



Moving Public Transportation
Into the Future

United States Department of Transportation (USDOT)

Drug & Alcohol Regulatory Updates

December 12, 2017
National RTAP

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President

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REMEMBER!

- ◆ RLS/National RTAP ARE NOT officials or representatives of:
 - United States Department of Transportation (USDOT)
 - USDOT – Office of Drug & Alcohol Policy and Compliance (ODAPC)
 - Federal Transit Administration (FTA)
 - Any other USDOT – Agency
 - (i.e., FMCSA, FRA, FAA, PHMSA, etc.)

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Agenda

- ◆ Background
- ◆ Summary of Changes
- ◆ **Workplace Impact**
- ◆ Questions
- ◆ Additional Resources

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Action Items

- ◆ When you see a red star throughout this slideshow – this will indicate to you that there is a potential **ACTION ITEM** for your attention.



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Background

- ◆ “The What?”
 - 49 CFR Part 40 is USDOT’s D&A regulation covering testing procedures
 - Part 40 has been updated

- ◆ “The When?”
 - Jan 2017 – USDOT issued NPRM
 - Nov 2017 – Final Rule published in Federal Register
 - **Jan 1, 2018 – Effective Date for all changes**

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Background

- ◆ “The Who?”
 - Applicable to entire DOT industry (FTA, FMCSA, FRA, FAA, PHMSA, USCG, etc.)
 - ANYONE subject to 49 CFR Part 40
 - Employers, MROs, SAPs, Collection Sites, etc.

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Summary of Changes

- ◆ Drug Testing Panel Modifications
 - “Opiate” changes to “Opioid” ★
 - Four new opioids added to testing panel

Chemical Name	Common Brand Names
Hydrocodone	Norco® ; Vicodin® ; Lortab®
Hydromorphone	Dilaudid® ; Exalgo®
Oxycodone	Oxycontin® ; Roxicodone® ; Percocet®
Oxymorphone	Opana®

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Summary of Changes

- ◆ Drug Testing Panel Modifications (continued)
 - “MDA” added to screening test
 - “MDEA” removed
- ◆ Revisions / Updates to Terms & Definitions ★
 - **“DOT, the Department, DOT agency”**
 - Modified to encompass all DOT agencies, (FAA, FRA, FMCSA, FTA, PHMSA, NHTSA, OST, and any designee of a DOT agency)
 - Clarified USCG’s relationship with USDOT

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Summary of Changes

- ◆ Revisions / Updates to Definitions (continued) 
 - **“Drugs”** – modified to match the additions and revisions as discussed earlier


 - **“Alcohol Screening Device” & “Evidential Breath Testing Device (EBT)”**
 - List of approved devices now listed on ODAPC’s website (instead of in the federal register)

 - **“Substance Abuse Professional”**
 - List of qualified agencies for drug and alcohol counselor licenses/certificates will now be listed on ODAPC’s website


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Summary of Changes

- ◆ ODAPC List-Serve 
 - All service agents REQUIRED to “subscribe”

 - Sign-up via <https://www.transportation.gov/odapc/get-odapc-email-updates>

- ◆ Prohibition of Use of Federal Branding, etc. 

- ◆ Blind Specimen Testing No Longer Required

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Summary of Changes

- ◆ MRO Verification Process
 - Clarification of the term “*prescription*”
 - Prescription (Rx) must be consistent with Controlled Substances Act (CSA)
 - MRO-ordered additional testing
 - Authorized without prior ODAPC consent
 - Meth false positives due to Rx/OTC meds
 - Illicit THC vs. Marinol

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Summary of Changes

- ◆ MRO Rx Verification Process
 - MRO release of information – Medically unqualified / Significant safety risk
 - Step 1 – Verify test result
 - Step 2 - Initial MRO determination
 - MRO notifies employee of medically unqualified / significant safety risk
 - Step 3 - Five-days for prescribing physician to contact MRO
 - Employee facilitates contact

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Summary of Changes

- ◆ MRO Rx Verification Process (continued)
 - MRO release of information – Medically unqualified / Significant safety risk (continued)
 - Step 4 – Prescribing physician statement to MRO
 - Step 5 – Possible employer notification
 - Based on outcome of Steps 1 - 4

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Summary of Changes

- ◆ Urine Collection / Testing
 - Urine only allowable specimen (no blood, hair, sweat, etc.)
 - No DNA testing allowed
 - 3 new “Fatal Flaws” ★
 - No CCF with urine specimen at Lab
 - No urine specimen with CCF at Lab
 - Only if a specimen was actually collected
 - Two separate collections on only one CCF

