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PUBLIC
TRANSPORTATION
ASSOCIATION**

April 26, 2022

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Docket Management Facility
U.S. Department of Transportation
M-30, West Building Ground Floor, Room W12-140
1200 New Jersey Avenue S.E.
Washington, DC 20590

Subject: Docket DOT-OST-2021-0093-001

Dear Docket Clerk:

On behalf of the 1,500 public- and private-sector member organizations of the American Public Transportation Association (APTA), I write to provide comments on the Department of Transportation's notice of proposed rulemaking (NPRM) regarding Procedures for Transportation Workplace Drug and Alcohol Testing Programs: Addition of Oral Fluid Specimen Testing for Drugs published in the *Federal Register* on February 28, 2022, at 87 FR 11156.

APTA strongly supports the U.S. Department of Transportation's proposal to amend the transportation industry drug testing program procedures regulation to add oral fluid testing to the existing urine drug testing procedures for safety-sensitive transportation employees subject to drug testing under Part 40. APTA is reassured by the U.S. Department of Health & Human Services' determination that oral fluid testing is an appropriate alternative testing method for identifying illicit drug use in the Federal workplace and that it will continue to allow the transit industry to achieve its safety goals.

APTA believes that an oral fluid testing procedure option will provide the following benefits to transit agencies:

1. Provide a less intrusive method of direct observation collection;
2. Will help combat employees being dishonest on urine drug tests;
3. Is less expensive than urine drug tests;
4. Enhances privacy and dignity of persons providing the sample by eliminating the need for same sex observed collections and the need to establish gender identity; and

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5. Avoids complications in testing related to issues such as shy bladder or out of temperature samples that result in days or weeks of delay in returning a transit operator to work. Reducing these delays will help transit agencies as they seek to maintain service levels.

APTA supports giving transit agencies the choice of the oral test option. The current urine testing option will be useful for certain situations like dry mouth or inconsistent saliva color as a few situations where the oral fluid testing may not be suitable.

APTA also supports the proposal as conveyed by a request for comment in the NPRM preamble to allow the staff of a Medical Review Officer (“MRO”) to directly contact a pharmacy to verify a prescription an employee has provided. This approach will increase efficiency and will improve administrative turnaround time.

While APTA supports DOT’s proposal at § 40.291(a) that Substance Abuse Professionals (“SAPs”) be allowed to conduct remote evaluations using video call technology, it should be ultimately left to the SAP to determine if the remote evaluation is appropriate. The remote assessment option has the potential to reduce cost and logistical burdens of conducting such evaluations.

Safety is a core value for APTA members, including bus, rail, ferry and commuter rail operators. The men and women responsible for managing and operating public transportation systems are fully committed to the safety of their systems, passengers, employees, and the public. APTA believes the addition of an oral fluid testing procedure for safety-sensitive employees will allow agencies to continue to provide the highest level of safety and detection while reducing cheating, lowering costs, and enhancing privacy.

If you have any questions regarding the positions or comments discussed in this letter, please contact Linda Ford, APTA’s General Counsel at LFord@apta.com or 202-496-4808.

Sincerely,

Paul P. Skoutelas
President and CEO