



U.S. Department of Transportation  
Office of the Secretary

## Office of Drug & Alcohol Policy & Compliance



**What Employees  
Need To Know  
About DOT Drug &  
Alcohol Testing**



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This publication was produced by the U.S. Department of Transportation (DOT) to assist safety-sensitive employees subject to workplace drug & alcohol testing in understanding the requirements of 49 CFR Part 40 and certain DOT agency regulations. Nothing in this publication is intended to supplement, alter or serve as an official interpretation of 49 CFR Part 40 or DOT agency regulations. This publication is for educational purposes only.

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For questions, please contact DOT's Office of Drug & Alcohol Policy & Compliance at 202-366-DRUG (3784) or visit our website at [www.transportation.gov/odapc](http://www.transportation.gov/odapc).

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# **What Employees Need To Know About DOT Drug & Alcohol Testing**

U.S. Department of Transportation (DOT)

Office of the Secretary (OST)

Office of Drug & Alcohol Policy & Compliance (ODAPC)

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## What Employees Need To Know About DOT Alcohol & Drug Testing

Just entering the transportation industry? Performing tasks defined by the US Department of Transportation (DOT) as safety-sensitive, such as working on pipelines, driving a truck, operating a ferry or a train, or repairing an airplane? Then, you are subject to DOT workplace drug & alcohol testing. Here are the basics you need to know about DOT's program.

### *Who is subject to DOT testing?*

Anyone designated in DOT regulations as a safety-sensitive employee is subject to DOT drug & alcohol testing. What follows is an overview of what jobs are defined as safety-sensitive functions subject to testing.

<b>Aviation</b> FAA	Persons that perform safety-sensitive functions, directly or by contract (including subcontract at any tier), for a part 119 certificate holder authorized to conduct part 121 or 135 operations; air traffic control facilities not operated by the FAA or under contract to the U.S. military; and all operators as defined in 14 CFR Section 91.147. The safety-sensitive duties include flight crewmember, flight attendant, flight instructor, air traffic controller, aircraft dispatcher, aircraft maintenance or preventative maintenance, ground security coordinator, aviation screeners and operations control specialist. See FAA regulations at 14 CFR Part 120.
<b>Commercial Motor Carriers</b> FMCSA	Commercial Drivers License (CDL) holders who operate Commercial Motor Vehicles, 26,001 lbs. gvwr. or greater, or operate a vehicle that carries 16 passengers or more including the driver, or required to display a DOT placard in the transportation of hazardous material. <sup>1</sup> See FMCSA regulation at 49 CFR Part 382.
<b>Maritime</b> USCG <sup>2</sup>	Crewmembers operating a commercial vessel. See USCG regulations at 46 CFR Parts 4 & 16.
<b>Pipeline</b> PHMSA	An employee who performs an operation, maintenance, or emergency-response function on a PHMSA regulated pipeline or liquefied natural gas (LNG) facility. See PHMSA regulations at 49 CFR Part 199.
<b>Railroad</b> FRA	Persons who perform duties subject to the Hours of Service laws; such as, locomotive engineers, trainmen, conductors, switchmen, locomotive hostlers/ helpers, utility employees, signalmen, operators and train dispatchers.  In addition, a person who performs a maintenance-of-way/roadway worker function (as defined in 49 CFR Part 214) who are employees or contractors of a railroad, have a potential to foul the track, and perform a regulated function such as 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. See FRA Regulations at 49 CFR Part 219.
<b>Transit</b> FTA	Operators of revenue service vehicles when not in service, Operators of nonrevenue service vehicles when required to be operated by a holder of a commercial drivers' license, controlling dispatch or movement of revenue service vehicle, mechanics maintain a revenue service vehicle or equipment used in revenue service, and Fire armed security. See FTA regulations at 49 CFR Part 655.

Links to these regulations can be found on-line at [www.transportation.gov/odapc](http://www.transportation.gov/odapc).

<sup>1</sup> In some instances, states allow waivers from this qualification, such as operators of fire trucks and some farm equipment. Check with your state department of motor vehicles for more information.

<sup>2</sup> An agency of the U.S. Department of Homeland Security.

**Remember:** The tasks you actually perform qualify you as a safety-sensitive employee, not your job title. Also, some employees, like managers and supervisors, may be qualified for these jobs but not currently performing them. Do they have to be tested as well? In most cases, yes...if that employee may be asked at a moment's notice or in an emergency to perform a safety-sensitive job. Be sure to check industry specific regulations for further clarification.

