

Department of Transportation (DOT) Approved Use of Oral Fluid Drug Testing

We have **good news** and **bad news** about the newly-published Final Rule recently announced by the United States Department of Transportation (DOT) relating to oral fluid testing for safety-sensitive (“covered”) workers.

The Good News

Effective June 1, 2023, under the DOT’s mandated testing program, found in [49 CFR Part 40](#), the addition of oral fluid use for federal drug testing is approved.

Read the announcement and the [DOT’s overview](#) here:

<https://www.transportation.gov/odapc/frpubs>

The Bad News

There are currently no certified laboratories able to provide this service. The U.S. Department of Health and Human Services (HHS) will need to certify at least two laboratories for oral fluid testing, which has not yet been done. However, it is anticipated that this necessary action will be accomplished soon. Important: Until at least two labs are certified, NO oral fluid specimen collections should be conducted for DOT drug testing. At this time, trained specimen collectors should continue collecting urine specimens only.

Collectors and employers also need to be aware that instant tests are NOT allowed for DOT drug testing. This goes for any instant saliva, oral fluid, or urine testing devices that may be available on the market. All DOT specimens must be sent to an accredited laboratory for testing.

Why the rule change?

Allowing oral fluid specimens collections (OFSC) for DOT drug tests will address a multitude of longstanding industry issues. Until now, DOT regulations have restricted drug testing to the collection of urine specimens, resulting in significant challenges that will be mitigated through the implementation of OFSC. One of the major challenges in the past urine-only drug testing rules was the matter of direct observation collections for which only a same-gender observer was allowed to conduct a direct observation urine specimen collection.

Direct Observation Collections and the Benefits of Oral Fluid Specimen Collections

Incorporating oral fluid specimens should significantly decrease the frequency of employees cheating on or deceiving mandated drug tests. In addition, the allowance of OFSCs effectively mitigates worries regarding the availability of on-site staff that match the gender or gender identity of a given donor at the collection site. Since all oral fluid specimen collections are technically observed, the need for same-gender direct observation collections is eliminated. (Note: The rules actually **require** oral fluid collections for all direct observations for transgender and non-binary persons.)

Are employers and collection sites required to use oral fluid specimens for DOT drug testing?

No. Although oral fluid specimens will be allowed, they are not the only bodily fluid that is permitted for DOT drug testing. Now that there are two methodologies allowed, employers may choose to use either – or both! Employers may choose to continue using (or directing their service agents to use) urine specimens for some or all drug tests/collections. Example: An employer may instruct its collection site to conduct oral fluid collections for all post-accident, return-to-duty and follow-up tests; and to conduct urine collections for all random, pre-employment, and reasonable suspicion tests.

Regardless, all employers must communicate beforehand with their collection sites and service agents about the specific type of test to be used for conducting their employees' collections in each type of situation. Example: Employers may also choose to direct their collection sites to conduct all initial specimen collections using urine, but to switch to oral fluid collections in shy bladder and direct observation situations.

Special note for collectors and collection sites: Since oral fluid specimen collections will be mandated for transgender and non-binary donors in direct observation situations, you may find that you/your collection site will not compete well in the market if you do not offer oral fluid collection services. It is recommended that at least one collector at your site is trained in both urine and oral fluid collections, since various employers may direct you to conduct one or the other.

What about training?

Under the DOT rules, oral fluid specimen collectors must have additional training specifically as an oral fluid specimen collector. A properly trained urine specimen collector is NOT qualified to conduct OFSCs. The training rules and requirements are similar to those for urine collectors but be aware that staff will need to participate in two separate training programs to compliantly conduct both urine and oral fluid specimen collections. Certified Training Solutions will be offering online [Oral Fluid Specimen Collector procedures training](#) and device proficiency training by webcam (when approved devices become available).

We will be posting a lot more information on this new final rule over a series of posts and articles. Stay tuned!

Certified Training Solutions offers convenient and affordable internet-based training courses and webcam classes for all our course offerings, including breath alcohol technician ([BAT](#)) training, [DOT specimen collector training](#) and certification, online [supervisor reasonable suspicion](#) training, [drug-free workplace training](#), [screening test technician \(STT\) training](#), and more.

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