

USDOT Proposes Changes to Drug/Alcohol Testing

On November 25, 2008, the HHS revised their guidelines for Federal Workplace Drug Testing Programs. These revisions included requirements for collecting the testing urine specimens, requirements for the certification of Instrumented Initial Test Facilities (IITF), and expanding the roles of and standards for collectors and Medical Review Officers (MROs). The DOT promulgated specimen testing regulations back in 2000.

The recent notice of proposed rulemaking was issued among other reasons to create consistency with HHS' latest set of revisions and DOT regulations.

The most noteworthy proposals are as follows:

1. Correspond DOT's definitions with the HHS Mandatory Guidelines definitions.
2. Allow DOT employers to choose between a full service laboratory and an IITF.
3. Modify regulations to include IITF's in the laboratory section of 49 CFR Part 40 and specify how an IITF should perform urine testing.
4. Include the following laboratory testing requirements:
 - a. Conduct testing for methylenedioxyamphetamine (MDMA);
 - b. Conduct confirmatory testing for MDMA, methylenedioxyamphetamine (MDA), and Methylenedioxyethylamphetamine (MDEA);
 - c. Conduct initial testing for 6-Acetylmorphines;
 - d. Lower cutoff concentrations for Amphetamines and Cocaine in initial confirmatory tests.
5. Amend Appendix B so that IITF's will be required to report semi-annual test reports to employers, as appropriate. Amend Appendix C to require IITF's to report semi-annual test data to the DOT.
6. Require nationally recognized MRO certification entities or subspecialty boards for medical practitioners in the field of medical review to have their qualifications, training programs and examinations approved by HHS annually.

The DOT will accept comments beyond April 5, 2010 regarding:

1. Whether 49 C.F.R. §40 should require approval of MRO certification entities or subspecialty boards for medical practitioners.
2. Whether the DOT program would be better served if it sought a shared approval process with HHS.
3. Whether the requirement that MROs complete 12 Continuing Education Units pertaining to DOT and MRO practices every three years should be changed to instead require MROs to be recertified every five years by an MRO certification board or subspecialty board.

Should you have any questions, contact a Reminger office and ask to speak with a transportation attorney listed in this website under that particular office.

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