### ***Why are safety-sensitive employees tested?***

The short answer is for the safety of the traveling public, co-workers and yourself. The longer answer is that the United States Congress recognized the need for a drug and alcohol free transportation industry, and in 1991 passed the Omnibus Transportation Employee Testing Act, requiring DOT Agencies to implement drug & alcohol testing of safety-sensitive transportation employees.<sup>3</sup>

Within DOT, the Office of the Secretary's Office of Drug & Alcohol Policy & Compliance (ODAPC) publishes rules on how to conduct those tests, what procedures to use when testing and how to return an employee to safety-sensitive duties. Encompassed in 49 Code of Federal Regulations (CFR) Part 40, ODAPC publishes and provides authoritative interpretations of these rules.

DOT agencies and the U.S. Coast Guard write industry specific regulations, spelling out who is subject to testing, when and in what situations. Industry employers implement the regulations that apply to them.

The benefit to all affected by DOT regulations is that each agency's regulations must adhere to DOT's testing procedures found at 49 CFR Part 40, commonly know as "Part 40." For example, you may work in the rail industry and later work in the motor carrier industry, but the procedures for collecting, testing and reporting of your tests will be the same under Part 40.

### ***What information must employers provide when I first begin performing DOT safety-sensitive functions?***

Depending on the DOT agency over-seeing your industry, your employer may be required to provide you with educational materials and a company policy that explain the requirements of DOT's drug & alcohol testing regulations and the procedures to help you comply. If you have not received this information, be sure to ask your employer about it.

### ***What conduct is prohibited by the regulations?***

As a safety-sensitive employee...

- You must not use or possess alcohol or any illicit drug while assigned to perform safety-sensitive functions or actually performing safety-sensitive functions.
- You must not report for service, or remain on duty if you...
  - Are under the influence or impaired by alcohol;
  - Have a blood alcohol concentration .04 or greater; (with a blood alcohol concentration of .02 to .039, some regulations do not permit you to continue working until your next regularly scheduled duty period);
  - Have used any illicit drug.

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<sup>3</sup> The Omnibus Act's testing requirements do not apply to PHMSA.



- You must not use alcohol within four hours (8 hours for flight crew members and flight attendants) of reporting for service or after receiving notice to report.
- You must not report for duty or remain on duty when using any controlled substance unless used pursuant to the instructions of an authorized medical practitioner.
- You must not refuse to submit to any test for alcohol or controlled substances.
- You must not refuse to submit to any test by adulterating or substituting your specimen.

Keep these in mind when preparing to report to work.

### **What drugs does DOT test for?**

DOT drug tests are conducted only using urine specimens. The urine specimens are analyzed for the following drugs/metabolites:

- Marijuana metabolites
- Cocaine metabolites
- Amphetamines including methamphetamine, MDMA
- Opioids – codeine, heroin (6-AM), morphine, oxycodone, oxymorphone, hydrocodone, hydromorphone
- Phencyclidine (PCP)

<b>Specimens Collected for Drug &amp; Alcohol Testing*</b>	
<b>Drugs:</b>	Urine
<b>Alcohol:</b>	Breath & Saliva
<small>* The FRA requires blood specimens as part of their Post-Accident testing.</small>	

To learn more about the effects of these and other drugs visit the following sites:

- Drugs and Human Performance Fact Sheet. National Highway Traffic Safety Administration (NHTSA) [www.nhtsa.dot.gov](http://www.nhtsa.dot.gov).
- Driving While You Are Taking Medications. National Highway Traffic Safety Administration (NHTSA) [www.nhtsa.dot.gov](http://www.nhtsa.dot.gov).
- Drugs of Abuse. National Institute for Drug Abuse (NIDA) <https://www.drugabuse.gov/drugs-abuse>
- Drug Facts. National Institute on Drug Abuse (NIDA) <https://www.drugabuse.gov/publications/finder/t/160/drugfacts>
- Drug Fact Sheets. Drug Enforcement Administration (DEA) <https://www.dea.gov/druginfo/factsheets.shtml>

To learn about where to dispose of unused medicines go to: <https://takebackday.dea.gov>

### **Can I use prescribed medications & over-the-counter (OTC) drugs and perform safety-sensitive functions?**

Prescription medicine and OTC drugs may be allowed.<sup>4</sup> However, you must meet the following minimum standards:

- The medicine is prescribed to you by a licensed physician, such as your personal doctor.
- The treating/prescribing physician has made a good faith judgment that the use of the substance at the prescribed or authorized dosage level is consistent with the safe performance of your duties.

