''Federalism'' (64 FR 43255, August 10, 1999), and Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000), do not apply to this action. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 1501 *et seq.*).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note).

XI. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: June 12, 2024.

Charles Smith,

Director, Registration Division, Office of Pesticide Programs.

Therefore, for the reasons stated in the preamble, EPA is amending 40 CFR chapter I as follows:

PART 180—TOLERANCES AND EXEMPTIONS FOR PESTICIDE CHEMICAL RESIDUES IN FOOD

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. In § 180.960, amend table 1 to § 180.960 by adding, in alphabetical order, the polymer ''Poly(oxy-1,2-ethanediyl), polymer with 1,2-ethandiol, 2-methyl-1,3-propanediol, hexanedioic acid, 1,4-benzenedicarboxylic acid, 1,3-benzenedicarboxylic acid, 1,1′-methylenebis[4-isocyanatobenzene] and 2-ethyl-2-(hydroxymethyl)-1,3-propanediol, with a minimum number average molecular weight (in amu) of 1400'' to read as follows:

§ 180.960 Polymers; exemptions from the requirement of a tolerance.

* * * * *

TABLE 1 TO § 180.960

Polymer	CAS No.
* * * * * * *	
Poly(oxy-1,2-ethanediyl), polymer with 1,2-ethandiol, 2-methyl-1,3-propanediol, hexanedioic acid, 1,4-benzenedicarboxylic acid, 1,3-benzenedicarboxylic acid, 1,1′-methylenebis[4-isocyanatobenzene] and 2-ethyl-2-(hydroxymethyl)-1,3-propanediol, with a minimum number average molecular weight (in amu) of 1400	None.
* * * * * * *	

[FR Doc. 2024–13588 Filed 6–20–24; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 40

[Docket DOT–OST–2021–0093]

RIN 2105–AE94

Procedures for Transportation Workplace Drug and Alcohol Testing Programs: Technical Amendments

AGENCY: Office of the Secretary, Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: The U.S. Department of Transportation is making a series of technical amendments to its drug testing procedures rule, which was effective June 1, 2023. The purpose of these technical amendments is to clarify certain provisions of the rule and address omissions of which we have become aware since the publication of the final rule.

DATES: This final rule is effective June 21, 2024.

FOR FURTHER INFORMATION CONTACT: Bohdan Baczara, Deputy Director, Office of Drug and Alcohol Policy and Compliance, 1200 New Jersey Avenue SE, Washington, DC 20590; telephone number 202–366–3784; *ODAPCwebmail@dot.gov.*

SUPPLEMENTARY INFORMATION: DOT published amended procedures for its drug testing program (49 CFR part 40) on May 2, 2023 (88 FR 27596). This rule went into effect on June 1, 2023. The final rule authorized oral fluid drug testing as an additional methodology for employers to use as a means of achieving the safety goals of the program. We have determined instances in which the text of various sections of the regulation should be clarified and errors or omissions that should be corrected. This technical amendment is intended to make these clarifications and corrections.

Section 40.14 What collection information must employers provide to collectors?

In the introductory sentence, we are removing the word 'urine' because, as described in the preamble to the May 2023 final rule and consistent with numerous other deletions of the term ''urine'' in instances where the rule was intended to cover both urine and oral fluid specimens, the information the employer provides to collectors applies to all specimen collections (urine and oral fluid). Also, in bullet '(e)' we are fixing an incorrect reference. The reference should read § 40.36 and not § 40.35. Section 40.14(e) requires employers to provide to collectors the designated employer representative (DER) information required elsewhere in part 40. Section 40.36 specifies the required DER information and is the correct reference. Section 40.35 specifies training requirements for oral fluid collectors and is not the correct reference.

Subpart C—Urine Collection Personnel

As described in the preamble to the May 2023 final rule and consistent with numerous other deletions of the term ''urine'' in instances where the rule was intended to cover both urine and oral fluid specimens, Subpart C provides instructions for both types of specimen collectors, urine and oral fluid. With that in mind, we are removing the word

'Urine' from the heading and replacing it with the word 'Specimen'.

