
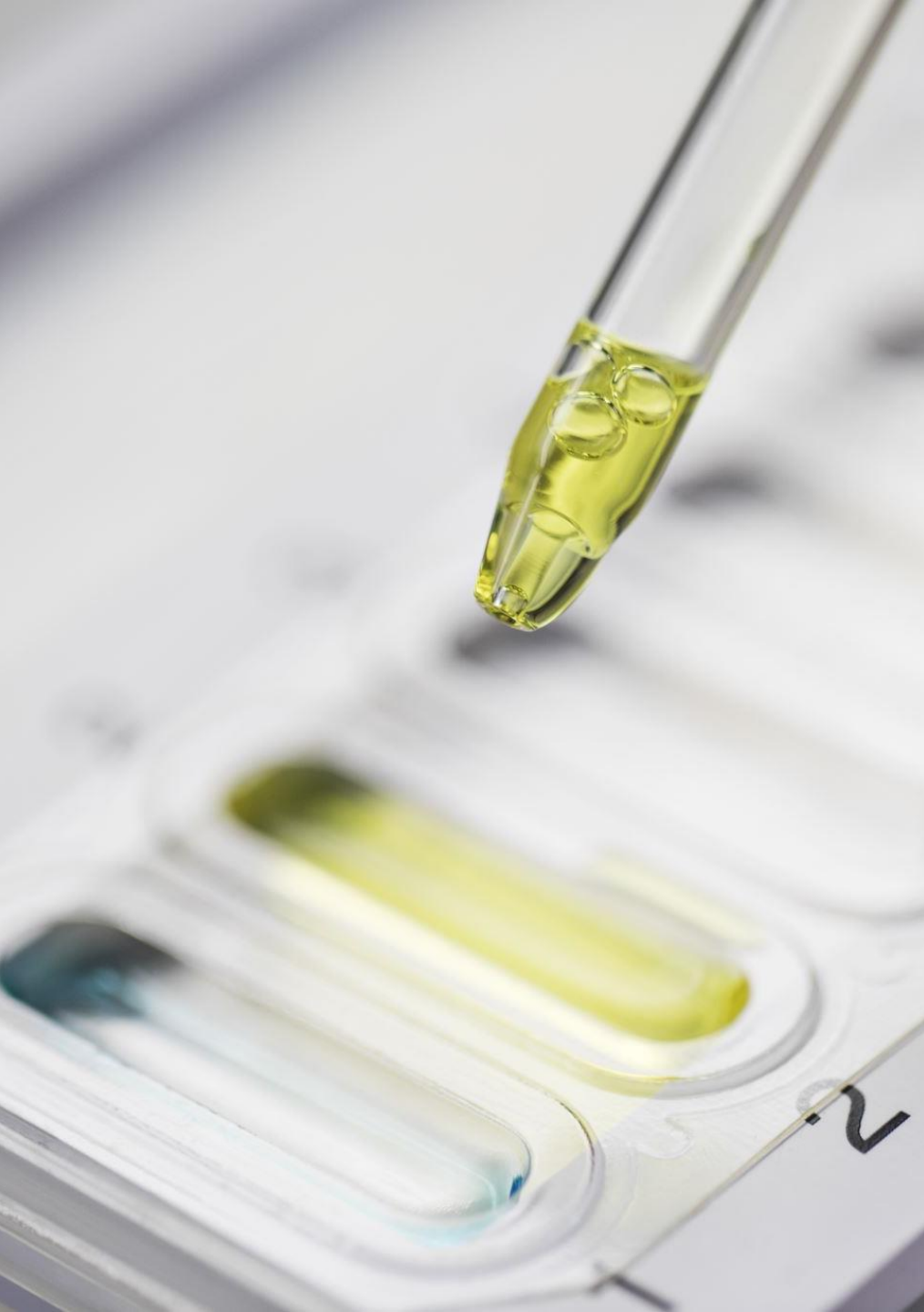




Recent Drug Testing Rules Updates for Transit Agencies

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USDOT Changes to Drug Testing Rules

The US Department of Transportation's Office of Drug and Alcohol Policy & Compliance approved the use of oral fluid cannabis testing for transit agencies effective June 1st, 2023.

This rule amends relevant FAA, FMCSA, FRA and FTA regulations to clarify that agencies either urine tests or oral fluid tests may be used for screening.

Oral Fluid vs. Urine Testing Procedures

Urine Testing

- Often requires invasive observational procedures, which can be uncomfortable for most and hostile to non-binary and trans applicants and employees.
- Requires same-sex observers.
- Identifies use in the last 30 days, but not current impairment.
- Requires a secure bathroom environment.

Oral Fluid (“Saliva/Spit”) Testing

- Observation is less invasive and can be performed by certified testers of any gender, for applicants and employees of any gender identity.
- Identifies recent cannabis use (5-72 hours prior), which is especially important after an accident.
- Observation process is harder to tamper with than urine testing.
- Does not require a bathroom.



Oral Fluid Testing is Required by the USDOT Rule in Some Cases

- “Even if an employer does not usually utilize oral fluid testing, that employer should have agreements or arrangements either directly, or through its C/TPA, for oral fluid testing to be used for directly observed collections of transgender or nonbinary employees.”

(Federal Register / Vol. 88, No. 84 / Tuesday, May 2, 2023 / Rules and Regulations)

How Oral Fluid Testing Can Help With the **Driver Shortage**

New Mexico is one of 23 states with legal cannabis use. It is sensible to use testing that can identify **current or very recent intoxication** over past use.

Would allow ABQ Ride to be an even **friendlier employer for LGBTQ+** community members.

What needs to happen for ABQ Ride to implement oral fluid testing for cannabis?

The **US Department of Health and Human Services** must approve **at least two labs** to conduct oral fluid testing for cannabis.

ABQ Ride would need to implement the change by:

Updating policy manuals to read "urine and/or oral fluid testing"

Specify which situations oral fluid testing will be the method used (such as pre-employment, reasonable suspicion/cause, post-accident, random, return-to-duty, follow-up, etc)

Stating whether another form of testing can be used in special cases, such as "shy bladders" or "dry mouth"

Encouraging our current testing lab to become DHHS-certified or build a relationship with another DHHS-approved testing lab.



Questions or
Comments?

Additional Resources

- USDOT Ruling Text: <https://www.govinfo.gov/content/pkg/FR-2023-05-02/pdf/2023-08041.pdf>
- US Department of Transportation Summary Notice: https://www.transportation.gov/odapc/Notice_Summary_May_2023
- National Law Review: <https://www.natlawreview.com/article/us-department-transportation-allows-oral-fluid-drug-testing>
- Streets Blog USA: <https://usa.streetsblog.org/2023/09/01/how-a-new-drug-testing-rule-from-usdot-could-help-alleviate-the-bus-operator-crisis>
- American Public Transportation Association letter: <https://www.apta.com/wp-content/uploads/APTA-Letter-to-HHS-on-Lab-Certification-for-Oral-Fluid-Testing-10.26.2023.pdf>
- Governing Magazine: <https://www.governing.com/work/outdated-marijuana-rules-complicate-transit-hiring>.