Collector (Qualification and Refresher) Training Documentation (40.33(b) & (e)]	Number of Responses	Burden Hours
Previously Approved	5,000	333
Increase due to change in Agency Estimate	0	0
Current Request	5,000	333

Urine Collector Error Correction Training Documentation [40.33(f)]	Number of Responses	Burden Hours
Previously Approved	19,625	1,308
Decrease due to change in Agency Estimate	[1,645]	[109]
Current Request	17,980	1,199

Oral Fluid Collector (Qualification and Refresher) Training Documentation (40.35(b) & (e)]	Number of Responses	Burden Hours
NEW	N/A	N/A
Increase due to Program Change	5,000	333
Current Request	5,000	333

Oral Fluid Collector Error Correction Training Documentation [40.35(f)]	Number of Responses	Burden Hours
NEW	N/A	N/A
Increase due to Program Change	17,980	1,199
Current Request	17,980	1,199

Laboratory Reports to DOT Regarding Unlisted Adulterant [40.91(e)]	Number of Response	Burden Hours
Previously Approved	0	0
Increase due to change in Agency Estimate		
Difference	0	0
Current Request	0	0

Semi-Annual Laboratory Reports to Employers [40.111(a)]	Number of Response	Burden Hours
Previously Approved	389,748	25,983
Decrease due to change in Agency Estimate	[23,765]	[1,584]
Current Request	365,983	24,399

Semi-Annual Laboratory Reports to DOT [40.111(d)]	Number of Response	Burden Hours
Previously Approved	46	3
Increase due to change in Agency Estimate	410	27
Current Request	456	30

Medical Review Officer (MRO) (Qualifications and Continuing Education) Training Documentation [40.121(c) & (d)]	Number of Response	Burden Hours
Previously Approved	1,000	66
Increase due to change in Agency Estimate	0	1
Current Request	1,000	67

MRO Review of Negative Results Documentation [[40.127(b)(2)(ii)]	Number of Response	Burden Hours
Previously Approved	381,055	25,403
Decrease due to change in Agency Estimate	[29,920]	[1,994]
Current Request	351,135	23,409

MRO Failure to Contact Donor Documentation [40.131(c)(1)]	Number of Response	Burden Hours
Previously Approved	63,827	4,255
Decrease due to change in Agency Estimate	[13,040]	[869]
Current Request	50,787	3,386

MRO Effort to Contact DER Documentation [40.131(c)(2)(iii)]	Number of Response	Burden Hours
Previously Approved	63,827	4,255
Decrease due to change in Agency Estimate	[6,203]	[413]
Current Request	57,624	3,842

DER Successful Contact Employee Documentation [40.131(d)]	Number of Response	Burden Hours
Previously Approved	51,061	3,404
Decrease due to change in Agency Estimate	[4,962]	[331]
Current Request	46,099	3,073

DER Failure to Contact Employee Documentation [40.131(d)(2)(i)]	Number of Response	Burden Hours
Previously Approved	12,765	851
Decrease due to change in Agency Estimate	[1,240]	[83]
Current Request	11,525	768

MRO Verification of Positive Result Without Interview Documentation [40.133].	Number of Response	Burden Hours
Previously Approved	12,765	851
Decrease due to change in Agency Estimate	[1,240]	[83]
Current Request	11,525	768

Adulterant/Substitution Evaluation Physician Statements [40.145(g)(2)(ii)(d)]	Number of Response	Burden Hours
Previously Approved	0	0
Increase due to change in Agency Estimate	0	0
Current Request	0	0

MRO Cancellation of Adulterant / Substitution for Legitimate Reason Reports [40.145(g)(5)]	Number of Response	Burden Hours

Previously Approved	0	0
Increase due to change in Agency Estimate	0	0
Current Request	0	0

Employee Admission of Adulterating / Substituting Specimen MRO Determination [40.159(c)]	Number of Response	Burden Hours
Previously Approved	40	3
Increase Due to Change in Agency Estimate	0	0
Current Request	40	3

Split Specimen Requests by MRO [40.171(c)]	Number of Response	Burden Hours
Previously Approved	7,206	480
Increase Due to Change in Agency Estimate	4,726	315
Current Request	11,932	795

Split Failure to Reconfirm for Drugs Reports by MRO [40.187(b)]	Number of Response	Burden Hours
Previously Approved	34	2
Increase Due to Change in Agency Estimate	36	3
Current Request	70	5

Split Failure to Reconfirm for Adulterant / Substitution Reports by MRO [40.187(c)]	Number of Response	Burden Hours
Previously Approved	5	1
Increase Due to Change in Agency Estimate	3	0
Current Request	8	1

Shy Bladder Physician Statements [40.193(f)]	Number of Response	Burden Hours
Previously Approved	773	64
Decrease Due to Change in Agency Estimate	[54]	[4]
Current Request	719	60

MRO Statements Regarding Physical Evidence of Drug Use [40.195(b) & (c)]	Number of Response	Burden Hours

