

Subpart I—Problems in Drug Tests

§ 40.207 What is the effect of a cancelled drug test?

(a) A cancelled drug test is neither positive nor negative.

(1) As an employer, you must not attach to a cancelled test the consequences of a positive test or other violation of a DOT drug testing regulation (e.g., removal from a safety-sensitive position).

(2) As an employer, you must not use a cancelled test for the purposes of a negative test to authorize the employee to perform safety-sensitive functions (i.e., in the case of a pre-employment, return-to-duty, or follow-up test).

(3) However, as an employer, you must not direct a recollection for an employee because a test has been cancelled, except in the situations cited in paragraph (a)(2) of this section or other provisions of this part that require another test to be conducted (e.g., §§40.159(a)(5) and 40.187(b)).

(b) A cancelled test does not count toward compliance with DOT requirements (e.g., being applied toward the number of tests needed to meet the employer's minimum random testing rate).

(c) A cancelled DOT test does not provide a valid basis for an employer to conduct a non-DOT test (i.e., a test under company authority).