

US Department of Transportation

Part 40 DOT Policies Notice

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.

December 1, 2017

Updated: Friday, December 1, 2017

Notice: Federal Drug Testing Custody and Control Form

On Monday November 13, 2017, the Department of Transportation (DOT) published a final rule in the Federal Register. The final rule, among other items, added four semi-synthetic opioids (i.e., hydrocodone, oxycodone, hydromorphone, oxymorphone) to our drug testing panel. It also added methylenedioxyamphetamine (MDA) as an initial test analyte and removed the testing for methylenedioxyethylamphetamine (MDEA).

When is the final rule effective?

The final rule is effective January 1, 2018.

Is there a revised CCF because of the additional drugs being added?

Yes, the Office of Management and Budget (OMB) approved a revised Federal Drug Testing Custody and Control Form (CCF). The revised CCF can be viewed at:

<http://www.reginfo.gov/public/do/DownloadDocument?objectID=73335901>

How will I know the difference between the revised and 'old' CCF?

The 'old' CCF is the one that has been used under the DOT-regulated program since 2010.

The revised CCF includes the following changes:

- **In Step 1D:**
 - Removal of the checkbox, the letters "DOT" and hash line in front of the text "Specify DOT Agency"
- **In Step 5A:**
 - Addition of four new analytes: oxycodone (OXYC), oxymorphone (OXYM), hydrocodone (HYC), and hydromorphone (HYM),
 - Removal of the analyte methylenedioxyethylamphetamine (MDEA).

When can I begin using the revised CCF?

- DOT-regulated employers and their service agents (collectors, laboratories, Medical Review Officers (MRO)) are authorized to use the revised CCF beginning January 1, 2018.
- As a laboratory, to avoid confusion about opioids testing prior to January 1, 2018 for DOT-regulated clients, and to allow you to deplete your existing supplies of old CCF's, we recommend as a best practice, that you not mail any revised CCFs to your DOT-regulated clients or their service agents until after January 1, 2018.

As a collector, after January 1, 2018 can I still use the ‘old’ CCF?

- Yes, OMB authorized, and you may choose to use, the ‘old’ CCF until June 30, 2018. When using the ‘old’ CCF between January 1, 2018, and June 30, 2018, a ‘memorandum for the record’ is not required. After June 30, 2018, if you use the ‘old’ CCF, you must complete a ‘memorandum for the record’ per §40.205(b)(2).
- After January 1, 2018, you may begin using the revised CCF. However, after June 30, 2018, you are *required* to use the revised CCF.
- We recommend that you monitor your existing supply of ‘old’ CCFs and coordinate the delivery of the new CCF with the testing laboratory.

If I use the ‘old’ CCF after January 1, 2018, what do I need to do differently?

- As a collector or MRO, there is nothing you need to do differently.
- As a laboratory, before transmitting a confirmed positive result for Oxycodone, Oxymorphone, Hydrocodone, and/or Hydromorphone to the MRO, in Step 5A of Copy 1, check the “positive” box and write in the specific drug analyte in the “Remarks” section.

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.

December 1, 2017.