

Welcome

**DOT CHANGES EFFECTIVE
AUGUST 25, 2008**

SUMMARY ONLY

**PRESENTED BY
KRISTINA CONSULTING GROUP, LLC**

DOT

*OFFICE OF DRUG
& ALCOHOL
POLICY (ODAPC)*

*WWW.DOT.GOV/
OST/DAPC*

*FEDERAL MOTOR
CARRIER SAFETY
ADMINISTRATION
(FMCSA)*

*FEDERAL AVIATION
ADMINISTRATION
(FAA)*

*FEDERAL RAILROAD
ADMINISTRATION
(FRA)*

*PIPELINE & HAZARDOUS
MATERIALS SAFETY
ADMINISTRATION
(PHMSA)*

*FEDERAL TRANSIT
ADMINISTRATION
(FTA)*

Policy Content

- WHAT GOES IN A POLICY - DOT or Non-DOT
- Explain what the alcohol misuse rules are, who is affected by them, what testing is required, what conduct is prohibited, and what the consequences are for a violation

49 CFR Part 40

- Office of Drug and Alcohol Policy and Compliance (ODAPC)
- www.dot.gov/ost/dapc
 - 202.366.3784
- Provides specialized assistance and consultation
 - Secretary of Transportation
 - Operating Administrations
 - Employers and Service Providers

New DOT Urine Specimen Collection Guidelines

- Effective August 25, 2008
- October 31st, U.S Court of Appeals temp. delays Direct Observed for Follow-up & Return to duty until Nov. 01, 2008
- Delayed again Nov. 12th, Nov 20 40.67 changed in Federal Register until court final decision.
- DOT changed these to make it more difficult to beat the DOT drug tests.

Why change?

- There is ample evidence that more and more devices are available in the market place designed to tamper with specimens
- Many of these were designed to be undetected even if specimens were observed using the old procedures

Show and tell

1. One device has a long plastic tube connected to a bottle containing heated urine.
2. Another device consists of a short plastic tube attached to a battery-heated plastic bag
3. One device goes a step further by replacing the tube with very realistic prosthetic genitalia designed to match the employee's skin tone.

Whizzinator

- The two whizzes who created this device have plead guilty in U.S. District Court for conspiring to sell the whizzinator and dried urine.
- Busted have been actor Tom Sizemore
And former NFL running back Onterio Smith

DOT Do-si-Do/Hokey Pokey!

- You put your right foot in. You put your right foot out; You put your right foot in, An you shake it all about. You do the Hokey-Pokey, And you turn yourself around. That's what it's all about! (Roland Lawrence LaPrise, circa 1949)
- You must raise your shirt, You must drop your pants, And you shake it all about. You do the Hokey-Pokey, And you turn yourself around. That's what its all about (DOT 2008)

New procedures

- In effect 8-25-08 --all past reasons for direct observed stay in effect.
- New explanations and clarifications
- MRO determines direct observed when:
 - Creatinine levels are wrong (too high/too low)
 - Invalid tests
 - No split available when 1st sample suspect

Changes

- Return to duty and follow-up tests
 - Previously it was employer choice
 - New rules stated it was required-now employer choice
 - **However, a stay by the courts puts it back to **employer choice** for now.

Refusals

- Several reasons added here, needs to be in 11 points and policy. 382.601
 - Refusals
 - Direct observed changes
 - Prescription policy

Other changes

- New Terms and Revised Definitions
- Observed:
 - Employer responsibility to see that a second collection takes place under direct observed when:
 - The employee's urine test was cancelled because it was invalid
 - Responsibility for ensuring your collection sites are doing the hokey-pokey for all direct observed collections

Laboratory Procedures changed

- Validity testing required
- Adulterant cutoff concentrations
- Invalid criteria set
- What a laboratory reports
 - Negative
 - Non-negative
 - Rejected for Testing and why

Collector Responsible for Direct Observed:

- Out-of-temp
- Tampered-with
- Refuse to empty pockets
- Refuse to wash hands
- Admit to adulterating or having a prosthetic device
- Uncooperative with the process

Blind Specimens

- Changes for more quality control
- MRO involved with employer

MRO Functions changed

- Non-negative results
- 40.133 changes in interviewing or not interviewing the employee
- Negative or positive that is dilute (pre-emp)
- Invalid drug tests
- What does the MRO do when a valid test result cannot be produced and a negative result is required?

MRO changes

- What to do with multiple verified results for the same testing event?
- MRO reconfirmation of split samples (B vial)
- Split specimen clarifications
- Negative dilutes clarified
- Cancelled tests & when another test may be required.

Policy

- Need to refer back to your DOT written policy and the 11 points to make sure you cover these with employees.
 - Hokey Pokey and refusals in particular.

Implementation of nationwide drug and alcohol positive-test reporting

- Recommendation #5 of the Commercial Driver's License Program Review: Recommended Measures for Achieving the CDL's Program's Full Safety Potential
- Now by state and each has a different reporting method.

States as of Nov 18, 2008

The results will be reported by the MRO, carrier or in some states Third-party administrators.

- **Arkansas, New Mexico, Texas, North Carolina, South Carolina, Oregon and Washington**

States that have implemented a CDL suspension are:

- **California, North Carolina, South Carolina and Washington. California only the Carrier will report.**