



FLORIDA DRUG SCREENING  
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## NEWS YOU CAN USE—DOT REGULATORY UPDATE

### DRIVER TESTING REQUIREMENTS

#### KNOW YOUR TERMS



##### Substituted specimen :

*A specimen with creatinine and specific gravity values that are so diminished that they are not consistent with human urine.*

##### Adulterated specimen :

*A specimen that contains a substance that is not expected to be present in human urine, or contains a substance expected to be present but is at a concentration so high that it is not consistent with human urine.*

##### 49 CFR Part 40 :

*Main DOT regulation for drug & alcohol testing of DOT safety sensitive employees including those regulated by FMCSA, PHMSA, FAA, FTA, FRA and Coast Guard (the operating administrations or modes).*

##### Operating Administration :

*Sometimes called modes, these are the DOT agencies responsible to ensure that aircraft, trains, trucks, buses, etc are operated in a safe and responsible manner.*

Under the rules from the Federal Motor Carriers Safety Administration (FMCSA), those subject to the DOT FMCSA drug & alcohol program include Commercial Drivers License (CDL) holders who operate Commercial Motor Vehicles, 26,001 lbs. (gvwr.) or greater, or operate a vehicle that carries 16 passengers or more including the driver, or are required to display a DOT placard in the transportation of hazardous material. Remember, the tasks that one actually performs, qualifies them as a safety-sensitive employee, not the job title. Also, some employees, like managers and supervisors, may be qualified for these jobs but not currently performing them. Do they have to be tested as well? In most cases, yes...if that employee may be asked at a moment's notice or in an emergency to perform a safety-sensitive job.

All DOT drug testing is conducted using a urine specimen. A split specimen is collected and the laboratory analyzes the specimen for the presence of the following:

- Marijuana metabolites /THC
- Cocaine metabolites
- Amphetamines (including methamphetamine)
- Opiates (including codeine, heroin, morphine)
- Phencyclidine (PCP)



### QUESTIONS From the Email Bag:

#### Is there a list of prohibited drugs for being medically qualified to drive a commercial motor vehicle (CMV)?



Section 391.41(b)(12) states: A person is physically qualified to drive a CMV if that person does not use a controlled substance identified in 21 CFR 1308.11, Schedule I, an amphetamine, a narcotic, or any other habit-forming drug. **Exception:** A driver may use such a substance or drug, if the substance or drug is prescribed by a licensed medical practitioner who is familiar with the driver's medical history and assigned duties; and has advised the driver that the prescribed substance or drug will not adversely affect the driver's ability to safely operate a CMV. This exception does not apply to methadone.

Medical Examiners are required to give careful consideration to the effects of medications on a driver's ability to operate a CMV safely before rendering the driver qualified.

#### What Records Must an Employer Keep Regarding DOT Drug Test Results?

- An employer must obtain, pursuant to a driver's written consent, the driver's alcohol and drug testing records from previous employers.
- A previous employer, pursuant to a driver's written consent, must release a driver's alcohol and drug testing records to a prospective employer.
- Carriers must make all records related to the administration of their testing programs and individual test results available to agencies with regulatory jurisdiction.
- Requests shall be placed in driver's safety performance history file.

*Turn Over more info . . .*

### Compliance Tips:

**Post Accident** testing is a requirement, please keep a chain of custody form in all vehicles in order to expedite a test following a traffic accident – call Pat at 1-888-441-4599 to order special “Post Accident Kits” for all your vehicles.

**DER** - Designated Employer Representative – required by DOT, this is the main person responsible for the DOT drug/alcohol testing program with authority to remove an employee from a safety sensitive position for a violation of the drug/alcohol policy.

**Positive Drug Test** - A driver must be removed from safety-sensitive duty if he/she has a positive drug test result. Please call us for consultation if you have a positive test result or a refusal to test.

**Random Testing** - this is a serious requirement of the program and can result in violations if you are not completely in compliance. Give us a call if you have questions, help us to help you and stay in compliance.

**On Site Testing** -if you have a group of employees selected for random testing, we can come on site for specimen collection, just give us a call. This can save you time and money.

## Compliance Issues Employer is Responsible



**But**, we are here to help and want to ensure that you stay in compliance with the DOT regulations for Drug & Alcohol Testing. Please take advantage of our services designed to make your compliance a turnkey matter. Our random testing consortium service is one of the most critical ongoing aspects of the program.

Very often, DOT regulated employers are audited and are found to be out of compliance because of non-compliance with the random testing regulations. This may cause a fine or violation to be issued. It is important that the random testing program be maintained in complete compliance in order to avoid fines and violations when an audit occurs.

All safety sensitive employees must be eligible at each selection period and those selected must be tested in the same selection period as selected. It is not within the regulation to just pick another employee because possibly the employee selected is really busy on an important job.

To ensure that each of your drivers has an equal chance of being selected and tested, random testing pools must be established and maintained. A random testing pool may include any persons who are subject to random testing under any DOT rule, as decided by the employer. Likewise, a person who is subject to more than one rule may be included in more than one pool. For example, a person who works for a railroad company subject to both FRA and FMCSA rules may be included in two separate pools or in one pool, at the discretion of the railroad company. Non-Dot employees cannot be included in the DOT random testing pool.

The process is simple, yet often, not enough attention is paid to this task and it does not get done. Random testing can be done quarterly or monthly but it must not be predictable. The test dates must be spread reasonably throughout the year and should not establish a predictable pattern (e.g., the first Monday of each month).

At each selection period, we request an updated roster of your employees. You then provide the roster to us, and we do the computerized random selections. We notify you of who has been selected and it is your responsibility to send those selected employees in for specimen collection. If the person selected is no longer employed with your company, or on extended leave, we can pick an alternate if you let us know of this situation. Otherwise the test will be considered an open incomplete random test. At the end of the year we can provide a report verifying your compliance in the random testing program.

**Current FMCSA Random Testing Rates—10 % for Alcohol Testing and 50 % for Drug Testing**

## DON'T DROP THE BALL ON DOT \* STAY IN COMPLIANCE

Call FDS for help with any of these requirements:

- Pre-employment Testing
- Supervisor Reasonable Suspicion Training
- Post Accident Testing
- Employee Educational Materials
- Random Testing
- Written Policy Required
- Substance Abuse Professional
- Previous Employer Checks for Drug & Alcohol Testing History



**DOT & HIPAA**—49 CFR Part 40.355 clearly prohibits any service agent to require individuals to sign consents, releases, waivers, indemnifications, or any other form that is not part of the DOT procedures as defined in Part 40. HHS and DOT both agree that there is no conflict between the HIPAA and DOT rules. Service agents include Labs, TPA's, MRO's, Collectors, SAP's, and others entities involved in providing DOT drug & alcohol testing services.