

U.S. Department of Transportation Office of the Secretary



Office of Drug and Alcohol Policy and Compliance



What Employers Need to Know About DOT Drug and Alcohol Testing *[Guidance and Best Practices]*



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If you employ safety-sensitive workers who must have Department of Transportation (DOT) drug and alcohol tests, or you manage a DOT drug or alcohol testing program, this publication can **help you understand** how to run an excellent program.

This guidance document does not have the force and effect of law and is not meant to bind the public in any way. This guidance is intended only to clarify existing requirements under the law and is for **educational purposes only**. This booklet is a companion to our earlier publication for employees, “What Employees Need to Know About DOT Drug & Alcohol Testing.”

This version contains minimal graphics and formatting to ease transmission and downloading of the document from the Internet.

For questions about the rules, please contact the Office of Drug and Alcohol Policy and Compliance at 202.366.3784 or e-mail us from our website at <https://www.transportation.gov/odapc/>. You can also find contact information for the individual DOT Agency and United States Coast Guard drug and alcohol program managers on the same site.

What Employers Need to Know About DOT Drug and Alcohol Testing *[Guidance and Best Practices]*

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Section I. DOT Program Implementation and Regulations

As an employer, do I have to do DOT testing?

Yes, if you or your employees are subject to the DOT drug and alcohol testing regulations. The DOT Agencies and the U.S. Coast Guard have regulations that require certain employers to comply with drug and alcohol testing rules. To check if your company is covered, you can go to a feature on our website called, “Am I Covered?” <https://www.transportation.gov/odapc/am-i-covered#no-back>.

The following chart sets out the general types of employers our rules cover:

	DOT Agency (as defined in Part 40)	Regulation	Industry
FMCSA	Federal Motor Carrier Safety Administration	49 CFR Part 382	Motor Carrier
FAA	Federal Aviation Administration	14 CFR Part 120	Air Carriers or operators and certain contract air traffic control towers
FRA	Federal Railroad Administration	49 CFR Part 219	Rail
FTA	Federal Transit Administration	49 CFR Part 655	Public Transportation
PHMSA	Pipeline and Hazardous Materials Safety Administration	49 CFR Part 199	Operators of pipeline facilities and contractors performing covered functions for the operator
USCG	US Coast Guard, [Department of Homeland Security]	46 CFR Parts 4 & 16	Maritime

I'm an owner-operator who operates a commercial motor vehicle (CMV) on public roads that requires a commercial driver's license (CDL). Am I subject to FMCSA's drug/alcohol regulations?

Yes, any person operating a commercial motor vehicle (CMV) in intrastate or interstate commerce is required to participate in a DOT drug & alcohol testing program. Owner-operators must register with a consortium and participate in the consortium's random testing pool. A Consortium/Third-Party Administrator (C/TPAs) is an entity that manages all, or part, of an employer's DOT drug and alcohol testing program.

What is 49 CFR Part 40 and how is it different from DOT Agency-specific regulations?

49 CFR Part 40, or "**Part 40**" as we call it, is a DOT-wide regulation that states **how to conduct testing and how to return employees** to safety-sensitive functions after they violate a DOT drug and alcohol regulation. Part 40 applies to all DOT-required testing, regardless of what DOT agency-specific rule applies to an employer. For example, whether you are an airline covered by FAA rules or a trucking company covered by FMCSA rules, Part 40 procedures for collecting and testing specimens and reporting of test results apply to you.

Each DOT **Agency-specific regulation** defines who is subject to testing, when, and in **what situations** for a particular transportation industry.

Where can I get a copy of Part 40 and the DOT Agency-specific regulations?

You can view or download them from our website at <https://www.transportation.gov/odapc/part40>.

Is there a website that gives me easy access to all the DOT's program requirements?

Yes. Most things you and others who help you with your program need to know about the **drug and alcohol testing requirements** are available on our website. For employer-specific items, look for the "Employer" page <https://www.transportation.gov/odapc/employer>.

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Section II. Identifying Employees Needing to Be Tested

Who are covered/regulated employees and why are they tested?

Pilots, truck drivers, subway operators, ship captains, pipeline controllers, airline mechanics, locomotive engineers, and bus drivers are just some of the transportation workers that we depend upon to be as clear-headed and as alert as possible at all times. As a safety agency, the DOT can demand nothing less. Use of prohibited drugs and misuse of alcohol are not compatible with performing these vital functions. The history of our program began with some fatal accidents that were caused, at least in part, by prohibited drug use and/or alcohol misuse. As a result, Congress passed a law – the [Omnibus Transportation Employees Testing Act of 1991](#) – that required DOT Agencies to test safety-sensitive transportation workers.

This table lists the types of covered/regulated employees subject to DOT drug and alcohol testing:

Transportation Industry	Covered/Regulated Employee
Commercial Motor Carriers (FMCSA)	A person who <i>operates (i.e., drives)</i> a Commercial Motor Vehicle (CMV) with a gross vehicle weight rating (GVWR) of 26,001 or more pounds; or is designed to transport 16 or more occupants (to include the driver); or is of any size and is used in the transport of hazardous materials that require the vehicle to be placarded.
Railroad (FRA)	<p>A person who performs covered service (subject to <i>hours of service laws</i>) functions at a rate sufficient to be placed into the railroad's random testing program. Categories of personnel who normally perform these functions are <i>locomotive engineers, trainmen, conductors, switchmen, locomotive hostlers/helpers, utility employees, signalmen, operators, and train dispatchers.</i></p> <p>In addition, a person who performs a <i>maintenance-of-way/roadway worker</i> function (as defined in 49 CFR § 214) who are employees or contractors of a railroad, have a potential to foul the track, and perform a regulated function such as <i>inspection, construction, maintenance or repair of railroad track, bridges, roadway, signal and communication systems, electric traction systems, roadway facilities or roadway maintenance machinery on or near track, as well, flagman and watchmen/lookouts.</i></p> <p>Further, a person (employee or contractor of a railroad) who, on behalf of a railroad, performs <i>mechanical tests or inspections</i> required by Parts 215, 221, 229, 230, 232, 238, or 299 on railroad rolling equipment, or its components.</p>
Public Transportation (FTA)	A person who performs a <i>revenue vehicle operation; revenue vehicle and equipment maintenance; revenue vehicle control or dispatch (optional); Commercial Drivers License non-revenue vehicle operation; or armed security duties.</i>
Pipeline (PHMSA)	A person who performs on a PHMSA-regulated pipeline or liquefied natural gas (LNG) facility an <i>operation, maintenance, or emergency-response function.</i>

Transportation Industry	Covered/Regulated Employees
Aviation (FAA)	<p>A person who performs <i>flight crewmember duties, flight attendant duties, flight instruction duties, aircraft dispatch duties, aircraft maintenance or preventive maintenance duties; ground security coordinator duties; aviation screening duties; air traffic control duties, and operations control specialist duties directly or by contract, for an employer.</i></p> <p>FAA defines an employer as a part 119 certificate holder authorized to operate under parts 121 and/or 135, an operator defined in 14 CFR § 91.147, and <i>air traffic control</i> facility not operated by the FAA or by or under the U.S. Military. Refer to FAA's guidance alert for safety-sensitive functions.</p>
Maritime (USCG) [Follows Part 40 only for drug testing.]	<p>A person who is on board a vessel acting under the authority of a <i>license, certificate of registry, or merchant mariner's document</i>. Also, a person <i>engaged or employed on board a U.S.-owned vessel and such vessel is required to engage, employ,</i> or be operated by a person holding a license, certificate of registry, or merchant mariner's document.</p>

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Section III. Program Policies and Assigning Responsibilities

Do employers need to have written policies¹ that explain their program?

Yes. The DOT Agencies require employers covered under their regulations to have policies in place that fully explain their drug and alcohol program. Not only must you have policies, but you must also make them available to employees covered under your DOT program.

As of June 1, 2023, oral fluid drug testing was added to DOT’s drug testing program. As an employer, you will have to make certain decisions about your DOT drug testing program. We will discuss oral fluid testing throughout the document, but you must decide which testing methodology or combination of methodologies you will use.

If you authorize oral fluid testing, you will need to state the testing events (e.g., pre-employment, random, follow-up, etc.) for which an oral fluid collection may occur. Also, your company policy will need to state whether oral fluid collections will be authorized for shy bladder situations and direct observation collections.

IMPORTANT!!

- It is advisable for an employer to have a “**standing order**” in place so a collector will know what type of specimen (urine or oral fluid) to collect and under what circumstances (e.g., shy bladder, direct observation, follow-up testing).

If you decide to authorize oral fluid testing, and if your current policy refers only to “urine” specimens, that policy will need to be updated to refer both “urine and/or oral fluid” specimens.

- You can find DOT Agency policy requirements in [Appendix A](#) of these guidelines.

You will need to ensure your employees are aware of the changes you are implementing to your drug and alcohol program.

What is a DER and what does a DER do?

The Designated Employer Representative (DER) is your key employee for many drug and alcohol program functions. The DER must be a company employee. **DERs cannot be contractors or service agents.** The only exception is when C/TPAs function as DERs for owner-operator truck drivers.

The DER gets test results from the Medical Review Officer (MRO) and Breath Alcohol Technician (BAT) and takes immediate action to remove employees from their safety-sensitive function when they violate drug and alcohol testing rules, such as testing positive or refusing a test. A company may have more than one DER to ensure adequate coverage on all shifts and at all locations, with perhaps a drug and alcohol program manager to coordinate the entire program and assure consistency among DERs. As an

1. DERs should be readily available.
2. To ensure good coverage, a best practice is to have multiple

¹ PHMSA regulations require a written anti-drug plan not a drug policy, so all references to “policies” in this document apply to PHMSA written anti-drug plans, not to a drug policy.

employer, you **must give your service agents the DER's contact information** in case they need to speak directly with the DER without delay.

The DER should have **knowledge of** and **authority to make decisions** about the testing process and be able to answer questions about it. Again, the primary job of the DER is to ensure the appropriate and timely removal of an employee from safety-sensitive functions if necessary. **The DER will be contacted if a “standing order” does not exist for a direct observation collection or collections that require a second collection during the same testing event.** Another job of the DER is to make decisions on whether circumstances at a collection site warrant determining that an employee has refused to test. Determining if an employee has refused to test is discussed in more detail on pages 27-31.

What options do employers have when administering DOT drug and alcohol testing programs?

There are three general ways in which you can run your DOT drug and alcohol testing program:

Option 1: Administer the program internally. You have your own urine and/or oral fluid specimen collectors and Screening Test Technicians (STTs) / BATs, MROs, and Substance Abuse Professionals (SAPs) and support staff to run the program. The testing laboratory would be the only part of your program outside your own organization. If you are adding oral fluid to your drug testing program, you will need to use an HHS-certified laboratory that processes oral fluid specimens.

Option 2: Outsource some of the program functions to service agents. For example, you could have your own MRO and SAP but contract with urine and/or oral fluid specimen collectors and STTs / BATs to perform the collections, while keeping a support staff to run the program.

Option 3: Outsource all of the program's functions to a vendor, called a “consortium” or a “third-party administrator” (C/TPA), with only a DER and the DER's support staff, if any, remaining in-house. Such vendors are also considered to be “service agents.”

Remember, as an owner-operator in the motor carrier industry, FMCSA regulations require you to belong to a C/TPA to ensure your compliance with random testing requirements.

Can employers have their own company testing program in addition to a DOT testing program?

Yes, you may have your own “company authority/(non-DOT)” testing program, if permitted under state and local laws. Under a non-DOT program, you could test for drugs of your choosing and/or use specimen types other than urine or oral fluid.

