

New DOT Urine Specimen Collection Regulation Requiring Direct Observation

Effective August 25, 2008

The Department of Transportation has changed the observed collection procedures under the drug testing regulations. The new direct observation procedures require the observer to check for devices used to dilute or falsify results when an employee is subject to an observed collection. These new procedures are for those situations for which observed collections are already required. In addition, under prior rules, employees with prior positives or refusals gave the employer the option for testing under direct observation. The new rule makes the return to duty and follow up drug testing by direct observation mandatory. The following situations are where the testing will be by direct observation:

1. Employees with dilute specimens with creatinine in the 2-5 range.
2. Employees with invalid test results with no valid medical explanation.
3. Employees who tested positive, adulterated, or substituted and their split specimens were not available for testing [splits not collected; missing or destroyed in transit].
4. Employees who submit out-of-temperature range specimens or tampered-with specimens at collection sites.
5. Return-to duty and follow-up drug testing for employees with prior positives or refusals.

Paragraphs 1 through 4 above required direct observation collections under the prior regulations. **The new change makes paragraph 5 mandatory.**

The guidelines to the new rule state that employees who have observed collections must be instructed to raise clothing just above the navel; lower clothing to mid-thigh; then turn around to show they do not have prosthetic devices for beating the tests. If no device is detected, the employee is permitted to return clothing to its proper observed-collection position. Then the observed collection will take place. In all observations, the person must be the same gender as the employee providing the sample.

The following are considered refusals to test:

1. An employee admits to the collector that he or she adulterated or substituted their specimen.
2. The employee behaves in a confrontational way that disrupts the collection process.
3. The employee fails to follow the observer's instructions to raise and lower their clothing and to turn around to permit the observer to determine if the employee has a prosthetic or other device that could be used to interfere with the collection process.
4. The employee possesses or wears a prosthetic or other device that could be used to interfere with the collection process.
5. The employee refuses to wash his or her hands after being directed to do so.

Summary by Larry Mann July 19, 2008