

## Federal Workplace and DOT Drug Testing Rules and Forms

***This WorkCare Fact Sheet explains recent changes to Mandatory Guidelines for Federal Workplace Drug Testing Programs.***

Effective Feb. 1, 2024, revised [Mandatory Guidelines for Federal Workplace Drug Testing Programs](#) that were published Oct. 12, 2023, in the *Federal Register* allow for drug testing using oral fluid. This regulatory change affects the way covered employers, including those who must comply with Department of Transportation (DOT) regulations, may conduct drug screens.

The following are key aspects of updates to the guidelines, which were originally published in 2017:

1. Despite the change in mandatory guidelines, oral fluids cannot be used for testing until the U.S. Department of Health and Human Services certifies two laboratories to test specimens. Prior to Feb. 1, a date for when this will occur was uncertain.
2. Employees can be subject to either an oral fluid or urine specimen collection for any DOT-regulated test, including pre-employment, random, reasonable suspicion, for-cause and post-accident (other than Federal Railway Administration employees), return-to-duty and follow-up testing. (Refer to [Title 49 Code of Federal Regulations](#): 49 USC 20140(f) 40.1(c), 219.2059(a), and 219.701(a0)-(b).)
3. If there is a reason a second collection is needed during a testing event (e.g., initial urine specimen temperature out of range or insufficient quantity for either an oral fluid or a urine specimen), the employer may choose to change to the other type of collection method to complete the test.
4. The employer, not the employee, chooses whether to conduct an oral fluid or a urine test.
5. While the employer may opt for only one methodology, oral fluid testing must be available for directly observed collections for transgender and non-binary individuals.
6. The updated guidelines eliminate two exceptions for refusal to take a pre-employment test: the donor either fails to appear within a reasonable timeframe or leaves the test site before the collection process begins.

### Drug Panel and Reporting

With regard to drug panel and reporting regulatory changes:

1. The confirmatory cutoff for morphine has been changed from 2,000 to 4,000 ng/ml.
2. Codeine and morphine at a level less than 150 ng/ml must be reported as negative unless the donor admits unauthorized use of the drug(s) that caused the positive result.
3. Morphine and codeine levels between 150 ng/ml can no longer be reported as positive based on evidence of illicit drug use.



- Twice a year (in January and July), the Medical Review Officer (a certified medical examiner) must report all drug screens verified as positive by the laboratory and verified as negative by the MRO. The MRO must state the reason a result is verified as negative.
- Clinical evidence of illegal opioid use is no longer required.

(Refer to the [Medical Review Officer Guidance Manual for Federal Workplace Drug Testing Programs](#) for a thorough review of requirements as of 2022.)

## Custody and Control Form

The federal Office of Management and Budget (OMB) approved the use of a revised federal Custody and Control Form (CCF) in 2023. Meanwhile, use of a 2017 version of the CCF was extended due to supply chain issues. DOT-regulated employers and their service agents (e.g., collectors, laboratories, MROs) were authorized to use the 2017 version of the CCF only for urine collections until Aug. 31, 2024. A corresponding Memorandum for the Record is required. The 2017 version of the CCF cannot be used for oral fluid collections.

A 2020 version of the CCF includes options to collect and test either a urine or oral fluid specimen. The DOT recommends becoming familiar with the 2020 version and the sections that need to be filled out for either type of specimen test. The 2023 federal CCF approved by the OMB is the same as the 2020 CCF. (Refer to [DOT Notice: Federal Drug Testing Custody and Control Form](#) and [Guidance for Using the 2023 CCF](#) for details.)

Other noteworthy CCF-related requirements affecting employers and their agents include the following:

- A public burden statement must be included on all federal government forms that involve information-gathering and reporting. For the federal CCF, the statement must be located on the back of each paper copy (i.e., copies 1-4). If an electronic federal CCF is used, the statement must be provided as a separate page.
- The following must be printed on the back of the donor copy (copy 5) of a paper federal CCF or, if an electronic federal CCF is used, provided on a separate page:
  - Privacy act statement (federal employees only)
  - Public burden statement

In both of these instances, the wording must be identical to that on the OMB-approved federal CCF.

*WorkCare has an expert team dedicated to supporting employers who conduct drug and alcohol testing and/or have drug-free workplace programs. Contact us at [info@workcare.com](mailto:info@workcare.com) to learn more.*

