

Management Alert



DOT Amends Employee Drug Testing Requirements

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Seyfarth Synopsis: On November 13, 2017, the Department of Transportation amended its drug testing program regulation which, among other things, adds certain semi-synthetic opioids to its drug testing panel.

The Department of Transportation (“DOT”) has published its long-awaited [final rule](#) amending its drug testing program for DOT-regulated employers. The new rule comes in the wake of the Department of Health and Human Services (“HHS”) revised “Mandatory Guidelines for Federal Workplace Drug Testing Programs” (found [here](#)) which became effective on October 1, 2017.

The new DOT rule makes the following significant changes:

- Adding four semi-synthetic opioids (hydrocodone, oxycodone, hydromorphone, and oxymorphone) to the drug testing panel, which is “intended to help address the nation-wide epidemic of opioid abuse” and create safer conditions for transportation industries and the public;
- Adding methylenedioxyamphetamine (“MDA”) as an initial test analyte because, in addition to being considered a drug of abuse, it is a metabolite of methylenedioxyethylamphetamine (“MDEA”) and methylenedioxyamphetamine (“MDMA”), and such testing potentially acts as a deterrent;
- Removing testing for MDEA from the existing drug testing panel;
- Removing the requirement for employers and consortium/third party administrators (“C/TPAs”) to submit blind specimens in order to relieve unnecessary burdens on employers, C/TPAs, and other parties; and
- Adding three “fatal flaws” to the list of when a laboratory would reject a specimen and modifying the “shy bladder” process so that the collector will discard certain questionable specimens.

The new rule goes into effect on January 1, 2018. Employers who comply with DOT standards when drug testing should modify their drug testing policies accordingly. Employers that are not subject to DOT requirements, but comply with the HHS Mandatory Guidelines for Federal Workplace Drug Testing Programs also should consider whether to modify their drug testing policies to comply with the new rules and guidelines.

If you have any questions about the new regulations or employee drug testing in general, please contact [Frederick T. Smith](#) at fsmith@seyfarth.com, [Jennifer L. Mora](#) at jmora@seyfarth.com, or [Christopher W. Kelleher](#) at ckelleher@seyfarth.com.

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Seyfarth Shaw LLP Management Alert | November 15, 2017

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