

Published in today's Federal Register is a Department of Transportation Final Rule:

## **Procedures for Transportation Workplace Drug and Alcohol Testing Programs**

In summary:

1. This Final Rule makes it mandatory for laboratories to test all DOT specimens for specimen validity (i.e., adulterants and urine substitutes) and for laboratories to follow all Department of Health and Human Resources (HHS) protocols for doing so.
2. Observed collections will afford less privacy in order to guard against employee use of items designed specifically to beat the testing process.
  - a. Directly observed collections will continue to occur only when there is a specific reason to believe that an employee may be attempting, or have sufficient reason, to evade the testing process.
  - b. Items such as prosthetic devices designed to carry clean urine will be checked for by observers with both male and female donors. The observer will have the employee raise and lower clothing, and then put it back into place for the observed collection.
  - c. Observed collections will now be required, rather than optional, for all return-to-duty and follow-up drug testing.
3. In an effort to thwart those who would manufacturer products designed to adulterate specimens, the Final Rule will no longer have easy-to-follow tables and charts outlining the adulterants for which laboratories are testing and the scientific cutoff levels at which laboratories are testing them.
4. Definitions in the Final Rule have been changed to harmonize with the HHS.
5. During an invalid result Medical Review Officer (MRO) review, an employee admission of adulterating or substituting a specimen is now a refusal to test.
6. Pursuant to MRO requests, the Final Rule will close the potentially endless loop on invalid specimen results; and employees requiring negative results [for example, pre-employment tests], when they have medical reasons for providing invalid results, will be able to obtain them through medical evaluations to rule out signs and symptoms of drug use.
7. The Final Rule will also streamline and simplify the potential myriad of complicated laboratory-confirmed and MRO-verified drug test results.

8. The Final Rule requires drug testing laboratories to report to DOT semi-annual statistical summaries on all of their DOT testing.

9. The Final Rule effective date is August 25, 2008.

To view/download the Final Rule, please [click here](#).