Section 40.81 What laboratories may be used for DOT drug testing?

Before oral fluid drug testing was authorized in the DOT drug testing program, laboratories conducting DOT drug testing could only test urine specimens. With oral fluid drug testing now authorized, we are removing the word 'required' from § 40.81(a) as both urine and oral fluid drug testing are each authorized, and urine testing is no longer required.

Section 40.83 How do laboratories process incoming specimens?

In § 40.83(d), (e)(3), and (g)(2) there is an incorrect reference to § 40.97(a)(3). Each of these § 40.83 paragraphs require reporting of 'fatal flaw' and 'rejected for testing' test results in accordance with § 40.97(a)(3). However, there is in fact no paragraph (a)(3) in § 40.97(a). Section 40.97(a) requires laboratories to report the specimen type for any result it reports. The correct reference should be § 40.97(b)(3), titled ''Category 3: Rejected for testing''. We are making that correction in this final rule. We are also fixing an incorrect reference in § 40.83(f)(2), which requires a laboratory to report a result when certain conditions have been met where the urine specimen temperature was not checked on the CCF. That reference should read § 40.97(b) and not § 40.97(a). As noted previously, § 40.97(a) refers to the reporting of specimen type. Section 40.97(b), the correct reference, pertains to required reporting of results for the specified categories of specimens.

Section 40.97 What do laboratories report and how do they report it?

We are making two technical corrections. First, in § 40.97(c)(1)(i)(M) there is an incorrect reference to ''paragraph (a)''. Second, in § 40.97(c)(2) there is an incorrect reference to ''paragraphs (b)(1)(i) and (ii) of this section''. When we inserted a new paragraph ''(a)'', the remaining paragraphs were renumbered and the references in (c)(1)(i)(M) and (c)(2) were not adjusted accordingly. The correct references should be ''paragraph (b)'' and ''paragraphs (c)(1)(i) and (ii) of this section'', respectively.

Section 40.113 Where is other information concerning laboratories found in this regulation?

Section 40.169 Where is other information concerning the role of MROs and the verification process found in this regulation?

Section 40.189 Where is other information concerning split specimens found in this regulation?

Section 40.217 Where is other information on the role of STTs and BATs found in this regulation?

Section 40.313 Where is other information on SAP functions and the return-to-duty process found in this regulation?

The preamble to the final rule discussed removing several sections from part 40. After careful consideration of public comment, DOT stated that it proposed removing several sections (§§ 40.29, 40.37, 40.113, 40.169, 40.189, 40.217, and 40.313), which listed other sections of part 40 touching on a given topic (*e.g.,* employer responsibilities in § 40.29). The more than 20 years since DOT placed these sections into part 40, electronic search tools have become sophisticated and ubiquitous, making these sections no longer necessary. DOT removed the cross-reference sections of §§ 40.29, 40.37, 40.113, 40.169, 40.189, 40.217, and 40.313, as proposed.

However, in the final rule only §§ 40.29 and 40.37 were removed. In this technical amendment, we are providing instructions to remove §§ 40.113, 40.169, 40.189, 40.217 and 40.313, as discussed in the preamble but were inadvertently left in the final rule. [88 FR 27609] We are now removing them as initially determined.

Section 40.145 On what basis does the MRO verify test results involving adulteration or substitution?

In § 40.145(e)(2), (h)(1) introductory text, (h)(1)(ii), (h)(2) introductory text, and (h)(2)(ii), which are related to substituted urine results, there is an incorrect reference to § 40.93(b). Section 40.93(b) pertains to the validity testing for oral fluid specimens. The correct reference should be § 40.88(b), which pertains to criteria laboratories must use to establish that a urine specimen is dilute or substituted. In this final rule, we are correcting that reference in each section identified above.

Section 40.159 What does the MRO do when a drug test result is invalid?

