

Regarding 40.207(b). I represent a pipeline operator in labor arbitration where the union has protested every discharge resulting from a DOT drug test. Regardless of the truth, the union alleges a failure of the company to literally comply with all the regulations; e.g., the toilet water wasn't blue, the faucets weren't taped, the collector did not check the donor's photo id. By the time the grievance gets around to arbitration, the collector is unavailable, nor could he be expected to remember events 3 or 4 years earlier where he has collected thousands of urine samples. Both the collector and donor signed the respective certifications on the Control Form. The Union hopes that the Arbitrator will require full literal compliance rather than substantial compliance, i.e., any error could not adversely effect the interests of the donor. The proposed Section 207(b) goes a long way to correcting this abuse of the regulations by the union which is philosophically opposed to drug-testing. I would suggest language to the effect that not only should a test not be cancelled due to an insignificant error but also that such errors standing alone could not possibly produce a false positive and that the results should be deemed to be valid. If it is the public policy of the United States that individuals who use illegal drugs should not work in safety-sensitive positions, then that public policy is violated when such a drug-using individual is reinstated solely because the collector forgot to add bluing agent to the toilet water. I recommend that the regulations so state.