

§ 40.29 Where is other information on employer responsibilities found in this regulation?

You can find other information on the responsibilities of employers in the following sections of this part:

- § 40.3—Definition.
- § 40.35—Information about DERs that employers must provide collectors.
- § 40.45—Modifying CCFs, Use of foreign-language CCFs.
- § 40.47—Use of non-Federal forms for DOT tests or Federal CCFs for non-DOT tests.
- § 40.67—Requirements for direct observation.
- §§ 40.103–40.105—Blind specimen requirements.
- § 40.173—Responsibility to ensure test of split specimen.
- § 40.193—Action in “shy bladder” situations.
- § 40.197—Actions following report of a dilute specimen.
- § 40.207—Actions following a report of a cancelled drug test.
- § 40.209—Actions following and consequences of non-fatal flaws in drug tests.
- § 40.215—Information about DERs that employers must provide BATs and STTs.
- § 40.225—Modifying ATFs; use of foreign-language ATFs.
- § 40.227—Use of non-DOT forms for DOT tests or DOT ATFs for non-DOT tests.
- § 40.235 (c) and (d)—responsibility to follow instructions for ASDs.
- § 40.255 (b)—receipt and storage of alcohol test information.
- § 40.265 (c)–(e)—actions in “shy lung” situations.
- § 40.267—Cancellation of alcohol tests.
- § 40.271—Actions in “correctable flaw” situations in alcohol tests.
- § 40.273—Actions following cancelled tests in alcohol tests.
- § 40.275—Actions in “non-fatal flaw” situations in alcohol tests.
- §§ 40.287–40.289—Responsibilities concerning SAP services.
- §§ 40.295–40.297—Prohibition on seeking second SAP evaluation or changing SAP recommendation.
- § 40.303—Responsibilities concerning aftercare recommendations.
- § 40.305—Responsibilities concerning return-to-duty decision.
- § 40.309—Responsibilities concerning follow-up tests.
- § 40.321—General confidentiality requirement.
- § 40.323—Release of confidential information in litigation.
- § 40.331—Other circumstances for the release of confidential information.
- § 40.333—Record retention requirements.
- § 40.345—Choice of who reports drug testing information to employers.

[65 FR 79526, Dec. 19, 2000. Redesignated at 66 FR 41950, Aug. 9, 2001]

Subpart C—Urine Collection Personnel

§ 40.31 Who may collect urine specimens for DOT drug testing?

(a) Collectors meeting the requirements of this subpart are the only persons authorized to collect urine specimens for DOT drug testing.

(b) A collector must meet training requirements of § 40.33.

(c) As the immediate supervisor of an employee being tested, you may not act as the collector when that employee is tested, unless no other collector is available and you are permitted to do so under DOT agency drug and alcohol regulations.

(d) You must not act as the collector for the employee being tested if you work for a HHS-certified laboratory (*e.g.*, as a technician or accessioner) and could link the employee with a urine specimen, drug testing result, or laboratory report.

§ 40.33 What training requirements must a collector meet?

To be permitted to act as a collector in the DOT drug testing program, you must meet each of the requirements of this section:

(a) *Basic information.* You must be knowledgeable about this part, the current “DOT Urine Specimen Collection Procedures Guidelines,” and DOT agency regulations applicable to the employers for whom you perform collections, and you must keep current on any changes to these materials. The DOT Urine Specimen Collection Procedures Guidelines document is available from ODAPC (Department of Transportation, 1200 New Jersey Avenue, SE., Washington DC, 20590, 202-366-3784, or on the ODAPC web site (<http://www.dot.gov/ost/dapc>)).

(b) *Qualification training.* You must receive qualification training meeting the requirements of this paragraph. Qualification training must provide instruction on the following subjects:

(1) All steps necessary to complete a collection correctly and the proper completion and transmission of the CCF;

(2) “Problem” collections (*e.g.*, situations like “shy bladder” and attempts to tamper with a specimen);

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(3) Fatal flaws, correctable flaws, and how to correct problems in collections; and

(4) The collector's responsibility for maintaining the integrity of the collection process, ensuring the privacy of employees being tested, ensuring the security of the specimen, and avoiding conduct or statements that could be viewed as offensive or inappropriate;

(c) *Initial Proficiency Demonstration.* Following your completion of qualification training under paragraph (b) of this section, you must demonstrate proficiency in collections under this part by completing five consecutive error-free mock collections.

(1) The five mock collections must include two uneventful collection scenarios, one insufficient quantity of urine scenario, one temperature out of range scenario, and one scenario in which the employee refuses to sign the CCF and initial the specimen bottle tamper-evident seal.

(2) Another person must monitor and evaluate your performance, in person or by a means that provides real-time observation and interaction between the instructor and trainee, and attest in writing that the mock collections are "error-free." This person must be a qualified collector who has demonstrated necessary knowledge, skills, and abilities by—

(i) Regularly conducting DOT drug test collections for a period of at least a year;

(ii) Conducting collector training under this part for a year; or

(iii) Successfully completing a "train the trainer" course.

(d) *Schedule for qualification training and initial proficiency demonstration.* The following is the schedule for qualification training and the initial proficiency demonstration you must meet:

(1) If you became a collector before August 1, 2001, and you have already met the requirements of paragraphs (b) and (c) of this section, you do not have to meet them again.

(2) If you became a collector before August 1, 2001, and have yet to meet the requirements of paragraphs (b) and (c) of this section, you must do so no later than January 31, 2003.

(3) If you become a collector on or after August 1, 2001, you must meet the

requirements of paragraphs (b) and (c) of this section before you begin to perform collector functions.

(e) *Refresher training.* No less frequently than every five years from the date on which you satisfactorily complete the requirements of paragraphs (b) and (c) of this section, you must complete refresher training that meets all the requirements of paragraphs (b) and (c) of this section.

(f) *Error Correction Training.* If you make a mistake in the collection process that causes a test to be cancelled (*i.e.*, a fatal or uncorrected flaw), you must undergo error correction training. This training must occur within 30 days of the date you are notified of the error that led to the need for retraining.

(1) Error correction training must be provided and your proficiency documented in writing by a person who meets the requirements of paragraph (c)(2) of this section.

(2) Error correction training is required to cover only the subject matter area(s) in which the error that caused the test to be cancelled occurred.

(3) As part of the error correction training, you must demonstrate your proficiency in the collection procedures of this part by completing three consecutive error-free mock collections. The mock collections must include one uneventful scenario and two scenarios related to the area(s) in which your error(s) occurred. The person providing the training must monitor and evaluate your performance and attest in writing that the mock collections were "error-free."

(g) *Documentation.* You must maintain documentation showing that you currently meet all requirements of this section. You must provide this documentation on request to DOT agency representatives and to employers and C/TPAs who are using or negotiating to use your services.

[65 FR 79526, Dec 19, 2000; 66 FR 3885, Jan. 17, 2001, as amended at 66 FR 41950, Aug. 9, 2001]

§ 40.35 What information about the DER must employers provide to collectors?

As an employer, you must provide to collectors the name and telephone number of the appropriate DER (and C/