

CRITICAL REMINDERS & CLARIFICATION:
D.O.T. DRUG TESTING
Sites and Procedures

August 2, 2012 – by Elizabeth L. Appl, Instructor

Required Identification of Employee: the “pat down” search

Pat down search: When is the employee to be tested subjected to a “pat down” search for items or devices brought into the testing center with intent to tamper with their specimen? **NEVER!** Can I say it once again: NEVER! It is very strange that from time to time a Collector will ask me this question. Clearly, if you are familiar with the 49 CFR Part 40, the U.S. Specimen Collector Guidelines, and also refer to any training materials you have received (from my course) – **it is very clear that a pat down search is not a procedure of a DOT drug (or alcohol) test.** If you are doing this – stop! This violation and noncompliance activity could easily subject a Collector to a Public Interest Exclusion (PIE).

Federal guideline language pertaining to a PIE and noncompliance: “...The Department therefore uses PIEs to exclude from participation in DOT’s drug and alcohol testing program any service agent who, by serious noncompliance with this part or other DOT agency drug and alcohol testing regulations, has shown that it is not currently acting in a responsible manner. ...”

Required Photo Employee Identification

Photo ID: The employee must provide, and you must request to see, a photo identification before testing procedures commence. The appropriate and **acceptable forms** of photo ID can be:

- A photo ID such as a drivers license, employee badge issued by the employer, or any other picture ID issued by a federal, state, or local government agency, or
- Identification by an employer or employer representative, or
- Any other ID allowed under an operating administration’s rules

Unacceptable forms of ID would include:

- Identification by a coworker or by another safety sensitive employee;
- A single non-photo ID as a SSN card, credit card, union or other membership card, pay voucher, voter registration card; or,
- A fax or photocopy of identification document

If the employee cannot produce positive identification via the acceptable forms (above), the Collector must contact the DER. The drug testing process cannot commence until positive identification has been obtained.

However, if an **owner/operator or other self employed** individual does not have the acceptable form of photo ID, the Collector should:

- record in the REMARKS section on the CCF that acceptable photo ID is not available;
- ask the owner/operator or self employed individual being tested for two items of identification bearing his or her signature (record this in REMARKS);
- then proceed with the collection;
- **compare signature on step 5** (copy 2) of the CCF when the individual places his or her signature there against the two forms of ID.

If the signatures are consistent, proceed.

If the signatures are inconsistent, proceed but not in the REMARKS section "signature ID is unconfirmed".

Employee's Initials

Be sure that the individual being tested places his or her initials on the tamper-evident seals (provided on the CCF) after they are placed onto the split and primary bottles (Bottles A and B).

Broken Seals on Bottles (A and B)

If tamper-evident seal(s) break:

- while being removed from the CCF or during application to bottle(s), Collector should take a new CCF and apply all information to it, noting in the REMARKS section about any seal breaking, and place the tamper-evident seal(s) perpendicular to original seals over the top of bottle(s). Draw a line through the ID # atop the original/damaged seal(s). Take care to completely destroy the original CCF (by shredding or tearing) and disposed of properly.

If the Collector inadvertently reverses the seals (placing the seal for Bottle A atop Bottle B and vice-versa) the Collector must make comment as to such in the REMARKS section of the CCF.

Copy 2 – MRO's Copy

When the Copy 2 is provided to the MRO via secured faxed or scanned image, **and** if Copy 2 is not mailed to the MRO, the Collector must retain the Copy 2 with the Copy 1 Collector's copy for 30 days. The purpose of retention this way is so that if the MRO's copy that was received via secured fax or scanned image becomes lost, the Collector will still have the MRO's Copy 2 on hand.

(MROs must provide a secure fax number for Collectors to use in submitting the Copy 2. Some MROs also want the Copy to hard-mailed as well, some do not.)

"Cheating" on a Drug Test

To review some of the devices and products sold on the market today that are intended to beat or cheat a drug test, visit any of the following:

- www.urineluck.com
 - www.detoxforless.com
 - www.thewhizzinator.com
- or search Youtube.

Directly Observed Collections: Prosthetic Devices

Please refer back to the file attachments you received along with this in the email sent to you today. I have provided a full page publication of the DOT that describes this type of collection, as well as describing in detail the procedures to follow and the language the Collector should use when asking the employee being tested to raise and lower clothing articles. I strongly recommend that Collectors post the page on the wall of the restroom used for testing for several reasons being:

- The poster reminds you as the Collector of important info and procedures concerning prosthetic devices;
- The Observer, when other than the trained Collector (in order to meet gender requirement in testing) will have easy access to the above info and procedures concerning prosthetic devices;
- The employee being tested will be assured that the Collector is following federal guidelines in the directly observed specimen collection process.
- Because a collection site may not experience having to perform Directly Observed collections on a regular or even frequent basis, having the posted page is an easy reminder of what to do concerning observing for prosthetic devices.

External Urine Bag (for Employee being Tested)

The following procedures should be used in the collection of a urine specimen from an employee who has a medical condition requiring an indwelling catheter or excretion of urine into an external bag. The urine specimen should be a freshly voided specimen. If an employee with an indwelling catheter may urinate directly into a collection container. In the case of an employee with an external bag, the employee should be asked to empty his or her bag in the privacy of a bathroom, show the empty bag to the collector, and then drink sufficient fluids at the collection site to provide 45 mL of urine, which can be subsequently poured by the employee from the bag into a collection container in the privacy of a bathroom. In this case, the temperature of the specimen would not be a critical factor. The collector should be keenly aware of the potential embarrassment that this type of collection can cause the employee and should conduct the collection with appropriate decorum.

This procedure would not have to be done in a medical environment/health clinic or by a collector of the same gender, although the collector may try to accommodate the employee (e.g., conduct the collection at a medical facility, have the same gender collector) if the employee requests this and if it would not significantly delay the collection process. If the employer is aware of this situation prior to the actual collection (e.g., because the employee had previously expressed a desire to provide the specimen in a medical setting, requested a same gender collector, told the employer about the medical condition and its impact on urine collection for drug testing), the employer (collection site) may establish or modify procedures as needed to permit the employee to provide a specimen in a way consistent with the employee's privacy while still meeting regulatory requirements. In the case of a collection based on a post-accident or reasonable suspicion requirement, the collector may attempt to honor the employee's request (for the collection to be conducted in a medical setting or for the collector to be the same gender) if the collection can be accomplished within a reasonable time frame.

The above scenario assumes that the employee's medical condition is not one that decreases or completely prohibits renal output, and that the employee can produce normal amounts of urine that is excreted into an external bag. Therefore, an employee with this or similar medical conditions would be subject to the same testing requirements (e.g., pre-employment, random) and to the "shy bladder" protocol (three hours and 40 ounces of fluids) as an employee with no medical condition. If an employee who normally voids in this manner declines to provide a urine specimen under these conditions, it would constitute a refusal to test.

Collection Site Security Poster

Refer back to the file attachments received with this notice today by email. I have provided a poster that you should display at your testing site. The FMCSA and other DOT agencies encourage employers and self employed drivers to look for this poster to be displayed by a collection site. You can also order the poster (free of cost) in both English and Spanish by visiting the DOT website at www.dot.gov. The actual poster is larger.