However, you would need to follow Part 40 and the appropriate DOT Agency regulations and **totally separate your DOT testing from your non-DOT company policy testing.** For example:

- If you conduct DOT and non-DOT tests of an employee following an accident, you must ensure that the DOT collection for drugs and DOT test for alcohol are accomplished first. Then you would let the employee know the DOT portion was completed and that you will now be conducting a company policy test.
- You must not use the Federal Drug Testing Custody and Control Form (CCF) or the DOT Alcohol Testing Form (ATF) for your non-DOT testing. You would use non-Federal and non-DOT forms.

Be sure your company supervisors and collection personnel know the difference between a Federal and non-Federal (non-DOT) drug and alcohol testing form and know when to use one over the other.

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Section IV. Selecting Service Agents and Their Roles

What is a service agent and how can a service agent assist an employer?

A **service agent** is any person outside your company that **provides services to employers and/or employees** in connection with DOT drug and alcohol testing requirements. These might include a urine and/or oral fluid collector, BAT, STT, a laboratory, MRO, SAP, or C/TPA in charge of coordinating your testing services, as well as people you hire to audit your program.

You can use a service agent to administer part or all of your DOT drug and alcohol testing program. **If you use a service agent, you should take a “hands-on” approach,** and you should not assume the service agent will do everything right.

- Are your service agents qualified?
- When was the last time you checked their training records and the quality of work they do?
- When was the last time you talked with the MRO or SAP?

Also, all service agents under Part 40 are required to **subscribe to the ODAPC list-serve** https://www.transportation.gov/odapc/ListServe_Notices for important updates.

While subscribing to the ODAPC list-serve is not required for employers, it will help you to stay aware of any changes or updates to the DOT drug and alcohol testing program.

Should an employer enter into a contract with a service agent?

It is up to you whether to use a service agent. If you use service agents, Part 40 does not require a written contract, but **having a written contract makes good business sense**. A contract should include how and where services will be provided, prices, and who will do what and when. To protect yourself, you should include a provision in the contract that allows you to replace the service agent if the service agent isn't providing services that comply with DOT rules.

Some **best practices** are:

- Stay in touch with your service agents. There is nothing wrong with having monthly or quarterly meetings to ensure they are keeping you in compliance.
- Audit the work of your service agents from time to time.

Be a smart buyer. You should ask questions to ensure the service agent is providing the kind of service you want and need. For example, if a C/TPA is providing a network of collection sites, random selections and MRO services, here are some things to consider:

- Will the C/TPA verify the qualifications of the collectors and evaluate the integrity of the collection sites?
- Will it act as an intermediary in resolving collection site issues?

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- Will the C/TPA use a scientifically valid way of making selections for random testing?
- How often will the C/TPA perform random selections?
- How quickly does the C/TPA's MRO provide results after a test?

For important **pointers for selecting service agents**, see [Appendix C](#) of these guidelines.

Who are the service agents and what are their responsibilities in DOT's testing program?

This chart lists many of the types of service agents that work in the DOT drug and alcohol testing program and their responsibilities:

Type of Service Agent	Responsibilities	Where can I find their qualifications?
Urine and/or Oral Fluid Collector	<ul style="list-style-type: none"> • Collect specimens using Part 40 procedures, • Distribute copies of the CCF to the laboratory, MRO, employer, and employee in a timely and confidential manner. • Ship the specimens to appropriate Department of Health and Human Services (HHS) certified laboratories for analysis, • Required to maintain collection site security and integrity (see Appendix B of these guidelines.) 	49 CFR § 40.33 and 40.35
Laboratory	<ul style="list-style-type: none"> • The laboratory <u>must</u> be certified by the HHS (for urine or oral fluid) via their National Laboratory Certification Program. https://www.transportation.gov/odapc/labs • Receive, analyze, and report laboratory-confirmed results <u>only</u> to MROs. • Analyze split specimens at the request of the MRO 	49 CFR § 40.81
Medical Review Officer (MRO)	<ul style="list-style-type: none"> • Receive laboratory-confirmed drug test results, • Determine whether there is a legitimate medical explanation for a laboratory-confirmed positive, adulterated, or substituted result, • Oversee the “shy bladder” and “dry mouth” evaluation process <p>Review and report a verified result to the employer in a timely and confidential manner.</p>	49 CFR § 40.121

Type of Service Agent	Responsibilities	Where can I find their qualifications?
Screening Test Technician (STT)	<ul style="list-style-type: none"> • Conduct only an alcohol screening test (i.e., the first test given to an employee). It can be either a breath or saliva test. • The STT documents the test result on an ATF and transmits the results to the employer in a timely and confidential manner. 	49 CFR § 40.213
Breath Alcohol Technician (BAT)	<ul style="list-style-type: none"> • Conduct alcohol screening and confirmation tests (i.e., the second test given to an employee whose screening test result is .02 or above) by collecting and analyzing breath specimens using an approved screening device and an evidential breath testing (EBT) device, • Document the results of the test on a DOT ATF, • Transmit the results to the employer in a timely and confidential manner. 	49 CFR § 40.213
Substance Abuse Professional (SAP)	<ul style="list-style-type: none"> • Evaluate employees who have violated DOT drug and alcohol regulations (the evaluation may be in-person or remote) • Make recommendations concerning education, treatment, follow-up testing, and aftercare. • Determines if the employee demonstrates successful compliance with the recommended education and treatment. • Provide the employer with an initial and follow-up report to include a follow up testing plan. 	49 CFR § 40.281
Consortium / Third Party Administrator (C/TPA)	<ul style="list-style-type: none"> • A service agent who coordinates a variety of drug and alcohol testing services for employers. These services can include: <ul style="list-style-type: none"> ○ random selections, ○ preparation of annual Management Information System (MIS) reports, ○ coordinating urine and/or oral fluid collections, laboratory testing, MRO services, alcohol testing, and SAP evaluations. • Ensure the services it provides comply with DOT regulations and that its service agents are qualified. 	49 CFR Part 40 Subpart Q

*Auditors who evaluate your processes and advise you in the interest of compliance cannot obtain information not available to the employer (e.g., records pertaining to laboratory-confirmed positives that were changed to negative results, MRO notes, specific drug “quants”, etc.).

Section V. Employee and Supervisor Education and Training

What educational materials do supervisors need to give to their employees?

You must provide employees who perform DOT safety-sensitive functions with materials that explain the DOT requirements. You must document that they received the materials. At the very least, the information should include:

- ✓ The name and contact information of persons assigned to answer questions about the program.
- ✓ The duties of the employees who are subject to the program.
- ✓ Employee conduct that is prohibited by the regulations.
- ✓ The requirement that employees must be tested for drugs and alcohol.
- ✓ When and under what circumstances employees will be tested.
- ✓ The testing procedures that will be used.
- ✓ An explanation of what constitutes a refusal to test.
- ✓ An explanation of the consequences of refusing a test.
- ✓ The consequences of violating the DOT rules.
- ✓ Information on the effects of drugs and alcohol on a person's health, work, and personal life.
- ✓ The signs and symptoms of drug use and alcohol misuse.
- ✓ The name and contact information of an individual or organization that can provide counseling and access to treatment programs.

A **best practice** is to provide annual training to employees, which can let them know when there are changes to the program and remind them to seek help.

Are there training requirements for supervisors?

Yes, there are **training requirements for supervisors** and other officials about **reasonable suspicion and reasonable cause testing**.

Type of Training	Duration	Documentation of training required?	Recurring training required?
Indicators of Probable Drug Use	1 Hour	Yes	Recommended as Best Practice
Indicators of Probable Alcohol Use	1 Hour	Yes	Recommended as Best Practice

Here is some DOT Agency-specific information:

- ✓ Employers must follow all the other requirements that DOT Agencies have for employee and supervisor education and training.
- ✓ Since **FMCSA-regulated** owner-operators (one-person operation) are not required to take the supervisor training since they do not supervise anyone.
- ✓ **FAA-regulated** employers must conduct recurrent training for supervisors who make reasonable cause drug testing determinations.
- ✓ **FRA requires** that each supervisor responsible for regulated employees (except a working supervisor who is a co-worker as defined in part 219.5) must be trained in the signs and symptoms of alcohol and drug influence, intoxication, and misuse. Records documenting this training must be made available for inspection upon demand by FRA.
 - Such a program shall, at a minimum, provide information concerning the acute behavioral and apparent physiological effects of alcohol, the major drug groups on the controlled substances list, and other impairing drugs.
 - The program must also provide training on the qualifying criteria for post-accident toxicological testing contained in subpart C of this part, and the role of the supervisor in post-accident collections described in subpart C.
 - Consider downloading FRA's Post Accident Determination App. [FRA Post-Accident Determination App](#)

DOT Agency requirements for supervisor and employee training are listed below.

DOT Agency	Supervisor/Employee Training Requirements
FMCSA	49 CFR Part 382 – Controlled Substances and Alcohol Use and Testing – § 382.603 – Training for supervisors
FAA	14 CFR Part 120 – Drug and Alcohol Testing Program – § 120.115 – Employee Assistance Program (EAP) § 120.223 – Alcohol misuse information, training, and substance abuse professionals
FRA	49 CFR Part 219 – Control of Alcohol and Drug Use – § 219.11 – General conditions for chemical tests § 219.23 – Railroad policies
FTA	49 CFR Part 655 – Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations § 655.14 – Education and training programs
PHMSA	49 CFR Part 199 – Drug and Alcohol Testing § 199.241 – Training for supervisors (alcohol) § 199.113(c) - Training for supervisors (drugs)

Section VI. Employee's drug and alcohol testing history

Do employers need to verify an employee's prior drug and alcohol testing history?

Yes! If an employee or applicant has a previous DOT drug or alcohol violation but hasn't completed the SAP process (i.e. evaluation, education and/or treatment) for that violation, that **employee is prohibited from working** in a safety-sensitive position for any DOT-regulated employer **until the employee successfully completes a SAP evaluation and education and/or treatment, and passes a return-to-duty test.**

So, before you hire or transfer someone into a safety-sensitive position, **you must request information for any DOT alcohol and drug violations while that person was employed with a DOT-regulated employer** for a period of two years leading up to the person's application or transfer – unless you are regulated by FRA, and FMCSA. See the following DOT agency-specific requirements:

- ✓ **FRA** requires a **two-year records** check to comply with 49 CFR §§ 40.25 and 219.25. An additional 60-month records check is required when determining whether a person may become or remain certified as a locomotive engineer or a conductor. A railroad or a contractor to a railroad must comply with the requirements in § 240.119(e) (for engineers) or § 242.115(e) (for conductors) of this chapter regarding the consideration of Federal alcohol and drug violations that occurred within a period of 60 consecutive months before the review of the person's records.
- ✓ **FMCSA** requires a **three-year** records check for drivers (also see Clearinghouse requirements below).

Adhering to the FRA or FMCSA requirements outlined above will satisfy your obligation under 49 CFR § 40.25.

- ✓ **FAA** requires an employer to query the Pilot Records Database (PRD) (in accordance with 14 CFR part 111) for all test results (non-negative and negative) in the previous **five years for any individual who is being hired as a pilot and has worked as a pilot.** Employers must comply with Part 40.25 since PRD is not satisfy the requirements of § 40.25.

You must **get the person's written consent** to seek the information from other employers. The person must list all previous and current DOT-regulated employers they have worked for within the last two, three, or five years, as appropriate. If the person does not do so or refuses to sign the consent form, you cannot allow the person to perform safety-sensitive functions.

