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US Department of Transportation
Dockets Management Facility
Room PL-401
400 Seventh Street, SW
Washington, DC 20590
Docket OST-2003-15245

This is to submit comments on behalf of the Drug and Alcohol Testing Industry Association (DATIA) regarding the Department of Transportation's (DOT) interim final rule concerning Procedures for Transportation Workplace Drug and Alcohol Testing Programs that amends Part 40 to align with the recent HHS Mandatory Guidelines for Specimen Validity Testing.

DATIA is a 1,300-member national trade association representing the full spectrum of drug and alcohol testing service agents including laboratories, collection sites, C/TPAs, BATs, MROs, SAPs, employers, and testing device manufacturers. DATIA's mission includes working closely with key policy makers in federal agencies and in Congress to ensure that the interests of the industry are heard and taken into account when changes in drug and alcohol testing rules are proposed. DATIA works to ensure that these changes foster rather than hinder the industry's growth. DATIA further works to educate the industry on current standards of service and regulatory policies and procedures.

DATIA feels that bringing Part 40 in line with the recent Mandatory Guidelines released by the Department of Health and Human Services (HHS) is a positive move for employers, C/TPAs, MROs and laboratories. Having two sets of regulations and guidelines that aren't in line with one another would simply be too confusing and possibly lead to error in the testing and reporting processes. Amending Part 40 to reflect HHS' guidelines ensures that everybody involved in HHS and DOT-mandated drug testing is working from one set of regulations.

DATIA does, however, see the following problem with the Interim Final Rule as written.

Throughout the rulemaking, DOT states that they are making SVT "consistent" with HHS guidelines, but that is not truly the case. (See page 64866 of the Federal Register notice: "We have revised §40.91 to make our authorized SVT consistent with the HHS Mandatory Guidelines. We have adopted HHS instructions that direct laboratories to perform validity tests for oxidizing adulterants and additional validity tests when certain conditions . . . are observed.")

This rule does not make the CRITERIA consistent with HHS, but does not make the REQUIREMENT consistent. This difference should be further emphasized in the final rule to avoid confusion. SVT was mandatory in the Part 40 regulations issued in 2000, however this requirement was retracted in 2001. We strongly believe that the requirement needs to be re-established for consistency.