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Part 40 Final Rule - DOT Summary of Changes

Today, November 13, 2017, the Department of Transportation (DOT) published a final rule in the Federal Register ([82 FR 52229](#)). The rule, among other items, added four semi-synthetic opioids (i.e., hydrocodone, oxycodone, hydromorphone, oxymorphone). It also added methylenedioxyamphetamine (MDA) as an initial test analyte and removed the testing for methylenedioxyethylamphetaime (MDEA).

When is the final rule effective?

The final rule is effective January 1, 2018.

What does this mean for employees?

You will **also** be tested for four semi-synthetic opioids (i.e., hydrocodone, oxycodone, hydromorphone, oxymorphone). Some common names for these semi-synthetic opioids include OxyContin®, Percodan®, Percocet®, Vicodin®, Lortab®, Norco®, Dilaudid®, Exalgo®. In addition, you will no longer be tested for MDEA.

What does this mean for employers and Consortium/Third Party Administrators (C/TPA)?

As an employer or C/TPA, you will no longer be required to submit blind specimens to laboratories.

What does this mean for urine collectors?

The shy bladder process has been modified so that the collector will discard any specimen provided during the collection event when the employee does not provide a sufficient specimen by the end of the three hour wait period.

What does this mean for laboratories?

As an HHS-certified laboratory you will:

- Add four semi-synthetic opioids: hydrocodone, oxycodone, hydromorphone; oxymorphone to your DOT testing panel;
- Add MDA as an initial test analyte;
- Remove testing for MDEA;
- Add three more fatal flaws to the list of reasons when a laboratory would report a 'rejected for testing' specimen; and
- Need to modify the reports [in Appendix B & C] you provide to employers and the DOT.

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What does this mean for Medical Review Officers (MRO)?

Several of your MRO drug test review processes have been modified. For example:

- The term 'prescription' has been clarified;
- You have authority to conduct D,L stereoisomer and THC-V testing; and
- The timing when you communicate a significant safety risk has been modified.

What does this mean for alcohol technicians?

The list of NHTSA-approved Alcohol Screening Devices and Evidential Breath Testing Devices will appear on ODAPC's website.

What does this mean for service agents?

- Collectors, alcohol testing technicians, MROs, and Substance Abuse Professionals will be required to subscribe to ODAPC's list-serve at:
https://www.transportation.gov/odapc/ListServe_Notices.
- Unauthorized use of DOT-branded items (such as logos or emblems) on a service agent's website, publications, etc., could be a basis for the DOT to initiate a Public Interest Exclusion proceeding.

What are some of the other changes to Part 40?

- The DOT added a new section reiterating that, in the DOT testing program, only urine specimens can be collected and analyzed at HHS-certified laboratories.
- The DOT added language further emphasizing the existing DOT prohibition on the use of DNA testing on DOT drug-testing specimens.
- The final rule made minor modifications to certain section headings.
- The final rule moved the list of Substance Abuse Professional certification organizations from the rule text to ODAPC's website.
- The final rule moved the MIS instructions from Appendix H to ODAPC's website.
- Outdated compliance dates were removed and links were updated.
- Appendices B, C, D, and H were updated.

Where can I find a copy of the final rule?

You can view the final rule on ODAPC's web site
www.transportation.gov/odapc/frpubs.

NOTE: This document informally summarizes some of the important effects of the rule, but it is not a substitute for the rule and should not be relied upon to determine legal compliance with the rule. ODAPC encourages affected entities, including employers and service agents, to review the final rule.

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