

APPENDIX E TO PART 40—SAP EQUIVALENCY REQUIREMENTS FOR CERTIFICATION ORGANIZATIONS

APPENDIX F TO PART 40—DRUG AND ALCOHOL TESTING INFORMATION THAT C/TPAs MAY TRANSMIT TO EMPLOYERS

APPENDIX G TO PART 40—ALCOHOL TESTING FORM (ATF)

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

SOURCE: 65 FR 79526, Dec. 19, 2000, unless otherwise noted.

### Subpart A—Administrative Provisions

#### § 40.1 Who does this regulation cover?

(a) This part tells all parties who conduct drug and alcohol tests required by Department of Transportation (DOT) agency regulations how to conduct these tests and what procedures to use.

(b) This part concerns the activities of transportation employers, safety-sensitive transportation employees (including self-employed individuals, contractors and volunteers as covered by DOT agency regulations), and service agents.

(c) Nothing in this part is intended to supersede or conflict with the implementation of the Federal Railroad Administration's post-accident testing program (see 49 CFR 219.200).

#### § 40.3 What do the terms used in this regulation mean?

In this part, the terms listed in this section have the following meanings:

*Adulterated specimen.* A specimen that contains a substance that is not expected to be present in human urine, or contains a substance expected to be present but is at a concentration so high that it is not consistent with human urine.

*Affiliate.* Persons are affiliates of one another if, directly or indirectly, one controls or has the power to control the other, or a third party controls or has the power to control both. Indicators of control include, but are not limited to: interlocking management or ownership; shared interest among family members; shared facilities or equipment; or common use of employees. Following the issuance of a public interest exclusion, an organization hav-

ing the same or similar management, ownership, or principal employees as the service agent concerning whom a public interest exclusion is in effect is regarded as an affiliate. This definition is used in connection with the public interest exclusion procedures of Subpart R of this part.

*Air blank.* In evidential breath testing devices (EBTs) using gas chromatography technology, a reading of the device's internal standard. In all other EBTs, a reading of ambient air containing no alcohol.

*Alcohol.* The intoxicating agent in beverage alcohol, ethyl alcohol or other low molecular weight alcohols, including methyl or isopropyl alcohol.

*Alcohol concentration.* The alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by a breath test under this part.

*Alcohol confirmation test.* A subsequent test using an EBT, following a screening test with a result of 0.02 or greater, that provides quantitative data about the alcohol concentration.

*Alcohol screening device (ASD).* A breath or saliva device, other than an EBT, that is approved by the National Highway Traffic Safety Administration (NHTSA) and placed on a conforming products list (CPL) for such devices.

*Alcohol screening test.* An analytic procedure to determine whether an employee may have a prohibited concentration of alcohol in a breath or saliva specimen.

*Alcohol testing site.* A place selected by the employer where employees present themselves for the purpose of providing breath or saliva for an alcohol test.

*Alcohol use.* The drinking or swallowing of any beverage, liquid mixture or preparation (including any medication), containing alcohol.

*Blind specimen or blind performance test specimen.* A specimen submitted to a laboratory for quality control testing purposes, with a fictitious identifier, so that the laboratory cannot distinguish it from an employee specimen.

*Breath Alcohol Technician (BAT).* A person who instructs and assists employees in the alcohol testing process and operates an evidential breath testing device.