<sup>4</sup> The FRA requires that if you are being treated by more than one medical practitioner, you must show that at least one of the treating medical practitioners has been informed of all prescribed and authorized medications and has determined that the use of the medications is consistent with the safe performance of your duties.

**Best Practice:** To assist your doctor in prescribing the best possible treatment, consider providing your physician with a detailed description of your job. A title alone may not be sufficient. Many employers give employees a written, detailed description of their job functions to provide their doctors at the time of the exam.

- The substance is used at the dosage prescribed or authorized.<sup>5</sup>
- If you are being treated by more than one physician, you must show that at least one of the treating doctors has been informed of all prescribed and authorized medications and has determined that the use of the medications is consistent with the safe performance of your duties.
- Taking the prescription medication and performing your DOT safety-sensitive functions is not prohibited by agency drug and alcohol regulations. However, other DOT agency regulations may have prohibitive provisions, such as medical certifications.

**Remember:** Some agencies have regulations prohibiting use of specific prescription drugs, e.g. methadone, etc.... If you are using prescription or over-the-counter medication, check first with a physician, but do not forget to consult your industry-specific regulations before deciding to perform safety-sensitive tasks. Also be sure to refer to your company's policy regarding prescription drugs.

### ***When will I be tested?***

Safety-sensitive employees are subject to drug or alcohol testing in the following situations:

- Pre-employment.
- Reasonable Suspicion/Cause.
- Random.
- Return-to-duty.
- Follow-up.
- Post-Accident.

### **Pre-Employment**

As a new hire, you are required to submit to a drug test. Employers may, but are not required to, conduct alcohol testing.<sup>6</sup> Only after your employer receives a negative drug test result (and negative alcohol test result - if administered) may you begin performing safety-sensitive functions. This also applies if you are a current employee transferring from a non-safety-sensitive function into a safety-sensitive position (even if it is the same employer).

### **Reasonable Suspicion/Cause**

You are required to submit to any test (whether drug, alcohol or both) that a supervisor requests based on reasonable suspicion. Reasonable suspicion means that one or more trained supervisors reasonably believes or suspects that you are under the influence of drugs or alcohol. They cannot require testing based on a hunch or guess alone; their suspicion must be based on observations concerning

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<sup>5</sup> While states may allow medical use of marijuana, federal laws and policy do not recognize any legitimate medical use of marijuana. Even if a state allows the use of marijuana, DOT regulations treat its use as the same as the use of any other illicit drug.

<sup>6</sup> Not every DOT agency requires a pre-employment alcohol test.

your appearance, behavior, speech and smell that are usually associated with drug or alcohol use.

### **Random**

You are subject to unannounced random drug & alcohol testing. Alcohol testing is administered just prior to, during or just after performing safety-sensitive functions. Depending on the industry specific regulations, you may only be subject to random drug testing.<sup>7</sup>

No manager, supervisor, official or agent may select you for testing just because they want to. Under DOT regulations, employers must use a truly random selection process. Each employee must have an equal chance to be selected and tested.

Just prior to the testing event, you will be notified of your selection and provided enough time to stop performing your safety sensitive function and report to the testing location. Failure to show for a test or interfering with the testing process can be considered a refusal.

### **Post-Accident**

If you are involved in an event (accident, crash, etc.) meeting certain criteria of the DOT agency, a post-accident test will be required. You will then have to take a drug test and an alcohol test.<sup>8</sup> You are required to remain available for this testing and are not permitted to refuse testing.



**Remember:** Safety-sensitive employees are obligated by law to submit to and cooperate in drug & alcohol testing mandated by DOT regulations.

### **Return to Duty**

If you have violated the prohibited drug & alcohol rules, you are required to take a drug and/or alcohol test before returning to safety-sensitive functions for any DOT regulated employer. You are subject to unannounced follow-up testing at least 6 times in the first 12 months following your return to active safety-sensitive service. Return-to-duty tests must be conducted under direct observation.

### **Follow-up**

The amount of follow-up testing you receive is determined by a Substance Abuse Professional (SAP) and may continue for up to 5 years. This means the SAP will determine how many times you will be tested (at least 6 times in the first year), for how long, and for what substance (i.e. drugs, alcohol, or both). Your employer is responsible for ensuring that follow-up testing is conducted and completed. Follow-up testing is in addition to all other DOT required testing. All follow-up tests will be observed.