Keep in mind that the consent must be a specific release authorizing the new employer to receive testing information from a specific former or current employer about a specific employee. **It cannot be a "blanket" release:** For example, it cannot have multiple employers on one release form; **it must be employee-specific; it must be employer-specific; and it must be time-period specific.**

Also, the consent cannot be part of another DOT requirement, such as a motor vehicle check, credit history, or criminal background check. The consent needs to be an original, signed (wet signature) form for each identified DOT-regulated employer needing to provide testing information.

You must **obtain and review the testing history before the employee first performs safety-sensitive functions** for you, if possible. If this is not feasible, you must obtain and review the information as soon as possible. However, you must not permit the employee to perform safety-sensitive functions after 30 days from

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the date on which the employee first performed safety-sensitive functions unless you have obtained or made and documented a good faith effort to obtain the information from previous employers.

If the information you receive shows that the person violated DOT rules, you must verify that the employee has successfully completed the DOT return-to-duty process before permitting the person to perform safety-sensitive functions.

The requirements for these releases are in Part 40, Section 40.25. For a **sample employee section 40.25 consent** form, see [Appendix E](#) of this handbook.

Are FMCSA-regulated employers required to use the FMCSA Drug and Alcohol Clearinghouse?

Yes! On January 6, 2020, the **FMCSA Clearinghouse** was implemented. The Clearinghouse **is a centralized database that employers must use to report drug and alcohol program violations and to conduct queries**. The queries check that current or prospective employees do not have an unresolved drug and alcohol program violation. Such violations prohibit employees from performing safety-sensitive functions, such as operating a commercial motor vehicle (CMV), until the employee has completed the return-to-duty process. Queries must be conducted as part of a pre-employment employee investigation, and at least annually for current employees.

You will need to check the employee's drug and alcohol testing history via the Clearinghouse with respect to their former FMCSA-regulated employers. FMCSA-regulated employers would continue to make employee background checks directly with employers regulated by other modes (e.g., FTA).

Also, when an FMCSA-regulated employer receives an inquiry from an employer regulated by another DOT modal agency, that employer must promptly release the requested information after obtaining the employee's specific written consent. FMCSA-regulated employers should not refer employers regulated by other DOT modes to the Clearinghouse to obtain this information. Only FMCSA-regulated employers are authorized to query the Clearinghouse.

For more information on FMCSA's Clearinghouse, check out <https://clearinghouse.fmcsa.dot.gov/Learn>

Can an employer use a service agent to help obtain or provide an employee's prior drug and alcohol testing history?

Yes. **You may use a service agent to help with this information.** If you use a service agent to obtain the information on your behalf, the service agent must also be identified on the release form along with your identifying information. If you use a service agent to provide the information to a gaining employer, the **service agent cannot withhold the information pending payment.**

Service agents who maintain testing information for DOT regulated employers cannot disclose employee test information to third parties without the employee's specific written consent to do so, unless DOT says otherwise in Part 40 [at 40.331].

Section VII. Drug and Alcohol Testing Requirements

What specimens are collected for DOT drug and alcohol tests?

DOT **drug tests** are conducted only using **urine and oral fluid** specimens. You can use one or the other but not both, at the beginning of the testing event. For example, if an employee is sent for a test, either a urine or oral fluid specimen can be collected, but not both simultaneously. Point-of-collection (POC) urine, POC oral fluid drug testing, hair testing, or instant tests are not permitted by DOT.

DOT **alcohol screening tests** are conducted using either **breath or saliva**. DOT **alcohol confirmation tests** must be conducted using Evidential Breath Testing Devices (EBTs) that only **analyze breath**. DNA testing of DOT-regulated specimens is prohibited.

- The FRA does not allow oral fluid testing for its FRA Post-Accident testing. For surviving regulated employees, FRA requires collection of blood and urine specimens. In the case of an employee fatality injured in an accident or incident described in §219.201, body fluid and tissue specimens must be obtained from the remains of the employee for toxicological testing.
- The USCG permits collection of blood specimens for its Serious Marine Incident testing.

How does oral fluid testing fit into a current drug testing program?

As of June 1, 2023 oral fluid testing is now authorized by DOT. All oral fluid tests are conducted under direct observation. It is YOUR decision, as the employer, whether you want to use oral fluid as a methodology for testing. If you choose oral fluid as your testing methodology you will want to ensure the collection site is equipped to conduct such tests. **The collection site must have a qualified oral fluid collector and oral fluid collection devices to carry out this type of testing.**

If you decide to add oral fluid testing to your drug testing program, you will need to update your company policy and educate your employees of this addition. Also, you may identify specific testing events for which you would use oral fluid collections. For example, you may use oral fluid testing for pre-employment and post-accident testing only, or for all testing events. You will need to ensure that the testing method used is consistent for everyone.

In case of a non-negative result, the employee may request split specimen testing, which must be conducted by a different HHS-certified laboratory. Until two laboratories have been certified by HHS to conduct oral fluid testing, you are unable to implement any oral fluid collections for DOT testing.

IMPORTANT!!

- It is advisable for an employer to have a “**standing order**” in place so a collector will know what type of specimen (urine or oral fluid) to collect and under what circumstances (e.g., shy bladder, direct observation, follow-up testing).

What Employers Need to Know About DOT Drug and Alcohol Testing – October 2, 2025

If there is a problem in the collection that necessitates a second collection (e.g., insufficient quantity of urine, temperature out of range, or insufficient saliva), then a different specimen type could be chosen by you, the employer (through a **standing order** or discussion with the collector) or its service agent (i.e., if there is no **standing order** and the service agent cannot contact the DER). As an example:

- If an employee provides an insufficient amount of urine, this requires (1) a second urine collection within three hours, or (2) you could have a **standing order** to require the collector to move on to an alternate methodology (i.e., oral fluid) to complete the collection process for the testing event (or vice versa, from oral fluid to urine).
- If there is no **standing order** from you, the DER must be contacted, and the collector needs to coordinate with the DER to make arrangements to complete the specimen collection. This may include escorting the employee to another collection site with qualified collectors to complete the collection process.
- If the collector cannot contact the DER, then the service agent will need to decide on the methodology to be used for the second collection.

If you choose to use urine and oral fluid, you should have only **one MRO office** review and verify all laboratory-reported results.

- For example, having one MRO office verify the urine result and a different MRO office verify the oral fluid result could complicate matters when different specimen types were collected during one testing event (e.g., urine temperature out of range followed by an oral fluid direct observation collection).

Which laboratories are authorized to test DOT specimens?

DOT specimens can only be tested at drug testing **laboratories certified by the HHS**. No point-of-collection (POC) tests or “instant” tests are permitted by the DOT. All specimens must be urine or oral fluid.

Remember, for you to implement oral fluid testing, there must be at least two HHS-certified laboratories to process the oral fluid specimen (one to test the primary specimen and one to test the split specimen).

You can find the list of current HHS-certified laboratories at: <https://www.transportation.gov/odapc/labs>.

For what drugs does DOT require employers to test?

DOT specimens are analyzed for the following drugs or drug metabolites:

- Marijuana
- Cocaine (COC)
- Amphetamines (AMP)
 - Amphetamines
 - Methamphetamine
 - MDMA
 - MDA
- Phencyclidine (PCP)
- Opioids (OPI)
 - Codeine
 - Morphine
 - 6-AM (heroin)
 - Hydrocodone
 - Hydromorphone
 - Oxycodone
 - Oxymorphone

1. You **cannot** test for any other drugs using a urine or oral fluid specimen collected for a DOT test.
2. DOT specimens **cannot** be tested for other purposes either, for example a DNA test.

What types of DOT tests must employers conduct?

You must give employees the following kinds of tests when called for by DOT Agency rules:

<ul style="list-style-type: none">• Pre-employment	<ul style="list-style-type: none">• Random	<ul style="list-style-type: none">• Reasonable Suspicion / Reasonable Cause
<ul style="list-style-type: none">• Post-Accident	<ul style="list-style-type: none">• Return-to-Duty	<ul style="list-style-type: none">• Follow-up

Here are explanations about each type of test reason:

Pre-Employment

Drug Tests: You are required to: (1) conduct a pre-employment drug test; and (2) receive from the MRO a negative test result on the pre-employment drug test for a person prior to hiring or prior to using that person in a safety-sensitive position for the first time. This requirement also applies when a current employee is transferring from a non-safety-sensitive position to a safety-sensitive job for the first time.

Alcohol Tests: You may conduct pre-employment alcohol testing under DOT authority, but only if two conditions are met: (1) the pre-employment alcohol testing must be accomplished for all applicants [and transfers], not just some; and (2) the testing must be conducted as a post-offer requirement – meaning you must inform the applicant that they have the job if they pass a DOT alcohol test.

Here are some DOT Agency-specific situations where you may need to administer additional Pre-Employment testing requirements:

FAA	<p>Employers must conduct another pre-employment drug test and obtain a negative result before hire or transfer if more than 180-days elapsed since conducting the pre-employment test and hiring or transferring the individual and adding them under an FAA drug testing program.</p> <p>If an employee is removed from the random testing pool for reasons other than being rehired, transferred back into a safety-sensitive position, or removed due to a verified positive test result on an FAA-mandated drug test or refusal to submit to such testing, and will be returning to the performance of a safety-sensitive function (e.g., leave of absence), you may conduct a new pre-employment drug test and obtain a negative result before returning the employee to the random testing pool.</p> <p>Prior to conducting any pre-employment drug test, the employer must advise the individual that they will be required to undergo pre-employment testing in accordance to determine the presence of a prohibited drug in the individual's system. Check FAA's regulation under 14 CFR § 120.109(a), and visit their website for more information.</p>
FRA	A one-time pre-employment drug test is required for all FRA-regulated employees. See 49 CFR 219.5 "Regulated employee"
FTA	Employees who have been removed from the random testing pool and out of work for 90 or more days are required to have a pre-employment test upon return.

Random

Random tests are key to your program since they **deter employees** from using drugs and misusing alcohol. Unless you are regulated by FRA, you don't need to submit a random testing plan to DOT. However, you should **have a written plan** to help you to objectively and **consistently apply** your program.

FRA has developed Model Plans for railroads and railroad contractors. Go to the FRA's drug and alcohol testing requirements webpage to [download the appropriate Model Plan in a Word document](#) and email it to FRA at FRA-DrugAlcoholProgram.email@dot.gov for review.

1. How effective is your random testing program?
2. Are you consistent in implementing it?

When developing your plan, keep in mind that everyone in the random testing pool must have an equal chance of being tested in each selection period. Selections can be by employee name, safety-sensitive position/title, or specifically for FRA-regulated testing, a group (such as an entire train operating crew) that is clearly delineated in company policy or a random plan. You must **use a scientifically valid method to select employees for testing**, which may include the use of a random-number table or a computer-based random number generator that's traceable to a specific employee.

FRA permits random selections of groups of employees, such as an entire train operating crew, if their random plan clearly describes the selection process and has been approved by FRA.

Every year, **each DOT Agency sets the annual random rates² for drug and alcohol testing** for their regulated industry. These testing rates are minimums. You may choose to set higher random testing rates for your company.

If a DOT Agency requires a drug testing rate of 50% and an alcohol testing rate of 10%, then an employer with 100 safety-sensitive employees would have to ensure that 50 or more random drug tests and 10 or more random alcohol tests were conducted during the calendar year.

This doesn't mean that you necessarily will give random drug tests to 50 different employees or random alcohol tests to 10 different employees. Some might be picked and tested more than once, and others not at all. It's just that each time there is a random selection, all employees have an equal chance to be selected and tested.