Previously Approved	0	0
Increase Due to Change in Agency Estimate	0	0
Current Request	0	0

Drug Test Correction Statements [40.205 (b)(1) & (2)]	Number of Response	Burden Hours
Previously Approved	154,732	20,630
Decrease Due to Change in Agency Estimate	[10,892]	[1,451]
Current Request	143,840	19,179

Breath Alcohol Technician (BAT) / Screening Test Technician (STT) (Qualification and Refresher) Training Documentation [40.213(b)(c)&(e)]	Number of Response	Burden Hours
Previously Approved	2,000	133
Increase Due to Change in Agency Estimate	0	0
Current Request	2,000	133

BAT/STT Error Correction Training Documentation [40.213(f)]	Number of Response	Burden Hours
Previously Approved	168	11
Increase Due to Change in Agency Estimate	233	16
Current Request	401	27

Complete DOT Alcohol Testing Forms [40.225(a)]	Number of Response	Burden Hours
Previously Approved	3,378,454	450,460
Increase Due to Change in Agency Estimate	4,646,705	619,561
Current Request	8,025,159	1,070,021

Evidential Breath Testing Device Quality Assurance / Calibration Records [40.233(c)(4)]	Number of Response	Burden Hours
Previously Approved	10,000	666
Increase Due to Change in Agency Estimate	0	1
Current Request	10,000	667

Shy Lung Physician Statements [40.265(c)(2)]	Number of Response	Burden Hours
Previously Approved	168	11
Increase Due to Change in Agency Estimate	233	16
Current Request	401	27

Alcohol Test Correction Statements [40.271(b)(1)&(2)]	Number of	Burden

	Response	Hours
Previously Approved	337	22
Increase Due to Change in Agency Estimate	466	32
Current Request	803	54

Substance Abuse Professional (SAP) (Qualification and Continuing Education) Training Documentation [40.281(c)&(d)]	Number of Response	Burden Hours
Previously Approved	3,334	222
Increase Due to Change in Agency Estimate	0	0
Current Request	3,334	222

Employer SAP Lists to Employees [40.287]	Number of Response	Burden Hours
Previously Approved	115,713	7,714
Increase Due to Change in Agency Estimate	754	50
Current Request	116,467	7,764

SAP Reports to Employers [40.311(c),(d) & (e)]	Number of Response	Burden Hours
Previously Approved	94,456	6,297
Increase Due to Change in Agency Estimate	106,802	7,120
Current Request	201,258	13,417

Correction Notices to Service Agents [40.373(a)]	Number of Response	Burden Hours
Previously Approved	25	250
Increase Due to Change in Agency Estimate	0	-225
Current Request	25	25

Notice of Proposed Exclusion (NOPE) to Service Agents [40.375(a)]	Number of Response	Burden Hours
Previously Approved	5	50
Difference		
Current Request	5	50

Service Agent Requests to Contest Public Interest Exclusions (PIE) [40.379(b)]	Number of Response	Burden Hours
Previously Approved	2	2
Increase Due to Change in Agency Estimate	0	0
Current Request	2	2

Service Agent Information to Argue PIE [40.379(b)(2)]	Number of	Burden

	Response	Hours
Previously Approved	2	8
Increase Due to Change in Agency Estimate	0	0
Current Request	2	8

Service Agent Information to Contest PIE [40.381(a) & (b)]	Number of Response	Burden Hours
Previously Approved	2	8
Increase Due to Change in Agency Estimate	0	0
Current Request	2	8

Notices of PIE to Service Agents [40.399]	Number of Response	Burden Hours
Previously Approved	1	1
Increase Due to Change in Agency Estimate	0	0
Current Request	1	1

Notices of PIE to Employer and Public [40.401 (b) & (d)]	Number of Response	Burden Hours
Previously Approved	1	1
Increase Due to Change in Agency Estimate	0	0
Current Request	1	1

Service Agent PIE Notices to Employers [40.403 (a)]	Number of Response	Burden Hours
Previously Approved	300	150
Increase Due to Change in Agency Estimate	0	0
Current Request	300	150

2105-0529	Number of Responses	Burden Hours
Previously Requested	11,858,782	1,287,811
Changes Due to Program Change and Change in Agency Estimates	(399,026)	181,325
Burden Requested	**11,459,756**	**1,469,136**

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.

The current Management Information System (MIS) Data Collection Form has not changed since its inception. However, and as noted above, as a result of the May 2023 rule to include oral fluid testing as an additional methodology for drug testing, a new data collection section for oral fluid specimens will need to be added to the MIS Form which employers currently use to report their urine drug testing data annually. For those employers choosing to use oral fluid, in addition to urine testing, there will simply be a redistribution of the total number of tests split between the drug testing methodologies the employer uses. Thus, for the employers who choose to use both methodologies, there is not expected to be an increase in the burden hours associated with completing the form. Similar to the current form, DOT expects the new form to 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-l.

Not applicable