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## May 2023 Newsletter

### **Important DOT Update: Part 40 Final Rule - Effective June 1st, 2023**

On May 02, 2023, the Department of Transportation (DOT) published a final rule in the Federal Register ([88 FR 27596](#)). This final rule, among other items, amends the DOT's regulated industry drug testing program to include oral fluid testing.

#### When is the final rule effective?

The final rule is effective June 1, 2023.

#### Can anyone implement DOT-regulated oral fluid testing on the effective date?

- Not yet!
- DOT oral fluid testing cannot be implemented until the Department of Health and Human Services (HHS) certifies at least two laboratories (one to serve as a primary laboratory, and a second to serve as a split specimen laboratory).
- Check here for the listing of HHS certified laboratories <https://www.transportation.gov/odapc/labs>.

#### What does this mean for employers?[2]

- You, not the employee, choose the collection methodology for the test reason (e.g., randoms will start with urine; follow-ups will use oral fluid).
- You, not the employee, choose the collection methodology for the subsequent collection following a shy bladder, dry mouth, or other test that requires a directly observed collection.
- Ensure you have business relationships with the oral fluid collectors and labs, whether directly or through your service agents.
- It is a best business practice to have a standing order in place with each of your collection sites, so they know what kind of collection you want performed (i.e., urine or oral fluid) and when.
- Designated Employer Representatives have always been required to be available to the collectors 24-7, but that is even more important now.
  - Ensure your phone number is correct on the CCF so the collector can reach you.
  - You need to be available to the collector to discuss if there are problem collections.
  - You should always be available to discuss standing orders on what type of test you want administered if problem collection scenarios arise (e.g., if an employee does not provide a sufficient urine specimen, do you want the collector to switch to an oral fluid collection?).
- It is the employer's duty to determine whether a refusal has occurred at the collection site. Employers have never been able to delegate this duty. So, a collector can tell you something appears to be a refusal, but the final determination is yours.
  - Remember, if an employee does not appear for a pre-employment drug test or leaves the collection site before receiving a cup (for a urine collection) or unwrapping the device (for an oral fluid collection) it is not a refusal.



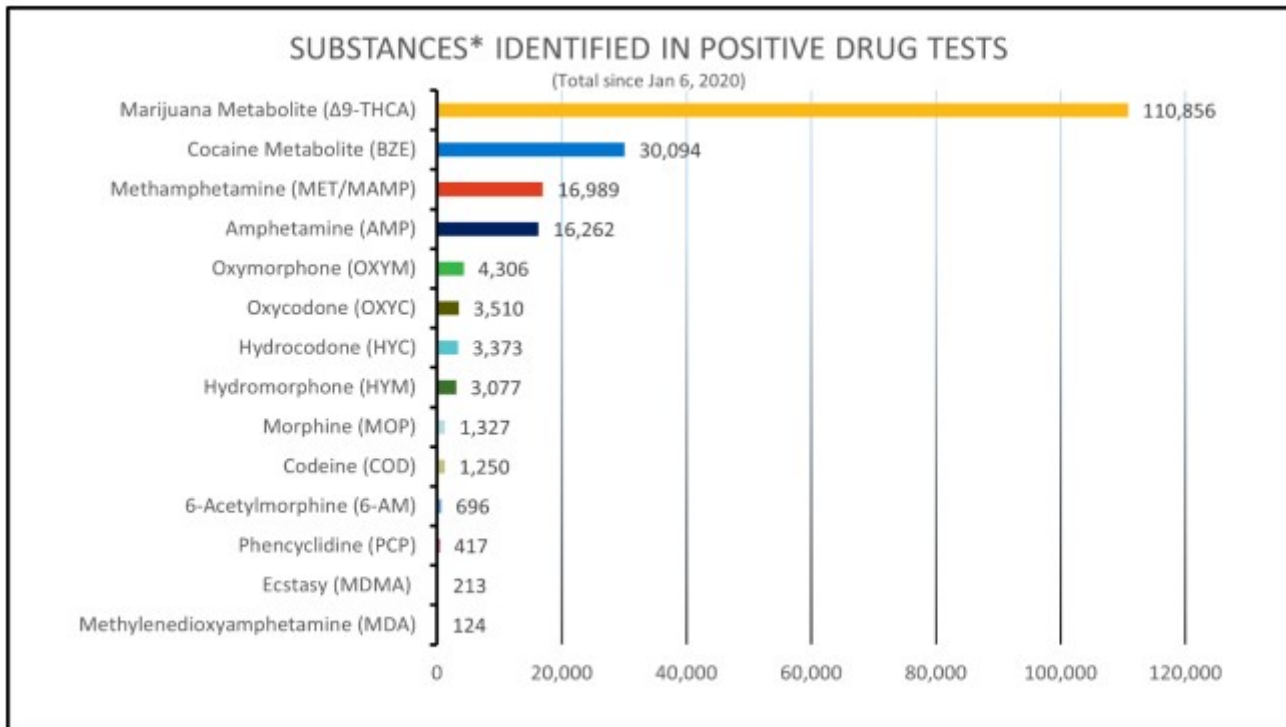
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### Did you know?

Random Selections are now housed on our new client portal. Our goal is making your Drug and Alcohol Testing program seamless, more accessible and easier to manage. You are able to download and update active employee lists, view and print random selection notifications, and make changes to your company information. New portal link: [wpcidrugfree.testchecks.com](http://wpcidrugfree.testchecks.com)

### Clearinghouse Monthly Report



### FMCSA Clearinghouse Queries

WPCI wants to give a friendly reminder about your annual queries that are required to be completed once every 365 days per FMCSA regulations. Please keep in mind, **WPCI will not run or report any information into the Clearinghouse without consent from you the Company.** Please reach out to our Clearinghouse team with any questions you may have. You can call 308-632-7411 or email [clearinghouse@wpcidrugfree.com](mailto:clearinghouse@wpcidrugfree.com)



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### WPCI Mission Statement

Western Pathology Consultants, Inc. (WPCI) is a team of highly motivated, empowered professionals committed to being The Nation's Premier Comprehensive Drug Program Administrator. WPCI provides high quality, competitively priced services in a timely manner with the utmost attention to detail. We deliver these services exceeding industry standards and in accordance with high ethical principles. While meeting the needs of customers, employees, and shareholders, we communicate with individuals at all levels, seeking first to understand then to be understood. We take great pride in our opportunity to enhance public awareness of substance abuse and contribute to our country's goal of a "Drug Free America".