That's the deterrent factor!

What makes random testing so effective is the **element of surprise**. While employees know they will be tested, they are never quite sure of when. Random selections and testing should be performed at least quarterly. Some employers are selecting and testing more frequently. We think that is a good idea.

Employers and C/TPAs subject to more than one DOT Agency drug and alcohol testing rule may combine covered DOT safety-sensitive employees into a single random pool (for example, train engineers and truck drivers). However, companies doing so must test or ensure the C/TPA is testing at or above the highest minimum annual random testing rates established by the DOT Agencies involved. So, if you have FMCSA-regulated and FRA-regulated employees in the same pool, and FMCSA has a 50% testing rate and FRA has a 25% rate, you must test the whole pool at the 50% minimum rate.

² FMCSA will only publish a Federal Register notice to announce its annual random testing rates if there are any changes from the previous year.

It is important to note that PHMSA and USCG do not authorize random alcohol testing for employees in their respective pipeline and maritime industries. So, if employees perform only pipeline or maritime duties, they cannot be in any DOT-regulated random alcohol testing pool.

Check out our website for the current random testing rates and the "Best Practices for DOT Random Drug and Alcohol Testing" document, and check your DOT Agency's website for specific requirements.

Reasonable Suspicion / Reasonable Cause

You are required to conduct a **test for drugs or alcohol** [or both] **if a trained supervisor** or trained company official believes or suspects an employee is under the influence of drugs or alcohol [or both]. The supervisor or company official must have been trained to **recognize the signs and symptoms** of drug and alcohol use. Testing cannot be required based solely on a guess, hunch, or complaint from another person or a phone call tip. The suspicion must be based on **specific observations** by the supervisor or company official concerning the employee's current appearance, behavior, speech, and/or smell that are usually associated with drug or alcohol use.

Things to remember:

- The reasonable suspicion/reasonable cause **observations** of the supervisor or company official **must be documented**.
- The **FRA** requires two supervisors, with at least one supervisor who is trained to be on-site, to make a determination for reasonable suspicion drug testing, but only one trained onsite supervisor is required to make a determination for reasonable suspicion alcohol testing.
- **FAA** requires two supervisors, one who is trained, based on the type and size of the operation, for reasonable cause drug testing, but only one trained supervisor for reasonable suspicion alcohol testing. The determination does not require a face-to-face observation. FAA has published a [reasonable cause/suspicion documentation form](#) to help.

Post-Accident

Employers are required by the DOT Agencies to conduct drug and alcohol tests following qualifying accidents. The following table summarizes **post-accident timeframes** and **specimens** that **must** be collected:

DOT Agency	Specimen Type	Time Frame for Collection
FMCSA, FAA, FTA, PHMSA, USCG	Urine or oral fluid for <u>drug</u> testing.	As soon as possible...but not later than 32 hours from the time of the event.

DOT Agency	Specimen Type	Time Frame for Collection
FMCSA, FAA, FTA, PHMSA	Saliva or breath for <u>alcohol screening</u> ; breath for <u>alcohol confirmation</u> testing.	As soon as practicable, within 2 hours, but not exceeding 8 hours from the time of the event.
FRA	Urine for <u>drug</u> testing. Blood for <u>drug</u> and <u>alcohol</u> testing.	Preferably within 4 hours after the qualifying event, but may exceed the time frame to collect the specimen. Collection may not exceed 24 hours from the time of the qualifying event. In every case, a blood and urine specimen must be collected.
USCG	Breath, Saliva, or Blood for <u>alcohol</u> testing.	Within 2 hours of the event. Up to 8 hours may be allowed if there are safety concerns to be addressed.

The supervisor at the scene of the accident/event should know the testing criteria and make a **good-faith effort decision** to test or not test based on the **information available at the time**. The supervisor may consult with others, but the supervisor is the person who has to make the decision. If the testing cannot happen within the required time, the supervisor must document the reasons. Any employee required to be tested but who needs medical assistance must receive the necessary medical attention first.

FRA also requires collection of identified tissue and blood specimens from any on-duty employee who dies within 12 hours as a result of the qualifying event.

Railroads must provide FRA the results of any breath alcohol tests that were accomplished.

FAA does not require a supervisor to be at the scene of the accident to make a testing determination.

PHMSA requires testing for all reportable accidents unless the operator has specific information that the employee could not have either caused the accident or contributed to its severity.

You can find web links to the DOT Agency **post-accident testing criteria** in [Appendix D](#) of these guidelines.

Return-to-Duty and Follow-Up

When an employee tests positive, refuses a test, or violates other DOT Agency testing regulations provisions, that employee cannot work again in a DOT safety-sensitive position for any DOT-regulated employer until successfully completing the SAP return-to-duty requirement in Part 40. After successfully completing the SAP requirements, the employee may be eligible to return to work. If you decide to employ the individual, you are required to conduct a **return-to-duty test** and the test result **must be negative** before the employee performs safety-sensitive functions for you.

The SAP will also establish the employee's follow-up testing plan – outlining for the employer the number and frequency of follow-up testing that will take place. The **follow-up testing plan** must require at least **6 follow-up tests in the first 12 months** after the person returns to safety-sensitive functions. However, the SAP can direct more tests and may extend them for up to five years.

You are then responsible for ensuring that the employee's follow-up tests are conducted according to the SAP's follow-up testing plan. These tests can be for drugs or alcohol, or both.

Under FRA regulations, **locomotive engineers and conductors** are subject to a minimum of 6 drug and alcohol tests within the first 12 months.

Things to remember:

- Return to duty and follow-up tests are the **employer's responsibility** to conduct.
- Follow-up tests must be unannounced.
- **You cannot let the employee know anything about their follow-up testing plan.**
- You cannot substitute other tests (such as random testing) for follow-up testing.
- Return-to-duty and follow-up drug testing must be under direct observation. If you discover the test was not observed, it does not count towards the required number of follow-up tests and must be redone.

Directly Observed Tests

There may be times when a directly observed test is required [i.e., a problem in the collection that necessitates a second collection (e.g., temperature out of range), return to duty test and/or follow-up test]. If a directly observed urine collection is required, the burden is on the employer to provide the same-sex observer if the collection site cannot do so. **An oral fluid test is considered a directly observed test for DOT purposes.** As the employer, you may have a **standing order** that all collections that are required to be directly observed will be conducted using oral fluid.

How do employers notify employees they have been selected for testing?

Every employee **should be discreetly notified** that they must go for a test. We also encourage you to document your notification to the employee. Testing must be conducted in strict confidence with only a limited number of company officials having knowledge of the selection. You should have procedures in place to ensure that each employee receives **no advance notice of selection**.

Why? Because it helps maintain the element of surprise!

But, be sure to allow enough time before notification for supervisors to schedule for administration of the test and to ensure that collection sites are open and ready for testing and you provided them with the information in accordance with 49 CFR [§ 40.14](#).

After an employer notifies the employees of their selection, how long do employees have to get to the collection site?

When an employee is notified, they **must proceed immediately** to the collection site. Contrary to the *urban legends* circulating among some employees, *immediately* does not mean two hours. *Immediately* means that after notification, **all the employee's actions must lead to an immediate specimen (i.e., urine, oral fluid, or breath) collection.**

Why? For the integrity of the testing process!

Many employers **develop testing policies** that clearly state what activities are acceptable after an employee is notified to report for testing. For instance:

- If an employee is performing covered work at the time of notification, some DOT Agency regulations may allow the employee to complete the work and then proceed to the collection site as soon as possible.
- If an employee is notified of a random test while working “off-site” or “on-the-road,” your policy should **spell out exactly what the employee must do** before resuming safety-sensitive functions. That way, there is no misunderstanding among employees about what is expected.
- **Make it clear** to your employees that **there are consequences** for failing to appear for any DOT test within a reasonable time.

Have **best practice procedures** in place to ensure the employee reports directly to the collection site without a chance to prepare to cheat on the test:

1. If possible, **accompany** employees to collection sites.
2. Do **not** allow employees to go **unescorted** to their lockers, personal vehicles, or work stations after notification.
3. When possible, arrange to have collectors and BATs come to the work site to collect specimens - without alerting employees to their presence.
4. If collections are off-site and employees are unescorted, establish an expected time of arrival.

For pre-employment and return-to-duty testing, ensure that the applicant or employee knows the specific date, time, and location of the test.

What forms are required for DOT testing and who provides them?

The *Federal Drug Testing Custody and Control Form* (CCF) must be used for DOT drug tests and the *Department of Transportation Alcohol Testing Form* (ATF) must be used for DOT alcohol tests. There are various vendors that supply these forms to employers, collectors, and STTs and BATs.

Laboratories and C/TPAs usually provide forms to collection sites for drug testing and manufacturers of alcohol testing devices usually provide forms to STTs and BATs for alcohol testing – of course, there is a cost associated with printing the forms.

Some more info on forms:

- You can find **vendors for CCFs and ATFs** at: <https://www.transportation.gov/odapc/documents>
- The **FRA** requires the use of a specific form for its **Post-Accident testing**. You can find it at: [FRA Post-Accident Guidance and Forms](#)

What is split specimen testing and who pays for it?

At the collection site, no matter how the specimen is collected (urine/oral fluid), there will be two separate bottles – Bottle A [Primary] and Bottle B [Split]. The collector sends both to the laboratory, where only Bottle A gets tested. If the MRO reports the employee's test result as positive or as a refusal to test because it was adulterated or substituted, the MRO will offer the employee an opportunity to have Bottle B – the Split – tested at another HHS-certified laboratory. **The split test is an independent way to determine if the results from the primary bottle were accurate.**

The employee has **72 hours to request the split test**. Upon getting the request, the MRO must immediately have the primary laboratory send the split to another HHS-certified laboratory for testing. Congress gave the employee the right to have the split tested, so if the employee asks to have the split tested, **the test must happen no matter who pays for it**. No one can insist on payment before the test occurs, either. However, it is between you and the employee who ultimately will pay for the test of the split. It is your responsibility to get the test accomplished without delay and regardless of who pays.

Some employers make a decision to pay for the split testing. Others have agreements to share the cost with the employee. We know of other employers who agree to pay if the result of the split specimen test fails to reconfirm the result of the primary specimen, and the employee pays if the split result turns out to be the same as the primary result. Payment can also be taken from the employee's paycheck – even if it's the last paycheck with you. But **under no circumstances can you or the MRO hold up a split from being tested while waiting for payment.**

Things to Remember:

1. **Payment arrangements** for the split specimen should be **worked out in advance**.
2. The decision of who pays is left to the employer and employees.
3. Ultimately, it is the **employer's responsibility** to ensure the split test takes place **without delay**.

Section VIII. Employer Actions When Employees Violate the Rules

What must an employer do when an employee or applicant tests positive, or refuses a test, or violates a DOT Agency drug testing regulation?

You must **immediately remove the employee** from safety-sensitive functions and **give the employee a list** of qualified SAPs. This list must have SAPs who are suitable to you and readily available to the employee. Instead of a list of SAPs, you may provide the name and phone number of a SAP network that will offer qualified SAPs to the employee when they contact the employee, or the employee calls them.

Double-check to ensure the **SAPs on your list meet all** of DOT's Part 40 **qualification requirements**. These include checking for credentials, training, and passing the required examination(s).

For an **applicant** who **tests positive or “refuses to test”** on a pre-employment DOT test, you have the same responsibilities as if the applicant was an employee:

- You must not permit the applicant to perform safety-sensitive functions,
- You must give the applicant a list of qualified SAPs,
- **Before sending the applicant for the test, we recommend explaining the consequences** that apply to the applicant who may not be aware of what it means to fail or refuse a test.
- You might refer the applicant to the DOT's Employee webpage at www.transportation.gov/odapc/employee for more information.

