



U.S. Department  
of Transportation  
**Federal Railroad  
Administration**

94 NOV 28 AM 10:07  
FEDERAL RAILROAD ADMIN.  
CHICAGO, ILLINOIS

# Memorandum

Date: NOV 21 1994

Reply to Attn. of: **OP-94-13**

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Dennis  
Leaman  
Chiefs  
ALL OF IJSP*

Subject: **ACTION: DOT/FRA Breath Alcohol Testing Q&A's**

From: *E.R.E.*  
Edward R. English  
Director, Office of Safety Enforcement

*Rec'd 11/28*

To: Regional Directors

The attached document is a compilation of the most frequently asked questions concerning the pending implementation of the new alcohol testing under Title 49 Code of Federal Regulations, Part 40 and Part 219. The subsequent answers should be one standard answer or guidance for that particular question.

If you have additional questions you should contact Lamar Allen the Federal Railroad Administration Drug and Alcohol Program Manager at (202) 366-0127.

**Attachment**

cc: Grady C. Cothen, RRS-2  
Walter Rockey, RRS-4  
Michael Sanders, Region 8

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*copies received  
12/1/94*

## DOT Breath Alcohol Testing Q&A's

**What is the DOT's basic goal with respect to breath alcohol testing, and how does the DOT propose to achieve this goal?**

The Department of Transportation (DOT) seeks to ensure that every Breath Alcohol Technician (BAT) who will be conducting DOT breath alcohol tests on transportation workers can do them correctly. In order to perform a test correctly, the BAT must be proficient in the use of a DOT-approved EBT and proficient in the procedures of 49 CFR Part 40. The DOT requires that all BATS be "trained to proficiency" in the DOT test procedures, and has developed a model course for instruction. The DOT model course provides training in the principles of Evidential Breath Testing (EBT) methodology, operation, and calibration (accuracy) checks. It also covers the fundamentals of breath analysis, the procedures required for obtaining a breath sample, and interpreting and recording EBT results. The course is for the limited purpose of training individuals to conduct DOT tests under DOT procedures.

**How can the DOT model course be obtained?**

This course is currently available through the Government Printing Office. Businesses who wish to train persons in the operation of EBT devices, and the DOT alcohol test procedures, may purchase this course (for \$19) and begin training. Courses other than the DOT model course may be used only AFTER they have been submitted to, and approved by, the DOT for equivalency.

**Model course ordering information:**

**Contact GPO, Superintendent of Documents—(202) 512-2250**

**BAT Instructor's Guide— \$19.00; GPO Stock No. 050-000-00551-8**

**BAT Instructor's Guide— 7.50; GPO Stock No. 050-000-00550-0**

**What are the minimum requirements of the DOT model course?**

The DOT model course is designed to be given by an instructor in a classroom-type setting. It is a "complete" course—providing a specific curriculum for the DOT testing procedures of 49 CFR Part 40, and the minimum objectives to be met for the use of an EBT. The course recommends the maximum number of students (8) per instructor, as well as the maximum number of students (4) per EBT. The instructor, through his or her personal interaction with, and observation of, each student, will determine if the student is proficient in the DOT testing procedures and the operation of a particular EBT prior to issuing the documentation attesting to achievement. The DOT emphasizes that this evaluation is not to be taken lightly, and should only be done by the instructor who can personally attest to the student's proficiency. Upon successful

completion of the DOT model course, the student will be ready to conduct a DOT alcohol breath test.

The DOT model course provides a specific curriculum for teaching the DOT alcohol testing procedures of 49 CFR Part 40; these procedures are covered in the first seven units of the course, and are designed to take six and one-half hours of class time to complete. The course also includes an eighth unit, which does not contain a specific curriculum, but sets the minimum objectives to be met for the use of an evidential breath testing (EBT) device. The content segments and learning activities with this unit will vary depending on the EBT(s) used for this unit, and thus, are left to the instructor to develop.

**Does the DOT expect the course to be taught on consecutive days?**

While the DOT model course did not mandate a specific length of time over which the entire course (Units I-VIII) was to be offered, it was—and still is—the intention that the offering be a complete and comprehensive course that will properly train BATs to conduct a DOT breath alcohol test. It is preferable that the two portions of the course be offered on back-to-back days. If there is any separation in the offering of the two portions, we believe that they should be closely tied together within no more than a few days of each other (e.g., Units I-VII offered by a professional training entity at a regional location, followed by, and closely coordinated with, Unit VIII being offered at the manufacturer's plant a short time later). As a further example, DOT would find a course that offered Units I-VII now, and Unit VIII a month or so later, to be totally out of the scope of the rule's intent, and for that matter an unsatisfactory delivery of our course.

The testing procedures and the EBT-specific portion of the course go hand-in-hand. In fact, in order to be deemed proficient in the use of the EBT (Unit VIII) the student must conduct a series of tests on a live subject and be "technically correct with respect to the manufacturer's requirements for the specific EBT and 49 CFR Part 40." With a lengthy delay between receiving Units I-VII and Unit VIII, there is a substantial risk that students would forget the material on Part 40 procedures before receiving instruction on how to operate the EBT.

**May a prospective BAT be trained on an EBT prior to being trained in Part 40?**

To be "trained on an EBT" for purposes of our program means to be trained on how to use the EBT to administer DOT tests according to Part 40 procedures. In order to "pass" Unit VIII, the student must perform the seven tests in accordance with the procedures of Part 40 (i.e., Units I-VII). We see no way for the student to be able to do that, or for the instructor to be able to so certify, unless that portion of the training has been successfully completed prior to training on the EBT. The seven breath tests are viewed by the Department as the means by

which the instructor can verify that the student is able to correctly incorporate the instrument into the procedures and successfully perform as a BAT. The better course offerings will design a minimum of seven different "mock scenarios" to test the full range of the student's understanding of the EBT and the Part 40 procedures.

Should an entity decide that that they would prefer to provide operational training on an EBT prior to providing the DOT model course, the DOT model course must still be offered in its entirety, with the understanding that duplication in Unit VIII will occur. A course that would "break up" Unit VIII (e.g., offer EBT operational training prior to Units I-VII, and finishing up with the seven tests on a live person after Units I-VII), would need to be reviewed for equivalency.

**What are the qualifications to be a BAT Instructor, and where might an employer find sources for BAT instruction?**

The DOT does not establish specific qualifications for the person who is a BAT Instructor. However, instructors are expected to be thoroughly familiar with the content of each unit of the course that they teach. Furthermore, instructors who attest to a student's ability to successfully perform the minimum seven tests required by Unit VIII must be knowledgeable in both the operations of the EBT and in the procedures of Part 40. Instructor sources include, but are not limited to, EBT manufacturers, law enforcement officers, professional trainers, and health care providers. The employer must ensure through documentation that each BAT used to conduct a DOT alcohol test has been trained completely.

**Does the DOT require refresher training for BATs?**

While the DOT does not require refresher training to be administered on any specific frequency, BATs shall receive additional training "as needed." This is intended to ensure continued proficiency where new or additional devices are used or changes in technology occur. Common sense would say that the BAT who reviews the text material and practices on a routine basis has a better chance of remaining proficient. In many cases, such as where BAT duties are collateral duties, alcohol testing may be only part-time work, at best. In these cases, especially, practice (e.g., reviewing course material) may be the only means to stay proficient.

**What guidance is the DOT providing employers with respect to BAT training?**

Any employer who takes an adverse personnel action against an employee who fails a DOT alcohol test should be prepared to defend the training of the BAT during possible litigation proceedings that may develop as a result of that action.