

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

The DOT Agencies & United States Coast Guard (USCG) have provided guidance to DOT-regulated employers about what their DOT policies will need to contain about the changes to 49 CFR Part 40, which are effective January 1, 2018.

1. The Federal Transit Administration, Federal Motor Carrier Safety Administration, Federal Aviation Administration, Pipeline and Hazardous Materials Safety Administration, Federal Railroad 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." However, there are exceptions when an employer's DOT policy lists 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, MDMA, MDA, MDEA), then "Opiates" needs to change to "Opioids (codeine, heroin, morphine, oxycodone, oxymorphone, hydrocodone, hydromorphone)" and "MDEA" will need to be removed from 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."
 - While these DOT Agencies and USCG suggest that employers provide written notice to employees about their updated DOT policies, doing so is an employer's prerogative.
2. This document replaces the previous Employer DOT Policies - Part 40 Changes notice from 2010.