Remember, if an applicant does not show up for the pre-employment test it is not a refusal to test.

You cannot charge an applicant or an employee for the SAP list.
You may have your C/TPA or another service agent provide the list.

What exactly is a refusal to test and who determines it?

Part 40 outlines what is deemed a refusal to test for drugs and alcohol and **identifies the decision maker** in these scenarios. Only you, the employer, can determine if an employee refused a drug or alcohol test. The MRO or evaluating physician is the decision maker in very limited circumstances.

When you are the decision maker, you must investigate the situation and base your determination on the DOT instructions and **NOT** on your personal opinions about the employee. For example, your decision should not be based on whether the employee is a long-time reliable worker; has ever tested positive or refused a test; was correctly selected for the test; or claims to have misunderstood the collector's instructions to remain at a collection site.

Below is a list of Part 40 refusals and the DOT regulation instructions for handling them:

Event (Drug)	Decision Maker	DOT Instructions
Fail to appear at a collection site when directed to report	Employer / DER [after review of the employer and collector documentation]	If the employee did not report to the site (except in the case of a pre-employment test) or took too much time getting there, it is a refusal.
Fail to remain at the collection site	Employer / DER [after review of the collector documentation]	If the collector reports that the employee left the collection site before the testing process was complete, it is a refusal.
Fail to provide a specimen	Employer / DER [after review of the collector documentation]	If the collector reports that the employee left the collection site before providing a required specimen, it is a refusal.
Fail to permit a monitored or observed urine collection	Employer / DER [after review of the collector documentation]	If the employer ordered an observed collection or if the collector required the collection to be monitored or observed, it is a refusal if the employee does not permit it to occur.
Fail to provide a sufficient amount of specimen	MRO	If the MRO finds that there was no medical reason for the employee to provide an insufficient amount of specimen, it is a refusal.
Fail or decline to take an additional drug test the employer or collector has directed	Employer / DER [after review of the collector documentation]	If the employer or collector directs the employee to take an additional test, as required or permitted by the DOT, and the employee does not, it is a refusal.
Fail to undergo a medical examination or evaluation the MRO or employer has directed	MRO	If the employee does not go in for a medical evaluation or does not permit it to occur, it is a refusal.

Event (Drug)	Decision Maker	DOT Instructions
Fail to cooperate with any part of the collection process	Employer / DER [after review of the collector documentation]	<p>Some examples of failure to cooperate during a urine collection are when the employee:</p> <ol style="list-style-type: none"> 1. Refuses to empty pockets when directed. 2. Fails to wash hands when directed. 3. Admits to having adulterated or substituted the specimen; or 4. Has a device – such as a prosthetic appliance – to interfere with providing an actual urine specimen. <p>Some examples of failure to cooperate during an oral fluid collection are when the employee:</p> <ol style="list-style-type: none"> 1. Fails to remove objects from the mouth; or 2. Fails to permit inspection of the oral cavity; or 3. Fails to rinse when requested; or 4. Admits to having adulterated or substituted the specimen.
For an observed urine collection, fail to follow the instructions to raise and lower clothing and turn around	Employer / DER [after review of the collector documentation]	If the employee does not follow these instructions so that the observer can check for a prosthetic or other devices that could be used to interfere with the collection process, it is a refusal.
Adulterate or substitute a specimen	MRO	If the laboratory reports a confirmed adulterated or substituted specimen to the MRO and the MRO determines there is no medical reason for the result, it is a refusal.
Admit to the MRO to having adulterated or substituted the specimen	MRO	If the employee, during a medical review, admits to having tampered with his or her specimen, it is a refusal.

Event (Alcohol)	Decision Maker	DOT Instructions
Fail to appear for an alcohol test when directed to report	Employer / DER [after review of the employer and BAT/STT documentation]	If the employee did not report to the alcohol test site or took too much time getting there, it is a refusal.
Fail to remain at the alcohol test site	Employer / DER [after review of the BAT/STT documentation]	If the STT or BAT reports that the employee left the collection site before the testing process was complete, it is a refusal.
Fail to provide an adequate amount of saliva or breath	Employer / DER [after review of the BAT/STT documentation]	If the STT or BAT reports that the employee left the alcohol testing site before providing a required amount of saliva or breath, it is a refusal.
Fail to provide a sufficient breath specimen	Evaluating Physician	If the evaluating physician finds that there was no medical reason for the employee to provide an insufficient amount of breath, it is a refusal.
Fail to undergo a medical examination or evaluation as the employer has directed as part of the insufficient breath procedures	Employer / DER [after review of the BAT/STT documentation]	If the employee does not go in for a medical evaluation or does not permit it to occur, it is a refusal.
Fail to sign the certification statement at Step 2 of the ATF	Employer / DER [after review of the BAT/STT documentation]	If the employee does not agree to have a test accomplished by signing Step 2 of the ATF, it is a refusal.
Fail to cooperate with any part of the alcohol testing process	Employer / DER [after review of the BAT/STT documentation]	One example of failing to cooperate is when the employee behaves in a confrontational manner that disrupts the alcohol testing process.

The following refusal determinations are NOT subject to Employer/DER review:

- MRO refusal determination (shy bladder or dry mouth, adulteration, substitution) is final.
- An evaluating physician's refusal determination for an employee's insufficient breath is final.

When a collector for a drug test, or an STT or BAT for an alcohol test, reports a refusal event to you, immediately investigate the matter and **determine, as soon as possible**, whether the employee refused the test based on all the available evidence. If you determine that it is a refusal event, THE EMPLOYEE MUST IMMEDIATELY BE REMOVED FROM SAFETY-SENSITIVE FUNCTIONS and provided a list of qualified SAPs. The employee cannot return to safety-sensitive functions until they have successfully completed the evaluation and education/treatment process as determined by the SAP.

When the DER determines whether circumstances occurring at a collection site warrant a determination of a refusal, the employer should document the basis for its decision. The documentation will be important to have if there is an inquiry or inspection by a DOT agency.

Remember, when making a “collection site” refusal determination, you may consult with your MRO since they are the “Gatekeeper” for the drug testing process. However, the refusal decision is up to the employer.

Are employers required to report drug and alcohol testing violations?

FMCSA’s Drug and Alcohol Clearinghouse

FMCSA-regulated employers are required to report an employee’s drug and alcohol program violation in FMCSA’s Clearinghouse. Owner-operators may choose to report drug and alcohol program violations for any other drivers they employ; however, the C/TPA has the responsibility to report any drug and alcohol program violation incurred by the owner-operator.

Employers must report the following violations:

- An alcohol confirmation test with a concentration of 0.04 or higher
- Refusal to test (alcohol) as specified in part [40.261](#)
- Refusal to test (drug) not requiring a determination by the MRO as specified in part [40.191](#)
- Actual knowledge of a drug or alcohol violation, as defined in part [382.107](#) (FMCSA regulations)

To learn more about reporting violations in the Clearinghouse; see FMCSA’s Reporting Violations for [Employer’s](#) and [C/TPA’s](#).

FAA Reporting Requirements

The FAA’s drug and alcohol testing regulation, 14 CFR part 120, requires an employer or any MRO to report the following drug and alcohol test results to the FAA within 2 working days of the verified, confirmed, or refusal result:

- All verified positive drug test results or refusals to submit to test for individuals who hold or would be required to hold an airman medical certificate issued under 14 CFR part 67³;
- All alcohol misuse violations (including a confirmed result with a breath alcohol concentration of 0.04 or greater; on-duty use; pre-duty use; use following an accident; or refusal to test) for individuals who hold or would be required to hold an airman medical certificate issued under 14 CFR part 67;
- All refusals to submit to drug or alcohol testing for individuals who hold a certificate issued under 14 CFR parts 61, 63, or 65.

If the employee is a pilot, an employer must enter the violation into the [Pilot Records Database](#) in accordance with 14 CFR part 111, § 111.220 and may report to law enforcement (domestic or international) test results that demonstrate a violation by the pilot of 14 CFR § 91.17 to the Federal Air Surgeon. For more information, please visit www.faa.gov/go/drugabatement and review FAA's Frequently Asked Questions. If you have questions about reporting information into the PRD or need help accessing the system, please contact the FAA's PRD support office at 9-amc-avs-PRDSupport@faa.gov.

Can an employer fire an employee who tests positive or refuses a test?

That's your decision, subject to your policies and applicable legal or collective bargaining requirements. DOT rules don't decide this for you. The same goes for other personnel decisions – like other disciplinary action, hiring, suspensions, or leaves of absence. What our rules require is that **anyone who violates a rule cannot perform safety-sensitive functions** again until successfully completing the SAP return-to-duty process.

Other than giving the SAP listing, are employers required to provide SAP and treatment services to employees?

No. The DOT does not require you to provide SAP evaluation services (or any of the SAP's recommended education or treatment) for an employee who has violated a DOT drug and alcohol regulation.

However, **if you offer that employee an opportunity** to return to a DOT safety-sensitive function following a violation, you must, before the employee again performs that duty, ensure that the employee received a SAP evaluation and **the employee successfully complied** with the SAP's evaluation recommendations. This is the same for a new employee who has failed or refused a DOT drug test under a previous employer.

If you are not able to **verify that the employee successfully complied** with the SAP's evaluation recommendations, you must not allow the employee to work in a safety-sensitive position for you. Payment for SAP evaluations and service is left for employers and employees to decide.

What is involved in an employee's SAP return-to-duty process?

The SAP, either in-person or remotely, makes a face-to-face **clinical assessment and evaluation** to figure out what assistance is needed by the employee to resolve problems with drug use and alcohol misuse. Next, the SAP **refers the employee to an appropriate program** for education or treatment, or both. Following that, the SAP conducts another face-to-face evaluation (in-person or remotely) – the follow-up evaluation – to determine if the employee actively participated in the program and **has demonstrated successful compliance** with the initial

³ A Medical Review Officer must report any violation by an individual that holds a medical certificate issued under 14 CFR part 67, regardless of the type of DOT-regulated safety-sensitive position/title, to the FAA's Federal Air Surgeon within two working days of the violation.

assessment and evaluation recommendations. For this review, the SAP should already have various information (e.g., written report, progress report, discharge summary, level of participation, etc.) from the education and treatment program.

The SAP will provide you with two reports. The **first** will be an initial evaluation report outlining the treatment and education recommendations. The follow-up (**second**) **report** should include the SAP's clinical characterization of the employee's level of participation in treatment and education, and a statement about whether or not the employee demonstrated successful compliance with the program. If the employee successfully complied with the SAP's recommendations, this report should also contain any plans for aftercare treatment and a **follow-up testing plan**.

Remember: The follow-up evaluation report will contain the SAP's plan for follow-up testing. You are prohibited from sharing the plan with the employee.

You should review the DOT's SAP Guidelines to know how the process works and what to expect in the initial and follow-up reports. The Guidelines are available at: <https://www.transportation.gov/odapc/substance-abuse-professional-guidelines>

Does the employee's return-to-duty information need to be entered in FMCSA's Clearinghouse or FAA's Pilot Records Database?

Yes! **FMCSA-regulated employers** and designated C/TPAs are required to report information about the employee's return to duty process in the Clearinghouse. You will need to enter the negative return-to-duty test result as well as the date the employee's follow-up testing plan is successfully completed.