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Summary of Changes

- ◆ Urine Collection / Testing (continued)
 - Insufficient “Questionable Specimens” - Always discard & remark

 - New CCF Changes
 - Removed “DOT” box in Step 1D
 - Revised list of drugs in Step 5A

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Summary of Changes

- ◆ Urine Collection / Testing (continued)
 - Use of “old” / “new” CCF
 - “New” CCF authorized for use Jan 1, 2018

 - Continued use of old CCF authorized through June 30, 2018

 - No ‘memorandum for the record required’ through June 30, 2018 for use of “old” CCF

 - “New” CCF **MUST BE** utilized July 1, 2018 

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Summary of Changes

- ◆ Other Minor Misc. Changes
 - Removal of outdated compliance dates
 - Minor editorial corrections
 - Update/revisions to weblinks
 - Revisions to Appendix items

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Workplace Impact

- ◆ Policy Revisions – USDOT REQUIRED ★
 1. Change “opiate” to “opioid”
 2. Remove (or edit) “breakdown” of 5-panel drug sub-categories
 3. Remove (or edit) drug cut-off levels
 4. Revise your “definitions” (if applicable)
 - ASD, EBT, SAP, DRUGS, USDOT

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Workplace Impact

- ◆ Policy Revisions – BEST PRACTICES (NOT REQUIRED BY USDOT)
 1. If your policy currently has a section on Rx/OTC medication use
 - Update to address MRO determinations of “Medically Unqualified / Significant Safety Risk”
 2. If your policy DOES NOT have a Rx/OTC medication use section
 - Consider adding a short paragraph

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Workplace Impact

- ◆ OTHER BEST PRACTICES (NOT REQUIRED BY USDOT)
(continued)
 1. Employee education
 - a) Summary of Regulatory changes
 - ODAPC has created a short notice to employees (see resources at end of slideshow)
 - b) Review the new policy
 - c) General discussion on prescriptions

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Workplace Impact

- ◆ OTHER BEST PRACTICES (NOT REQUIRED BY USDOT)
(continued)
 2. Service Agent education
 - a) Summary of Regulatory changes
 - b) Make sure they have a copy of the revised regulation
 - c) Give them the link on how to sign-up for ODAPC's List Serve
 - Require evidence that they actually signed up for ODAPC's List-Serve

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Workplace Impact

- ◆ “Medically Unqualified / Significant Safety Risk”
 - Final word is the **MRO's DISCRETION**
 - What are the REAL implications?
 - Access to prescribing physician
 - Expiration of Rx
 - No recent contact to prescribing physician
 - What to do when/if you get the phone call
 - This is 100% employer's determination (No USDOT regulation)
 - Unless USDOT - CDL medical standards apply

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Workplace Impact

- ◆ “Medically Unqualified / Significant Safety Risk” 
 - Employers should be pro-active in creating a “Fitness-for-duty/Wellness” policy (NOT A USDOT REGULATION)
 - Legal/Union/Collective Bargaining Concerns

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Questions

- ◆ Any questions asked but not answered during webinar will be addressed with a Post-Webinar “Q&A Summary” Document
- ◆ If you have questions after the webinar:
 - Email info@nationalrtap.org
- ◆ Possible Follow-up National RTAP Webinar
 - January 2018
 - Fitness-for-duty concerns and best-practices

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Resources

- ◆ A recording of this webinar will be available through National RTAP's website
- ◆ National RTAP will be providing a version of these slides to webinar attendees

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Resources

- ◆ USDOT - ODAPC Resources
 - **Final Rule:** <https://www.gpo.gov/fdsys/pkg/FR-2017-11-13/pdf/2017-24397.pdf>
 - **Brief summary of changes:** [https://www.transportation.gov/odapc/Part 40 Final Rule Summary of Changes](https://www.transportation.gov/odapc/Part%2040%20Final%20Rule%20Summary%20of%20Changes)
 - **CCF Notice:** [https://www.transportation.gov/odapc/Notice_CCF_December 2017](https://www.transportation.gov/odapc/Notice_CCF_December_2017)
 - **Policy Notice:** [https://www.transportation.gov/odapc/Part 40 DOT Policies Notice 2017](https://www.transportation.gov/odapc/Part%2040%20DOT%20Policies%20Notice%202017)
 - **Employee Notice:** [https://www.transportation.gov/odapc/Part 40 DOT Employee Notice 2017](https://www.transportation.gov/odapc/Part%2040%20DOT%20Employee%20Notice%202017)

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