In § 40.159(a)(1), there are incorrect references to §§ 40.91(e) and 40.96(b). The correct references should be §§ 40.87(e) and 40.90(b), respectively. There is no § 40.91(e). Section 40.91 contains only a chart of the cutoff concentrations for oral fluid drug tests. There is also no § 40.96. We are making these corrections in this final rule.

Section 40.191 What is a refusal to take a DOT drug test, and what are the consequences?

In § 40.191, paragraphs (a)(2) and (3) state that it is a refusal to test if an employee fails to remain at the testing site until the testing process is complete and if an employee fails to provide a specimen for any drug test required by Part 40 or the DOT agency regulations. Those subparagraphs go on to say that it is not a refusal to test if the test reason is 'pre-employment' and the employee left before the testing process commenced and provide citations to when the testing process commences for urine § 40.63(c) and oral fluid § 40.72(e), as applicable. The reference to § 40.72(e) is incorrect. The correct reference should be § 40.72(d)(3) as it is specific to when the employee selects a specimen collection device, or the collector provides a specimen collection device to the employee. Referencing § 40.72(d)(3) is the correct reference as it mirrors the commencement of a urine collection.

Section 40.207 What is the effect of a cancelled drug test?

Section 40.207(d) allows MROs to reverse cancelled tests where the reason for the cancellation involves paperwork errors (*e.g.,* missing or delayed paperwork) that were not corrected which resulted in the MRO sending the cancellation to the employer. The reversible cancellations need to be administrative errors that can be corrected by paperwork. We added language to the May 2, 2023, final rule, in the form of a parenthetical in § 40.207(d), to note that correctible flaws arising under §§ 40.203 and 40.205 are examples of what is reversible (88 FR 27596, 27606). We also provided an example of an MRO un-canceling for a reason not included in §§ 40.203 and 40.205. However, in the rule text we inadvertently used an ''*i.e.,*'' instead of an ''*e.g.,*''. As written, the parenthetical (*i.e.,* §§ 40.203 and 40.205) arguably precludes the MRO from considering any other scenario in which they can un-cancel a drug test result. The intent in the preamble is clear and to avoid confusion for the MROs, we are revising ''*i.e.,*'' in the parenthetical to read ''*e.g.,*''.

Section 40.245 What is the procedure for an alcohol screening test using a saliva ASD or a breath tube ASD?

We are correcting a typographical error in § 40.245(a)(6)(ii). Specifically, paragraph (a)(6)(ii) states that the new device you use must be one that has been under your control or that of the *employee* before the test. The language states that the responsibility for providing a new saliva testing device in instances where the STT or BAT is unable to successfully follow the procedures of § 40.245(a)(3) through (5) (*e.g.,* the device breaks, you drop the device on the floor) falls to the STT or BAT or the *employee* (emphasis added). Reference to the employee was in error. While it is reasonable to rely on the STT or BAT to provide the new device, the employee would not be expected to have a backup device on hand. Instead, the employer could also provide the new device. Ultimately, the employer is responsible for ensuring the test is completed, not the employee. This change will mirror the existing language in 40.245(b)(7)(ii), which describes similar procedures and responsibilities for alcohol testing using a breath tube alcohol screening device. We are making the correction by replacing 'employee' with 'employer'.

Section 40.291 What is the role of the SAP in the evaluation, referral, and treatment process of an employee who has violated DOT Agency drug and alcohol testing regulations?

In the last sentence of § 40.291(a)(1), there is duplicative text. We are removing the duplicative text.

Regulatory Notices and Analyses

This final rule is a non-significant rule for purposes of section 3(f) of Executive Order (E.O.) 12886, as supplemented by E.O. 13563 and amended by E.O. 14094. DOT has determined that the regulatory analyses conducted for the May 2, 2023, final rule remain applicable to this technical correction final rule. DOT makes these statements on the basis that, as a series of technical amendments that correct or clarify existing regulatory provisions, this rule will not impose any significant costs or have impacts beyond those analyzed in the May 2, 2023, final rule.