To learn about reporting return to duty process information in the Clearinghouse, check out https://clearinghouse.fmcsa.dot.gov/Resource/Index/Report-RTD_Employer

FAA-regulated employers must report information about a pilot's return to duty process in the PRD. You must enter the negative return-to-duty test information and all follow-up test information for a pilot. To learn more, review 14 CFR [§ 111.220](#) and visit www.faa.gov/go/drugabatement.

Can an employer confer with a SAP about the employee's testing without having the employee's permission?

Yes, you can! The DOT authorizes you and the SAP to confer about the employee's DOT testing— **no employee permission is needed**. This also includes the SAP getting information from you even if you fired the employee. The information the SAP obtains from the employer may help determine the best course of treatment or education, or both, for the employee.

Section IX. Record Keeping and Data Collection Requirements

What drug and alcohol records do employers need to keep?

You must **maintain comprehensive records** related to your program. That way, you can fully account for your program when you are inspected or audited by DOT Agencies. In addition, you will have the records that you might have to produce for court cases and arbitration hearings. Your service agents can maintain these documents for you. DOT published the “**Employer Record Keeping Requirements for Drug and Alcohol Testing Information**,” and it is available on our employer webpage <https://www.transportation.gov/odapc/employer>. The document goes into far more detail than we can give you here.

The minimum record-keeping requirements are highlighted in this chart:

Schedule	Type of Records
Five Years	<p>Records of alcohol test results indicating an alcohol concentration of 0.02 or greater;</p> <p>Records of verified positive drug test results;</p> <p>Documentation of refusals to take required alcohol and drug tests (including substituted or adulterated drug test results);</p> <p>Annual MIS Report⁴;</p> <p>SAP reports; and</p> <p>All follow-up tests and schedules for follow-up tests.</p> <p>[Aviation employers must also keep all historical drug and alcohol records reported to the Pilot Records Database (PRD) under 14 CFR § 111.255 after reporting the records; all records of notification to the Federal Air Surgeon or FAA of certificate holder violations, records of violations under 14 CFR §§ 120.19 and 120.37, <u>and</u> documents of an employee’s dispute of an alcohol test.]</p> <p>[Pipeline operators and motor carrier companies must maintain EBT calibration records for 5 years.]</p>

⁴ PHMSA requires for operators to keep the data that was used to generate the report, not necessarily the report itself.

Schedule	Type of Records
Three Years	<p>Information obtained from previous employers under § 40.25 concerning drug and alcohol test results of employees.</p> <p>[Pipeline operators must keep records of decisions not to administer post-accident employee drug and alcohol tests, supervisor and employee <u>drug</u> training records, and records related to the drug collection process.]</p>
Two Years	<p>Records of the inspection, maintenance, and calibration of EBTs; and</p> <p>Records related to the alcohol and drug collection process. These include documents related to random selections, reasonable suspicion determinations, and post-accident determinations; medical evaluations for insufficient amounts of specimen (urine, oral fluid, or breath); and</p> <p>Records related to supervisor and employee education and training.</p> <p>[Motor carriers must keep supervisor, employee, BAT, and STT education and training records for two years <u>after</u> the person ceases those specific functions.]</p> <p>[Railroads must keep records of negative and cancelled drug test results and alcohol test results with a concentration of less than 0.02 because of FRA regulations <u>and</u> must keep employee dispute records.]</p> <p>[Pipeline operators must keep supervisor and employer training records, and records related to the drug collection process.]</p>
One Year	<p>Records of negative and cancelled drug test results and alcohol test results with a concentration of less than 0.02.</p> <p>[Railroads must keep these records for two years.]</p>

Where and how should employers keep drug and alcohol testing records?

You should keep testing records in locations with **controlled access** (for example, in locked cabinets and in rooms requiring access by sign-in, lock and key, or security code). Only employees with an official “need to know” should have access to these records and be allowed in these areas. You can keep the records at **your place of business**, or a service agent may keep them for you.

MROs must keep their medical review records, laboratory reports, and CCF copies they receive at their own business places.

If you store your records electronically, you must ensure they are easily accessible, legible, formatted, and stored in an organized and reviewable manner. If electronic records do not meet these criteria, at the request of DOT agency representatives, you must convert them to printed documentation in a rapid and readily auditable manner.

You must **make your records available** and provide them if requested by the DOT or a DOT Agency. For example, if you are a motor carrier and an FMCSA investigator requests your records, you must provide them within two business days.

For most DOT Agencies, **you must keep original copies** of CCFs and ATFs even if you store them electronically. Check with the DOT Agency that regulates your drug and alcohol testing program before you convert your records.

If your records are maintained by a service agent who goes out of business, **you must request that they send the records to another service agent** of your choosing or to you – and they must do so.

Do employers have to submit drug and alcohol testing data to DOT each year?

Depending on which DOT Agency regulation you follow, you might have to submit an annual Management Information System (MIS) data report. The chart below outlines the DOT Agency requirements for reporting. The MIS report is submitted using the required MIS form included in 49 CFR part 40, appendix J. The MIS data is entered into the DOT's Drug and Alcohol MIS system (DAMIS) directly or according to the DOT Agency's instructions. You can prepare the report yourself or use a service agent to help you complete it. **You are responsible for ensuring the accuracy of the data** and that your report is submitted in accordance with the timelines established by each DOT agency. In short, you must certify that the data is accurate and timely!

FAA, FMCSA, FRA, and FTA prefer that employers **submit the required drug and alcohol testing data directly into DAMIS**. PHMSA **requires** that you submit the required data directly into DAMIS. The online entry helps you get the math correct.

Whether you need to submit the report to DOT or not, it's **a best practice to complete the report annually**. The report can tell you a lot about your testing program. Plus, you can use it during DOT Agency inspections and audits.

The following chart contains the DOT Agency-specific instructions on submitting the MIS drug and alcohol statistical testing data:

DOT Agency	Requirements to Submit MIS https://www.transportation.gov/odapc/MISreporting
FMCSA	Employers must submit upon request from FMCSA. [49 CFR § 382.403]

DOT Agency	Requirements to Submit MIS https://www.transportation.gov/odapc/MISreporting
FAA	<p>All Part 121 employers and other employers with 50 or more safety-sensitive employees must submit a MIS report each calendar year.</p> <p>All other employers must submit a MIS report upon request from FAA. [14 CFR § 120.119] [14 CFR § 120.219(b)]</p>
FRA	<p>Each railroad with 400,000 or more annual employee hours, or a contractor to a railroad (with 200 or more regulated employees) who establishes an independent alcohol and drug testing program that meets the requirements of § 219 and is acceptable to the railroad, must submit each calendar year. [49 CFR § 219.800]</p>
FTA	<p>All employers must complete and maintain MIS reports each year, but only submit if requested from FTA. [49 CFR § 655.72]</p>
PHMSA	<p>Employers with more than 50 covered employees must submit each calendar year; and</p> <p>Employers with 50 or fewer covered employees must submit upon request from PHMSA. [49 CFR § 199.119] [49 CFR § 199.229]</p>

If required, you must submit your MIS report to the appropriate DOT Agency, no later than March 15th. *For example: If you were required to submit your company's 2024 drug and alcohol MIS testing data, you would have until March 15, 2025, to get it in.*

If you are covered under the FTA rules, you must complete and maintain an MIS report every year, even if you don't have to send it in.

What should employers do with the semi-annual statistical summaries received from labs or C/TPAs?

You should expect to **get reports directly from laboratories twice a year** about the testing they do for you. If you are served by a C/TPA, your summary may be going to them first. If so, you need to ensure the C/TPA forwards it on to you. The laboratory should not be sending C/TPAs a "lump summary" for all the employers served by the C/TPA but should be sending employer-specific reports. This is the report you should receive. Note that if you conduct fewer than five tests during the report period, you will not receive a summary.

These laboratory reports are valuable to you. They provide you with a window into your drug testing program. You can compare them to your own statistical reporting, billing records from collectors and MROs, and CCFs and results reports you receive. Let these laboratory reports work for you. The following chart shows some examples:

Example	Action
Your laboratory report shows 480 random tests, but your random selection records show that you made 500 selections.	Find the reason for the discrepancy and correct any problems to ensure you are in compliance with the required random testing rate.
Your laboratory report shows that you had 100 tests, but your payment records indicate that your collector billed you for 110 tests.	Check with your collection site to see if they billed you correctly.
Your laboratory report shows one test positive for PCP, but your MRO did not report a verified PCP positive test result for any employee.	<ol style="list-style-type: none"> 1. Check with your MRO to ensure the PCP test was not “downgraded” to negative – that would have been a mistake. 2. Check with the MRO to see if the PCP test result was cancelled by the MRO because of a “fatal flaw” or because a “correctable flaw” was not corrected.
Your laboratory report shows 25 cancelled tests because of “fatal flaws,” but you were not made aware of any.	<ol style="list-style-type: none"> 1. Check with the MRO to find out the reasons for the cancellations. 2. If they are due to collector errors, you must ensure that the collector received “error correction training.” 3. Consider changing collection services.
<p>Your laboratory report shows 10 negative specimens that were also diluted.</p> <ol style="list-style-type: none"> 1. Your policy is to have employees with negative dilute results return to collection sites for another collection; and 2. For low-level negative dilutes, the DOT requires immediate recollection under direct observation. <p>But neither of these recollections occurred</p>	<ol style="list-style-type: none"> 1. Reiterate with your DER and your MRO what your policy is for negative dilute specimens. 2. Because <u>DOT requires</u> employees with specific low-level negative dilutes to be recollected under direct observation, check with the MRO to see if any results were in this range. If the results were in this range <u>and</u> the employees were not recollected under direct observation, you must order the recollections immediately.

Section X. Program Compliance and Inspections / Audits

Who must ensure the employer's program meets DOT requirements?

Keep in mind that no matter how you decide to manage your DOT-required drug and alcohol program, as the employer, **you are responsible for compliance**. If you use a service agent – for example, a collector, BAT, MRO, or SAP – and the service agent fails to comply with DOT rules, DOT can take action against you. Yes, you can be fined, lose your operating certificate, or you can lose your Federal funding. You must be in compliance with Part 40 as well as the appropriate DOT Agency regulation.

We strongly encourage you to review our brochure titled “What Employers Need to Know About Monitoring Collection Sites” (available at www.transportation.gov/odapc/employer) to learn more about what you need to know or ask your collectors to ensure they are compliant.

What can happen to service agents who don't comply with DOT rules?

If you think a service agent providing services to you isn't complying with DOT rules, **you can fire that service agent and find someone else who does comply**. DOT rules also allow DOT to prohibit a service agent who makes very serious errors from working for DOT employers. This is known as the “**Public Interest Exclusion**,” or “PIE,” process. In some cases, the service agent can be fined for non-compliance.

How do employers report a service agent who is not complying with Part 40 or a DOT Agency rule?

Report the service agent to the program manager of the DOT agency that regulates you, and **provide vital information**. For example, if you wish to report a collection site for non-compliance, be prepared to provide the name and phone number of the collector, the name and location of the collection site, and the details of the event (e.g., what they did wrong, how you know, what you did to stop it).

What can employers expect during a DOT Agency audit, inspection, investigation, or compliance review?

The purpose of an audit, inspection, investigation or compliance review is to **verify that you are complying** with Part 40 and appropriate DOT Agency regulations, and applicable Federal laws. DOT program evaluators also determine whether your key personnel and service agents understand the program and implement your program correctly. In order to identify **your program's strengths and weaknesses**, program evaluators will determine:

- ◆ If your program complies with the appropriate DOT and DOT Agency testing regulations;
- ◆ Whether or not you are appropriately following your DOT company policies;
- ◆ How correctly your service agents and program personnel carry out their responsibilities;
- ◆ Whether or not your employees and supervisors receive appropriate education and training;
- ◆ Whether employees were removed from performance of duty following violations; and
- ◆ Whether or not you and your service agents have maintained adequate documentation.

