

“oversubscribed,” what methods and procedures are in place to handle these overloads and to rapidly apply network resources to where they are needed? What are the limits to these network management techniques? For example, is there a need for ways to prioritize broadband traffic during emergencies? Are some network segments or geographic areas more vulnerable than others? The Commission also seeks detailed data on past instances: When outbreaks of influenza have closed schools in a given area, what changes were observed in residential access network traffic, and how did these changes affect the networks? Should the FCC collect data on network usage during such events?

As our broadband infrastructure continues to grow and mature, the Commission is committed to ensuring that it stands ready to support the myriad uses dreamed up by American innovators and enterprises. This Notice of Inquiry is a critical first step toward understanding survivability of our broadband communications networks to all types of failures and severe traffic overloads. The Commission looks forward to collaborating with consumers, businesses, and network operators to improve and secure our broadband infrastructure for the future.

Accordingly, *it is ordered that*, pursuant to sections 1, 4(i), 4(j), 4(o) and 7(b) of the Communications Act of 1934, 47 U.S.C. 151, 154(i)–(j) & (o), and 157(b) (2006), this Notice of Inquiry is adopted.

Federal Communications Commission.

**Marlene H. Dortch,**  
Secretary.

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## DEPARTMENT OF TRANSPORTATION

### Office of the Secretary

#### 49 CFR Part 40

[Docket OST–2008–0088]

RIN OST 2105–AE01

#### Procedures for Transportation Workplace Drug and Alcohol Testing Programs

**AGENCY:** Office of the Secretary, DOT.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Department of Transportation is proposing only to extend the date for the mandatory use of our recently updated Alcohol Testing Form (ATF) to January 1, 2011. The

revised ATF went into effect on February 25, 2010 with a mandatory use date of August 1, 2010. After publishing the February 25 revisions, we learned that vendors and users of the ATF will not be able to deplete their current supply of ATFs by August 1, 2010. Therefore, in order to assist the transportation industries and their service agents in their efforts to be economically efficient and more environmentally “green,” we are seeking public comment to extend the mandatory use date to January 1, 2011.

**DATES:** Comments to the notice of proposed rulemaking should be submitted by May 26, 2010. Late-filed comments will be considered to the extent practicable.

**ADDRESSES:** To ensure that you do not duplicate your docket submissions, please submit them by only one of the following means:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov> and follow the online instructions for submitting comments.

- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Ave., SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001;

- *Hand Delivery:* West Building Ground Floor, Room W12–140, 1200 New Jersey Ave., SE., between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

**Instructions:** You must include the agency name and docket number DOT–OST—or the Regulatory Identification Number (RIN) for the rulemaking at the beginning of your comments. All comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided.

**FOR FURTHER INFORMATION CONTACT:** For program issues, Bohdan Baczara, Office of Drug and Alcohol Policy and Compliance, 1200 New Jersey Avenue, SE., Washington, DC 20590; (202) 366–3784 (voice), (202) 366–3897 (fax), or [bohdan.baczara@dot.gov](mailto:bohdan.baczara@dot.gov) (e-mail).

#### SUPPLEMENTARY INFORMATION:

##### Background and Purpose

On February 25, 2010, the Department published a final rule [75 FR 8528] which updated the Alcohol Testing Form (ATF). The Department anticipated that employers and alcohol testing technicians may currently have a large supply of old ATFs and to avoid unnecessarily wasting these forms, the Department permitted the use of the old ATF until August 1, 2010. Employers

were authorized to begin using the updated ATF immediately.

Since the final rule was published, the Department became aware that some vendors of the ATF might not be able to deplete their current supply of the ATFs before the August 1, 2010 implementation date. In light of this new information and so as not to have the industry waste forms, the Department is proposing to extend the implementation date to January 1, 2011. The Department seeks your comments only about this new implementation date.

#### Regulatory Analyses and Notices

The statutory authority for this proposed rule derives from the Omnibus Transportation Employee Testing Act of 1991 (49 U.S.C. 102, 301, 322, 5331, 20140, 31306, and 45101 *et seq.*) and the Department of Transportation Act (49 U.S.C. 322).

This proposed rule is a non-significant rule both for purposes of Executive Order 12886 and the Department of Transportation’s Regulatory Policies and Procedures. The Department certifies that it will not have a significant economic effect on a substantial number of small entities, for purposes of the Regulatory Flexibility Act. The Department makes these statements on the basis that by extending the implementation date of the new form, this rule will not impose any significant costs on anyone. The costs of the underlying Part 40 final rule were analyzed in connection with its issuance in December 2000. Therefore, it has not been necessary for the Department to conduct a regulatory evaluation or Regulatory Flexibility Analysis for this proposed rule. The alcohol testing form complies with the Paperwork Reduction Act. It has no Federalism impacts that would warrant a Federalism assessment.

#### 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.

Issued April 28, 2010, at Washington DC.

**Jim L. Swart,**  
Director.

For reasons discussed in the preamble, the Department of Transportation proposes to amend 49 CFR part 40, Code of Federal Regulations, as follows:

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

1. The authority citation for 49 CFR part 40 continues to read as follows:

*Authority:* 49 U.S.C. 102, 301, 322, 5331, 20140, 31306, and 45101 *et seq.*

2. In Appendix G to Part 40—Alcohol Testing Form, the paragraph is being revised by removing the text “August 1,

2010” and replacing it with “January 1, 2011”.

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