

# DIRECT OBSERVATION TESTING PROCEDURES

## *DOT 49CFR Part 40*

*Due to reasonable suspicion purposes, an employer may request an "Observed" collection be conducted under the guidelines of CFR 40.67 with no advance notice to the employee. The employer must explain to the employee the reason for a directly observed collection.*

*Effective August 31, 2009*

*Direct Observation for all DOT Return-to-Duty and Follow-Up drug testing becomes mandatory rather than remain an employer's option.*

1. *DOT's 49CFR Part 40 directly observed collections are authorized and required only when:*
  - *The employee attempts to tamper with his or her specimen at the collection site.*

*The specimen shows signs of tampering – unusual color / Oder / characteristic; or*  
*The collector finds an item in the employee's pockets or wallet which appears to be brought into the site to contaminate a specimen: or the collector notes conduct suggesting tampering.*
  - *The Medical Review Officer (MRO) orders the direct observation because:*

*The employee has no legitimate medical reason for certain atypical laboratory results; or*  
*The employee's positive or refusal adulterated / substituted test result had to be cancelled because the split specimen test could not be performed (for example, the split was not collected).*
  - *The employer orders direct observation for a Follow-Up test or a Return to Duty test.*
2. *If the collector is not the observer, the collector must instruct the observer about the procedures for checking the employee for prosthetic or other devices designed to carry "clean" urine and urine substitutes AND for watching the employee urinate into the collection container.*
  - *The observer requests the employee to raise his or her shirt, blouse or dress / skirt, as appropriate, above the waist, just above the navel, and lower clothing and underpants to mid-thigh and show the observer, by turning around, that the employee does not have such a device.*

*Failure of the employee to permit any part of the direct observation procedure is a REFUSAL TO TEST.*