Check out [Appendix F](#) of these guidelines. It highlights most – but not all – the records the DOT Agencies will likely request and review.

But I have more questions?

ODAPC is available to help answer anyone’s questions regarding Part 40. You can visit our website at <https://www.transportation.gov/odapc> to view frequently asked questions, official interpretations of the regulations, and regulatory guidelines. You can also send us a question via email to ODAPCwebmail@dot.gov.

Please familiarize yourself with ODAPC’s “Employer Page” www.transportation.gov/odapc/employer. If you have DOT Agency-specific questions, please email the respective modal manager. Their contact information can be found at <https://www.transportation.gov/odapc/agencies>.

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Appendix A – Company DOT Testing Policy Requirements

The DOT Agencies require employers to have written policies for their DOT testing program, or one maintained by their C/TPAs. At a minimum, these policies must contain specific information required by the appropriate DOT Agency. Your policies must clearly delineate between the items and actions that are required by DOT and those that are required by the company or employer. Here is a listing of the DOT Agencies' policy requirements and where you can find them in the regulations.

DOT Agency	Policy Requirements
FMCSA	<p>49 CFR Part 382 – Controlled Substances and Alcohol Use and Testing –</p> <p>§ 382.601 - Employer obligation to promulgate a policy on the misuse of alcohol and use of controlled substances.</p>
FAA	<p>14 CFR Part 120 – Drug and Alcohol Testing Program –</p> <p>§ 120.115 – Employee Assistance Program (EAP)</p> <p>Your EAP must include a policy on drug use in the workplace and the consequences of violating part 120.</p> <p>§ 120.223 – Alcohol misuse information, training, and substance abuse professionals.</p> <p>Your alcohol misuse prevention policy must include specific information about the program, for example when employees are subject to testing while performing covered duties and the consequences of violating the prohibitions under part 120.</p> <p>FAA published a sample policy for employers to use that is available at www.faa.gov/go/drugabatement.</p>
FRA	<p>49 CFR Part 219 – Control of Alcohol and Drug Use –</p> <p>§ 219.23 – Railroad policies</p> <p>§ 219.605 – Submission and approval of random testing plans</p> <p>§ 219.607 – Requirements for random testing plans</p> <p>§ 219.1001 – Requirement for referral programs</p> <p>§ 219.1003 – Referral program conditions</p> <p>§ 219.1005 – Optional provisions</p> <p>§ 219.1007 – Alternate programs</p>

DOT Agency	Policy Requirements
FTA	<p>49 CFR Part 655 – Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations –</p> <p>§ 655.15 – Policy statement contents</p> <p>This FTA website shows model transit policies: https://transit-safety.fta.dot.gov/DrugAndAlcohol/Publications/Documents/safety/BestPractices/BestPractices_Policies.pdf</p>
PHMSA	<p>49 CFR Part 199 – Drug and Alcohol Testing –</p> <p>§ 199.101 – Anti-Drug Plan</p> <p>§ 199.202 – Alcohol misuse plan</p> <p>§ 199.239 – Operator obligation to promulgate a policy on the misuse of alcohol</p> <p>PHMSA regulations require a written anti-drug plan not a drug policy, so all references to “policies” in this document apply to PHMSA written anti-drug plans, not to a drug policy.</p>

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Appendix B – Collection Site Security and Integrity

DOT's 10 Steps to Urine Collection Site Security and Integrity

Office of Drug and Alcohol Policy and Compliance

U.S. Department of Transportation



1. Pay careful attention to employees throughout the collection process.
2. Ensure that there is no unauthorized access into the collection areas and that undetected access (e.g., through a door not in view) is not possible.
3. Ensure that employees show proper picture ID.
4. Ensure employees empty pockets; remove outer garments (e.g., coveralls, jacket, coat, hat); leave briefcases, purses, and bags behind; and wash their hands.
5. Maintain personal control of the specimen and CCF at all times during the collection.
6. Secure any water sources or otherwise make them unavailable to employees (e.g., turn off water inlet, tape handles to prevent opening faucets, secure tank lids).
7. Ensure that the water in the toilet and tank (if applicable) has bluing (coloring) agent in it. Tape or otherwise secure shut any movable toilet tank top or put bluing in the tank.
8. Ensure that no soap, disinfectants, cleaning agents, or other possible adulterants are present.
9. Inspect the site to ensure that no foreign or unauthorized substances are present.
10. Secure areas and items (e.g., ledges, trash receptacles, paper towel holders, under-sink areas, ceiling tiles) that appear suitable for concealing contaminants.

DOT's Steps to Oral Fluid Collection Site Security and Integrity
Office of Drug and Alcohol Policy and Compliance
U.S. Department of Transportation



1. Pay careful attention to employees throughout the collection process.
2. Ensure that there is no unauthorized access into the collection areas.
3. Ensure access to collection materials and specimens is effectively restricted. Post signs to indicate access is limited.
4. Ensure privacy to employees and prevent distractions during the collection process.
5. Perform only one collection at a time.
6. Ensure that employees show proper picture ID.
7. Ensure employees wash their hands.
8. Do not use devices that have expired.
9. Keep employee's specimen within view of you and the employee between the time it was collected and sealed.
10. Maintain personal control of the specimen and CCF at all times during the collection.

Appendix C – Selecting Service Agents

When selecting service agents, you must consider several key factors.

- ◆ Can the service agent ensure their compliance with DOT regulations and guidelines?
- ◆ Do they have employer references to vouch for the quality of their work?
- ◆ Do they provide services during the times and on the days you need them?
- ◆ Do their personnel qualifications and training meet DOT requirements?
- ◆ Have their services been shown to pass DOT inspections and audits?
- ◆ Are they cost-competitive?
- ◆ If you need full services – for example, you want random selections, collections, alcohol testing, laboratory testing, and MRO work – do they offer a total package plan? On the other hand, if you need only one service – for example, you need only collections – do they offer single services?

Keep in mind that if the service agent uses DOT or a DOT Agency emblem or title on their website or program information, they are in violation of part 40. Neither the DOT nor any DOT Agency approves or certifies a service agent. If they say they are DOT-approved or certified, it is not true. This is something to consider when you are looking for a service agent.

The following is a list of the most common service agents and some starting points to help you select them:

Specimen Collectors, BATs, and STTs

There are a number of things to look for when selecting collectors, BATs, and STTs.

1. Ensure they offer the services you want. For example, do they offer both urine and oral fluid collections? Do they offer alcohol testing? Will they come onto your worksite if you want them to?
2. Ensure they are open for business at the times you need them to be. Are they open during the times your employees are on duty and may need to have tests? Will they remain open if their closing time coincides with an employee presenting an insufficient amount of specimen?
3. Ensure they show you training documentation for their personnel.
4. Have them explain their procedures for notifying you or the DER of test results – especially refusals, positive alcohol tests, and problems with employees.
5. Check out their collection sites for being secure and having site integrity [See [Appendix B](#) of these guidelines].
6. Determine if their facilities are conveniently located, offer parking, and are professional-looking.
7. Find out if they have the correct CCFs, ATFs, collection kits, and alcohol test equipment.
8. Ask if they have a fax machine and intend to use it immediately after each DOT collection and alcohol test to appropriately distribute the paperwork.
9. Have them explain their procedures for collecting specimens under direct observation and whether they have same sex observers readily available.
10. Ask if they have DOT's collection guidelines, Part 40, and the DOT poster for collection site security and integrity on the premises.
11. See if they have references from other employers and records of DOT inspections and audits.
12. Check out our publication, [What Employers Need to Know About Collection Sites](#).

A **best practice** is to **visit collection facilities from time to time** when your employees are there for tests to see for yourself how the process is going. Unannounced visits like this can help you discover if the site does or does not ensure the integrity of the process. You should also **talk with your MRO** to see how often tests are cancelled because of collector errors. If collection companies are not doing a good job for you, look elsewhere for the service. Don't risk being out of compliance with DOT regulations.

DHHS-Certified Drug Testing Laboratories

All DOT drug testing must be done at laboratories certified by the Department of Health and Human Services. It is your job to contact a laboratory to arrange testing. You will want to ensure you have a laboratory to process the collected specimen (urine and/or oral fluid). The HHS publishes a monthly listing of certified laboratories.

Remember, there must be at least two HHS-certified laboratories to process the oral fluid tests before you start oral fluid testing for your company.

You can find them at this webpage: <https://www.transportation.gov/odapc/labs>

If you are working with a C/TPA, it is very likely that the C/TPA will arrange laboratory services for you and provide a cost for you. Whether you select the laboratory yourself or have your C/TPA do it, you will find that laboratories offer a variety of price packages. The pricing packages are generally considered bundled pricing or unbundled pricing.

Bundled pricing means one price is offered per specimen type no matter what. Here it gets a little complicated. There are screening tests, confirmation tests [if screening tests are positive], and tests to see if specimens are adulterated or substituted. There are also tests to see if methamphetamine positive results are because of legitimate reasons. So for bundled pricing, all these tests could be rolled up into a “one-price-fits-all” arrangement.

Unbundled pricing means that you pay as you go with a specimen. This “a la carte” pricing will cost you for each test the laboratory has to run. That's the nature of unbundled pricing.

You will want to comparison shop. You will also want to find out if the laboratory will routinely provide CCFs and urine collection kits to your collection sites. A laboratory's hours of operation could be important to you – some operate 24 hours a day, seven days a week. You will also want to check to see if they are responsive on critical reporting and discussion issues – your MRO may be the best source for this information.

Medical Review Officer (MRO)

The MRO is the “gatekeeper” for your drug testing program. So, choose yours wisely. You will want an MRO who has been certified by one of the major MRO certification organizations. This means the MRO met the credentialing requirements, was trained in MRO practices, and passed a difficult certification examination.

Two MRO certification organizations make lists of their certified MROs available on the Internet: Medical Review Officers Certification Council (MROCC) at <https://www.mrocc.org> and the American Association of Medical Review Officers (AAMRO) at <https://www.aamro.com>.

If you are working with a C/TPA, it is very likely that the C/TPA will arrange MRO services for you and will come up with a cost for you. If an MRO is part of a C/TPA, you must make certain the **laboratory results go**

directly to the MRO and not to the C/TPA. Although you may hire your MRO through your C/TPA, you must know how to contact the MRO if you have questions.

An MRO's hours of operation and whether they have other MROs ready to stand in during vacations and illness could be important to you. Also important is how often they provide direct supervision to their administrative staff who perform important work on negative results or who may facilitate contacting employees for medical reviews of non-negative results. You may also want to find out what training the MRO's staff has received. The MRO and staff do not have to be at the same location, but this may be important to you. If you have Spanish-speaking employees, you might think a bilingual MRO or a bilingual person on the MRO's staff would be a vital requirement.

Similar to choosing a laboratory, you will want to comparison shop. And don't forget that, like laboratories, sometimes MROs bundle their services and will charge you one price per result – no matter if it is negative, positive, or a refusal. Others may offer unbundled pricing – for instance, you may be charged more for review of positive results than for review of negatives because the process is much more complicated.

Substance Abuse Professional (SAP)

You must find qualified SAPs in order to provide a list of them to employees who violate drug and alcohol rules. Many of the same pointers we gave you for selecting your laboratory and MRO will be useful in selecting a SAP. One important factor to keep in mind is the **SAP must be acceptable to you** and will need to be **readily accessible to your employees**.

