

Drug and Alcohol Program Updates

**Oregon Department of
Transportation**

2009 Fall Conference

**Presented by:
Robbie L. Sarles**

October 2009

RLS & Associates, Inc.

Course Objectives

- ▶ To provide participants with information on the changes to 49 CFR Part 40
- ▶ To discuss the changes in detail and answer questions

42

49 CFR Part 40

- ▶ Revisions to Part 40 went into effect on August 25, 2008
- ▶ Mandatory direct observation for return-to-duty and follow-up testing went into effect on August 31, 2009
- ▶ Drug and Alcohol Policy must be amended to reflect regulatory revisions.
 - 49 CFR Part 40, as amended
- ▶ Employees must receive notice of changes to policy.

43

Specimen Validity Testing Definitions

- ▶ Adulterated- Not a normal constituent or contains endogenous substance at a concentration that is not a normal physiological concentration.
- ▶ Diluted- Diluted specimens have creatinine and specific gravity values that are lower than expected for normal human urine.

44

Specimen Validity Testing Definitions

- ▶ Substituted- Not human urine
- ▶ Invalid- Unidentified adulterant, unidentified interfering substance, abnormal physical characteristic, or lab can not complete testing.

45

Regulatory Changes- Validity Testing

- ▶ Specimen validity testing will be conducted on all urine specimens provided under DOT authority.
 - Validity testing is the evaluation of the specimen to determine if it is consistent with normal human urine (i.e. adulteration, dilution, and substitution)
 - The purpose of validity testing is to determine whether certain adulterants or foreign substances were added to the urine, if the urine was diluted, or if the specimen was substituted.

46

Regulatory Changes- Split Specimen Testing

- ▶ Employees do not have access to a test of their split specimen following an invalid result.

47

Regulatory Changes- Test Refusals

- ▶ Failure to follow the observer's instructions during an observed collection including instructions to raise your clothing above the waist, lower clothing and underpants, and to turn around to permit the observer to determine if you have any type of prosthetic or other device that could be used to interfere with the collection process.

48

Test Refusals (Continued)

- ▶ Possess or wear a prosthetic or other device that could be used to interfere with the collection process
- ▶ Admit to the collector or MRO that you adulterated or substituted the specimen

49

Regulatory Changes- Observed Collections

- Observed collections are required in the following circumstances:
 - All return-to-duty tests (effective 8/31/2009)
 - All follow-up tests (effective 8/31/2009)
 - Anytime the employee is directed to provide another specimen because the temperature on the original specimen was out of range of 90-100 degrees.
 - Anytime a the employee is directed to provide another specimen because the original specimen appeared to have been tampered with.

•10

Observed Collections (Continued)

- Anytime a collector observes materials being brought into the collection site or the employee's conduct clearly indicates an attempt to tamper with a specimen.
- Anytime the employee is directed to provide another specimen because the laboratory reported to the MRO that the original specimen was invalid and the MRO determined that there was not an adequate medical explanation for the result.
- Anytime the employee is directed to provide another specimen because the MRO determined that the original specimen was positive, adulterated, or substituted, but had to be cancelled because the test of the split specimen could not be performed.

•11

Observed Collection Conduct

- › The employee who is being observed will be required to raise his or her shirt, blouse, or dress/skirt, as appropriate above the waist; and lower clothing to show the collector, by turning around they do not have a prosthetic device.

•12

Regulatory Changes- Negative Dilute

- ▶ The employer must make the determination whether or not to retest an employee after a negative dilute test result.
 - Negative Dilute- a drug test result which is negative for the five drug metabolites but has a specific gravity value lower than that expected for human urine.
- ▶ Following a negative dilute test result the employee will undergo another test. Should this second test result be negative dilute, the test will be considered negative dilute and no additional testing will be required unless directed to do so by the MRO.

•13

Regulatory Changes- Lab Reports

- ▶ Laboratories must provide the DOT with semi-annual reports providing the following:
 - Statistical summaries of their DOT testing results
 - Clarification of their blind specimen quality control measures to include adulterated and substituted specimens.

•14