DOT concludes that it has good cause to waive prior opportunity for notice and comment under 5 U.S.C. 553(b)(B). The technical amendments included in this final rule render notice and comment unnecessary and contrary to the public interest. The amendments made in this rule are technical, corrective, and clarifying changes to an existing rule that went through an extensive public notice and comment process. The amendments do not make significant substantive changes to part 40. The errors in the current regulation are also potentially confusing to testing laboratories, employers, employees subject to testing, and other stakeholders, and prompt publication would clarify ambiguities. For these same reasons, DOT finds good cause to waive the 30-day delay in effective date under 5 U.S.C. 553(d)(3).

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. DOT will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States. This rule does not constitute a major rule as defined in 5 U.S.C. 804(2).

List of Subjects in 49 CFR Part 40

Administrative practice and procedures, Alcohol abuse, Alcohol testing, Drug abuse, Drug testing, Laboratories, Reporting and recordkeeping requirements, Safety, Transportation.

For the reasons stated in the preamble, DOT amends 49 CFR part 40 as follows:

PART 40—PROCEDURES FOR TRANSPORTATION WORKPLACE DRUG AND ALCOHOL TESTING PROGRAMS

■ 1. The authority for part 40 continues to read as follows:

Authority: 49 U.S.C. 102, 301, 322, 5331, 20140, 31306, and 54101 *et seq.*

§ 40.14 [Amended]

■ 2. In § 40.14, in the introductory text, remove the word ''urine'' before the word specimen and in paragraph (e), remove ''40.35 of this part'' and add ''40.36'' in its place.

Subpart C [Amended]

■ 3. In the heading for subpart C, remove the word ''Urine'' and add the word ''Specimen'' in its place.

§ 40.81 [Amended]

■ 4. In § 40.81, in paragraph (a), remove the word ''required''.

§ 40.83 [Amended]

■ 5. In § 40.83, in paragraphs (d), (e)(3), and (g)(2), remove ''40.97(a)(3)'' and add ''40.97(b)(3)'' in its place and in paragraph (f)(2), remove ''40.97(a)'' and add ''40.97(b)'' in its place.

§ 40.97 [Amended]

■ 6. In § 40.97(c)(1)(i)(M), remove ''(a)'' and add ''(b)'' in its place and in paragraph (c)(2), remove ''(b)'' and add ''(c)'' in its place.

§ 40.113 [Removed]

■ 7. Remove § 40.113.

§ 40.145 [Amended]

■ 8. In § 40.145, in paragraphs (e)(2), (h)(1) introductory text, (h)(1)(ii), (h)(2) introductory text, and (h)(2)(ii), remove ''§ 40.93(b)'' and add ''§ 40.88(b)'' in its place.

§ 40.159 [Amended]

■ 9. In § 40.159, in paragraph (a)(1), remove ''§ 40.91(e) and § 40.96(b)'' and add ''§ 40.87(e) and § 40.90(b)'' in its place.

§ 40.169 [Removed]

■ 10. Remove § 40.169.

§ 40.189 [Removed]

■ 11. Remove § 40.189.

§ 40.191 [Amended]

■ 12. In § 40.191, in paragraphs (a)(2) and (3), remove ''§ 40.72(e)'' and add ''§ 40.72(d)(3)'' in its place.

§ 40.207 [Amended]

■ 13. In § 40.207, in paragraph (d), remove ''*i.e.,*'' in the parenthetical and add ''*e.g.,*'' in its place.

§ 40.217 [Removed]

■ 14. Remove § 40.217.

§ 40.245 [Amended]

■ 15. In § 40.245, in paragraph (a)(6)(ii), remove the word ''employee'' and add the word ''employer'' in its place.

§ 40.291 [Amended]

■ 16. In § 40.291, in the last sentence of paragraph (a)(1) introductory text, remove the second occurrence of ''must be''.

§ 40.313 [Removed]

■ 17. Remove § 40.313.

Signed pursuant to authority delegated at 49 CFR 1.27(c) in Washington, DC.

Subash Iyer,

Acting General Counsel.

[FR Doc. 2024–12749 Filed 6–20–24; 8:45 am]

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