To help you find qualified SAPs, a simple internet search, e.g., “how to find a DOT SAP,” is useful to find larger SAP networks such as American Substance Abuse Professionals, Inc., SAPList, and SAP Referral Services. If you are working with a C/TPA, it is very likely that the C/TPA will arrange SAP services for you.

Note: If you are covered under FAA regulations, ensure your SAP is knowledgeable about the additional steps to take if the employee holds a medical certificate issued under 14 CFR part 67 in accordance with 14 CFR §§ 120.113(d) and 120.221(c)(4).

Consortium/Third Party Administrator (C/TPA)

When you turn to a C/TPA to operate your program for you, **they are being entrusted with your program's compliance**. You will want to ensure that they select the best possible collection sites, laboratories, MROs, and SAPs for you. You will also want to ensure that they know how to do the types of duties laid out in the appropriate DOT Agency regulations. You may also want to find out how much they know about your industry and your company's needs.

Remember, if the C/TPA is not in compliance with the regulations, neither are you! Not only that, you will be held accountable for their non-compliance!!

If your C/TPA conducts your random selections and they do not do them correctly and in accordance with 49 CFR § 40.347, you have a serious problem. To support your C/TPA, provide them with the verification they need to add your covered employees to the random testing pool. For example, FAA

requires a C/TPA to obtain a copy of an aviation employer's program documentation prior to adding employees to the random testing pool. And, if you have them do your collections and the collection site does not have measures in place to ensure the integrity of the collection, you have a serious problem.

Figuratively speaking, C/TPAs stand in the shoes of the employer---your shoes. Therefore, you must **ensure they know what they are doing** and that the services they offer not only fit your needs but also follow Part 40 and the appropriate DOT Agency regulations. Tell them, “**No shortcuts, please!**” You may also want your contract with them to read that they pay for any fines levied on you by a DOT Agency for their mistakes.

There are several items to look for when selecting a C/TPA to assist you in administering your program. For example:

1. Are they known to systematically review and evaluate the work of their service agents, such as collection sites and collectors?
2. How do they ensure that their service agents have the latest DOT regulations and guidance?
3. Do they maintain the training and qualification records of their service agents?
4. Which testing records will they maintain on your behalf?
5. If they conduct your random testing program, how often are the selections made?
6. Can they provide you with a random testing plan outlining how the program works?
7. Is the point of contact person available during the times and days you need?
8. If you have a question about the regulations, will they have someone there to answer?
9. Do they offer to review your account with you on a monthly basis?
10. Are they willing to discuss concerns you may have with service agent performance?
11. Are they willing to conduct reviews of your program before you have a DOT inspection?
12. Following a DOT inspection, are they willing to take necessary corrective actions?
13. Are the records they maintain for you retrievable in short order?
14. How willing are they to be held accountable for serious service agent errors?
15. Does the C/TPA know if its network of collection sites can perform urine direct observation and/or oral fluid collections?

There are several ways to find a C/TPA.

You can **search the web**, or you can check with some of the industry organizations and associations listed on our website’s “Employer Page”. **National associations** such as the Substance Abuse Program Administrators Association (SAPAA) and the National Drug and Alcohol Screeners Association (NDASA) can direct you to their member C/TPAs.

Last but certainly not least, another good source is to **check with other transportation employers** to see who they use. These employers should be able to tell you if they are satisfied with the services a particular C/TPA provides.

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Appendix D – Post Accident Testing Criteria

The DOT Agencies require you to conduct post-accident drug and alcohol tests following a qualifying event. Here is a listing of the DOT Agencies' post-accident regulations and embedded electronic links:

DOT Agency	Regulation
FMCSA	49 CFR § 382.303 – Post-accident testing
FAA	14 CFR § 120.7(a) – Definition of Accident § 120.109(c) – Post-accident drug testing § 120.217(b) – Post-accident alcohol testing
FRA	49 CFR § 219.201 – Events for which testing is required FRA's Post-Accident Testing Flow Chart can be viewed at: https://railroads.dot.gov/elibrary/post-accident-testing-criteria-flow-chart-updated-and-effective-january-1-2023
FTA	49 CFR § 655.44 – Post-accident testing
PHMSA	49 CFR § 199.105 – Drug tests required § 199.225 – Alcohol tests required

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Appendix E – Prior Testing History Release of Information Format

[See Section VI (page 14) for modal-specific requirements]

Section I. To be completed by the new employer, signed by the employee, and transmitted to the previous employer:

Employee Printed or Typed Name: _____

Employee SS or ID Number: _____

I hereby authorize release of information from my Department of Transportation regulated drug and alcohol testing records by my previous employer, listed in *Section I-B*, to the employer listed in *Section I-A*. This release is in accordance with DOT Regulation 49 CFR Part 40, Section 40.25. I understand that the information to be released in *Section II-A* by my previous employer is limited to the following DOT-regulated testing items:

1. Alcohol tests with a result of 0.04 or higher;
2. Verified positive drug tests;
3. Refusals to be tested;
4. Other violations of DOT agency drug and alcohol testing regulations;
5. Information obtained from previous employers of a drug and alcohol rule violation;
6. Documentation, if any, of completion of the return-to-duty process following a rule violation.

Employee Signature: _____ Date: _____

I-A.

New Employer Name: _____

Address: _____

Phone #: _____ Fax #: _____

Designated Employer Representative: _____

I-B.

Previous Employer Name: _____

Address: _____

Phone #: _____

Designated Employer Representative (if known): _____

Section II. To be completed by the previous employer and transmitted by mail or fax to the new employer:

II-A. In the two years prior to the date of the employee's signature (in Section I), for DOT-regulated testing ~

1. Did the employee have alcohol tests with a result of 0.04 or higher? YES ____ NO ____
2. Did the employee have verified positive drug tests? YES ____ NO ____
3. Did the employee refuse to be tested? YES ____ NO ____
4. Did the employee have other violations of DOT agency drug and alcohol testing regulations? YES ____ NO ____
5. Did a previous employer report a drug and alcohol rule violation to you? YES ____ NO ____
6. If you answered "yes" to any of the above items, did the employee complete the return-to-duty process? N/A ____ YES ____ NO ____

NOTE: If you answered "yes" to item 5, you must provide the previous employer's report. If you answered "yes" to item 6, you must also transmit the appropriate return-to-duty documentation (e.g., SAP report(s), follow-up testing record).

II-B.

Name of person providing information in *Section II-A*: _____

Title: _____

Phone #: _____

Date: _____

Appendix F – Audit/Inspection/Investigation/Compliance Records Review

These represent most of the records a DOT Agency auditor, inspector, or investigator will usually request and review during a program review. Keep in mind that DOT Agency regulations may have additional and more specific record review requirements.

Policies, Plans, and Reports

- Alcohol and drug testing policies and instructions for implementing your program.
- Previous two MIS annual reports either submitted to DOT or prepared and retained.
- Copies of written consent forms you sent to obtain 40.25 drug and alcohol information from previous employers, and the responses received from those employers. (FMCSA Only – Clearinghouse records, FAA pilots only – Pilot Records Database (PRD) records)
- Copies of written consent forms you received from prospective employers for 40.25 or PRIA information, and documentation of your responses.
- Semi-annual statistical summary reports from laboratories.
- List of all employees hired or transferred into safety-sensitive service for the past two years, including documentation of previous employer records check.
- List of all employees with a non-negative test result or a refusal to test in the last five years.

Employee and Supervisor Training Records

- Educational materials for employees.
- Documentation showing how education materials were made available to employees.
- List of supervisors responsible for making reasonable suspicion and reasonable cause determinations.
- Supervisory training lesson plans and course materials.
- Attendance lists/certificates for supervisors who received this training.
- Under FRA, supervisor post-accident training lesson plans, course materials, and attendance lists.

Random Testing Records

- Information about the type of method used to select employees for testing.
- Names of all employees in the random testing pool for each selection period that the DOT Agency will review (e.g., random pool roster or eligibility list per selection period).
- Names of all employees selected for testing.
- Names of all employees tested.
- CCFs and ATFs showing employees were tested within the selection period or by the end of the calendar year (if DOT Agency rules allow).
- For each selected employee not tested, documentation showing why the collection did not occur.
- Records of collections by location, by date (or day of the week), and by time of the day (or shift).
- Proof that testing occurred throughout all shifts and all workdays, in other words – testing was unpredictable.
- For railroads, your approved Drug and Alcohol Random Testing Plan.

Drug Testing Custody and Control Forms for All DOT Tests

- Pre-employment.
- Random.
- Reasonable suspicion, including supervisor justification documentation.
- Reasonable cause, under FAA, FRA, and PHMSA, including supervisor justification documentation.
- Post-accident, including documentation showing criteria were met.
- Return-to-duty.
- Follow-up.
- Correctable and non-correctable flaw documentation

MRO Records

- Laboratory confirmed results reports sent to MROs.
- MRO CCFs.
- MRO results/reports sent to employers.
- MRO records of review of CCFs.
- MRO medical review notes and records.
- MRO downgrades.
- Split request records.
- Correctable and non-correctable flaw documentation.
- MRO reversal of cancelled test results.

Alcohol Testing Forms for All DOT Tests

- Pre-employment, if applicable.
- Random, under FMCSA, FAA, FRA, and FTA.
- Reasonable suspicion, including supervisor justification documentation.
- Reasonable cause under FRA, including supervisor justification documentation.
- Post-accident, including documentation showing criteria were met.
- Return-to-duty.
- Follow-up.
- Correctable and non-correctable flaw documentation.

Employee Return to Duty Records

- SAP Initial Evaluation reports.
- SAP Follow-up Evaluation reports, including follow-up testing plans.
- Employee “Return to Duty” and “Last Chance Agreements,” when applicable.
- Return-to-duty and Follow-up testing compliance documentation.
- Lists of qualified SAPs that you give to those who violate the regulations.

Service Agent Documentation

- Lists of service agents and their contact information.
- Written agreements and contracts with service agents, if applicable.
- Credentials, training, and examination or proficiency documentation.

What Employers Need to Know About DOT Drug and Alcohol Testing *[Guidance and Best Practices]*

Revised September 29, 2025

**U.S. Department of Transportation
Office of the Secretary**



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Changes from previous version [June 1, 2015]:

- Page 5: Added paragraph about FMCSA-regulated owner-operators.
- Page 6: Updated the table of covered/regulated employees as appropriate.
- Page 10: Added language to clarify that supervisors and service agents should know the difference between DOT and non-DOT testing forms.
- Page 15: Added language that owner-operators do not need to have supervisor reasonable suspicion training.
- Page 16: Deleted FAA's PRIA requirements
- Page 21: Added language clarifying what "random" means.
- Pages 24, 45: Language was updated per EO 14168
- Page 27: Added language to "service agent" table clarifying that service agents do not make collection site refusal determinations.
- Page 31: Added language to clarify DER responsibilities regarding employee refusals at collection sites.
- Page 36: Updated the example of when to submit your MIS report
- Page 40: Removed reference to USCG publication "Drug and Alcohol Program Inspectors Drug Testing Service Agents" as it is no longer published
- Page 47: Added language to clarify that C/TPAs are also considered service agents.
- Removed reference to "blind specimen" testing as it was not required as of 2018
- Updated Appendix A, B, and D as appropriate

The following updates occur on multiple pages throughout the document:

- FMCSA's Clearinghouse requirements
- FAA's PRD requirements
- Language to reflect oral fluid testing rule
- Website addresses/ hyperlinks
- Removed multiple graphics to ease transmission and downloading of the document from the Internet.

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