

**FEDERAL REGISTER NOTICE:
DEPARTMENT OF TRANSPORTATION
REQUEST FOR INFORMATION REGARDING
DRUG AND ALCOHOL TESTING DATA**

DETAILS

Link to FR Notice: [2022-13985.pdf \(federalregister.gov\)](#)

COMMENTS DUE: July 30, 2022

HIGHLIGHTS OF NOTICE

DOT is requesting information on how it engages the public regarding its publicly available information regarding drug and alcohol testing. DOT is taking this step to respond to a Government Accountability Office (GAO) report published in March 2021 titled “DOT Has Taken Steps to Verify and Publicize Drug and Alcohol Testing Data but Should Do More.” The report looked at how DOT uses drug and alcohol testing data, how DOT verifies that data are reliable, and whether DOT follows key actions for transparently reporting drug and alcohol testing data. The data is used by DOT modal administrations to determine the random testing rate(s) for safety-sensitive employees in each industry each year.

Background

Transit agencies as employers are subject to DOT drug and alcohol testing regulations and must submit annual drug and alcohol testing data as required by the Federal Transit Administration (FTA). When submitting drug and alcohol testing data, employers are required to use the standardized, one-page “Drug and Alcohol Testing MIS Data Collection Form” (MIS Form). An employer collects and compiles drug and alcohol testing data generated throughout the year by their company’s drug and alcohol testing program and submits that data in its annual filing of the MIS Form. Specifically, for each employee category, an employer is required to provide: (1) drug testing data (number of verified negative tests, verified positive tests (for each drug), refusal to test results (adulterated, substituted, shy bladder, others), and cancelled results), and (2) alcohol testing data (number of screening tests above and below 0.02, number of confirmation tests above and below 0.04, refusal to test results (shy lung, others) and cancelled results) for each type of test conducted (e.g., pre-employment, random, post-accident,

reasonable suspicion/cause, return-to-duty, or follow-up). The employer must complete the MIS Form and certify that the information is accurate. The annual drug and alcohol testing data submitted for a specific calendar year is to be submitted by March 15th of the following calendar year. The completed MIS Form contains only aggregate data and does not contain any employee-specific information.

In 2019, Congress required DOT to establish and make publicly available on its website a database of the drug and alcohol testing data reported by employers for each mode of transportation and update the database annually. Specifically, for each mode of transportation, the database must include (1) the total number of drug and alcohol tests by type of substance tested; (2) the drug and alcohol test results by type of substance tested; (3) the reason for the drug or alcohol test, such as preemployment, random, post-accident, reasonable suspicion or cause, return-to-duty, or follow-up, by type of substance tested; and (4) the number of individuals who refused testing. DOT published aggregated data from its internal database on its website in March 2019 for each modal administration. The database may be accessed at https://www.transportation.gov/odapc/DOT_Agency_MIS_Data.

Request for Information

Section 8104 of the SUPPORT Act, titled “GAO Report on Department of Transportation’s Collection and Use of Drug and Alcohol Testing Data,” required GAO, not later than 2 years after the date DOT’s public drug and alcohol testing database was established, must: (1) review the DOT drug and alcohol testing MIS, and (2) submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the review. The report had to include: (1) a description of the process DOT uses to collect and record drug and alcohol testing data submitted by employers for each mode of transportation; (2) an assessment of whether and if so, how DOT uses the data in carrying out its responsibilities; and (3) an assessment of the DOT public drug and alcohol testing database required under the Act.

Congress requested GAO to provide recommendations regarding how DOT can best use the drug and alcohol testing data, any improvements that could be made to the process by which the data is collected from employers, and how the DOT drug and alcohol testing database could be made more effective.

In March 2021, GAO published its report and made four recommendations. The first recommendation was to the modal administrators to: (1) evaluate the different processes used by each modal administration to verify drug and alcohol testing data—including comparing data to records during inspections, checking data for errors manually or with software, and contacting employers that do not submit a report or submit an incomplete report—and (2) determine what, if any, additional steps should be taken to improve the reliability of the information.

The second recommendation was to the Director of ODAPC who should disclose known limitations of drug and alcohol testing data on DOT’s website, consistent with key actions for open government data.

The third recommendation was also to the Director of ODAPC who should reach out to potential users in the public to determine if there is a broader audience for the public data, consistent with key actions for open government data, and if a broader audience is identified, engage with users to evaluate the benefits and costs of adopting additional key actions for open government data and any other possible improvements to the website.

The final recommendation concerned GAO's finding that DOT's drug and alcohol testing website follows eight of 16 key actions but does not fully follow eight other key actions for transparently reporting data on the drug and alcohol testing website, including: (1) disclosing known data limitations and (2) reaching out to potential users in the public to encourage data use. GAO stated that "DOT currently does not follow or partially follows six other key actions that may improve the website. However, the immediate benefits and costs of following these six actions are unclear because DOT has not reached out to users to determine if the value of making changes to the website outweigh the time and resources necessary to implement them." GAO also stated that "potential users in the public may not be aware of the website or potential uses of the data. For example, if aware that the information is now publicly available, a motor carrier employer could use the public drug and alcohol testing data to understand how that individual employer's drug and alcohol testing results compare to industry-wide results. However, because ODAPC has not identified or reached out to potential users in the public, officials cannot be certain the public is not interested in the data. As a result, DOT does not know whether the website meets the requirements for transparently providing data, or if additional improvements could make this a more valuable resource for users."

Given the above, DOT requests information regarding the following:

- (1) What entities use the drug and alcohol testing data on the DOT website?
- (2) How do those entities use the drug and alcohol testing data?
- (3) What is the functionality of the DOT drug and alcohol testing data website, and whether users have specific recommendations regarding possible improvements to the website that would enhance the user's ability to use the available data?
- (4) Since DOT primarily uses the drug and alcohol testing data to determine the random testing rate for safety-sensitive employees in each industry for the following year, are there other appropriate uses for the drug and alcohol testing data?

ADDITIONAL INFORMATION

GAO Report GAO-21-296, titled "DOT Has Taken Steps to Verify and Publicize Drug and Alcohol Testing Data but Should Do More" and GAO Report GAO-19-72, titled "Treasury Could Better Align USAspending.gov with Key Practices and Search Requirements."