



Medical Review Officer Reminder 49 CFR Part 40 Changes Effective October 1, 2010

We want to remind MROs to study the new rule and to pay special attention to sections in the preamble and rule text related to new MRO responsibilities regarding drug test results review and record keeping, in addition to the new MRO requalification training requirements.

About MRO requalification training, the preamble states:

“This regulation text lays out the requirements for when this new requalification training is to take place. MROs must maintain documentation about their qualification training and any subsequent continuing education. MROs would simply be required to complete the new requalification training and examination no later than five years from the date of having last met either their qualification training or continuing education requirements. Following the completion of the new requalification requirements, MROs will be required to complete requalification training and examination every five years thereafter.”

Three Examples for Current MROs:

1. If an MRO completed qualification training & passed an examination March 4, 2009, under the old rule, that MRO would need to complete the requalification training and pass an examination by March 4, 2014, under the new rule.
2. If an MRO completed qualification training & passed an examination August 16, 2007, and completed the required 12 hours of Continuing Education and assessment during the subsequent three years (by August 16, 2010) under the old rule, that MRO would need to complete the requalification training and pass an examination by August 16, 2015, under the new rule.
3. If an MRO completed qualification training & passed an examination November 3, 2007, and has not yet completed Continuing Education and assessment under the old rule, that MRO would need to complete the requalification training and pass an examination by November 3, 2012, under the new rule.

One Example for New MROs:

1. You must complete qualification training & pass an examination before you begin serving as an MRO, and 5 years afterward you will need to complete requalification training & pass an examination. Therefore, if a new MRO would complete qualification training & pass an examination on October 19, 2010, that MRO would need to complete the requalification training and pass an examination by October 19, 2015.

The new rule can be found at: <http://edocket.access.gpo.gov/2010/pdf/2010-20095.pdf> .

For additional clarification, please contact Mark Snider at 202 366 3784 or mark.snider@dot.gov .



DOT Drug Testing: On and After October 1, 2010 – Still a 5-Panel

The DOT testing at HHS-certified laboratories will continue to be a 5-panel drug test regimen, on and after October 1, 2010. The 5-panel regimen will remain:

- Marijuana (THC)
- Cocaine
- Amphetamines
- Opiates
- Phencyclidine (PCP)

Under Opiates, DOT testing has always included confirmatory testing, when appropriate, for Codeine, Morphine, and 6-AM (heroin). Under Amphetamines, DOT testing has always included confirmatory testing, when appropriate, for Amphetamine and Methamphetamine. To this Amphetamines group, we are adding initial testing for MDMA and confirmatory testing for MDMA, MDA, & MDEA.

Broken out, here's what drug testing will look like effective October 1st, with the confirmatory testing in **red** being new. [NOTE: Laboratories have always conducted confirmatory testing for 6-AM, when appropriate.]

- Marijuana (THC)
- Cocaine
- Amphetamines
 1. Amphetamine
 2. Methamphetamine
 3. **MDMA**
 4. **MDA**
 5. **MDEA**
- Opiates
 1. Codeine
 2. Morphine
 3. 6-AM (heroin)
- Phencyclidine (PCP)

What does this mean for collectors, laboratories, MROs, and employers on and after October 1st for DOT testing?

- Collectors will continue to check the 5-panel box in Step 1 of the CCF: That is, the box specified for "THC, COC, PCP, OPI, AMP."
- Laboratories will continue to report to MROs the specific drugs / drug metabolites they confirm as positive; and laboratories will be adding MDMA, MDA, and MDEA confirmed positives, as appropriate.
- Laboratories will add – on their semi-annual reports to DOT and their semi-annual reports to employers – MDMA, MDA, and MDEA confirmed positive totals, as appropriate, under Amphetamines.
- MROs will continue to report to employers the specific drugs / drug metabolite they verify as positive; and MROs will be adding MDMA, MDA, and MDEA verified positives, as appropriate.
- Employers will continue to provide – on their annual MIS reports – the number of verified positive drug test results in each testing category (i.e., Marijuana, Cocaine, Amphetamines, Opiates, and PCP).

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DOT Drug Testing: Employer DOT Policies – the Part 40 Changes

The DOT Agencies & United States Coast Guard (USCG) have provided guidance about what their regulated-employer DOT policies will need to contain about the changes to 49 CFR Part 40, which are effective October 1, 2010.

1. The Federal Transit Administration, Federal Motor Carrier Safety Administration, Federal Aviation Administration, Pipeline and Hazardous Materials Safety Administration, and USCG take this position:

There is no need for employers to make any changes if their current DOT policies refer to adhering to "... Part 40, as amended." However, there are some exceptions when an employer's DOT policy lists some of the following optional information:

- If sub-categories of drugs tested under the 5-panel are listed – for example, if a policy lists "Opiates (codeine, heroin, & morphine)" and/or "Amphetamines (amphetamine & methamphetamine), then "(MDMA, MDA, MDEA)" will need to be added to the list under Amphetamines. If however, employers would like to delete the sub-categories of drugs, doing so will also be acceptable.
- Likewise, if cut-off levels are listed in current policies, employers must update those cut-off levels. Again, employers may simply delete the cut-off levels completely and be in compliance if the DOT policy refers to adhering to "... Part 40, as amended."
- While these DOT Agencies and USCG suggest that companies provide written notice be provided to employees, doing so is a company's prerogative.

2. The Federal Railroad Administration (FRA) takes this position:

- FRA policy is to require employers to identify each drug and cutoff level in their DOT program policies and training materials. FRA expects changes reflecting the MDMA testing and the new cutoffs for Cocaine and Amphetamines to be posted in their next DOT policy re-write.
- Additionally, FRA has communicated with the industry about these changes, and has requested them to communicate these changes to labor and their employees before the October 1st change date.

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