### ***How is a urine drug test administered?***

Regardless of the DOT agency requiring the drug test, the drug testing process always consists of three components:

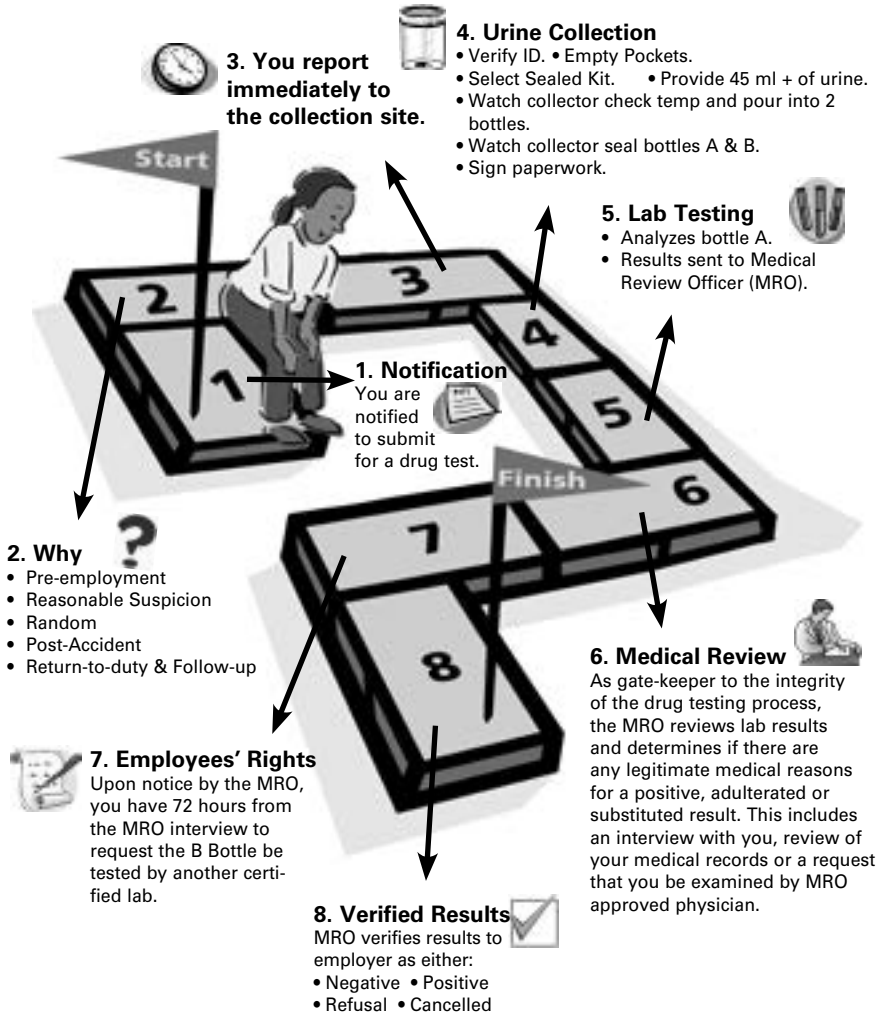
- The Collection. (49 CFR Part 40, Subparts C, D, E)
- Testing at the Laboratory. (49 CFR Part 40, Subpart F)
- Review by the Medical Review Officer. (49 CFR Part 40, Subpart G)

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<sup>7</sup> USCG & PHMSA do not perform random alcohol tests.

<sup>8</sup> In post-accident testing, the FRA requires a blood specimen for drug testing.

# Overview of DOT Drug Testing




What follows is a summary of the procedures for each step. For a more detailed account, please visit 49 CFR Part 40, which can be found in its entirety at [www.transportation.gov/odapc](http://www.transportation.gov/odapc).

## The Collection

During the collection process, a urine specimen collector will:

- Verify your identity using a current valid photo ID, such as driver's license, passport, employer issued picture ID, etc.
- Create a secure collection site by:
  - Restricting access to the site to only those being tested.
  - Securing all water sources and placing blue dye in any standing water.
  - Removing or securing all cleaning products/fluids at the collection site.
- Afford you privacy to provide a urine specimen.
  - Exceptions to the rule generally surround issues of attempted adulteration or substitution of a specimen or any situation where general questions of validity arise, like an unusual temperature.
- Ask you to remove any unnecessary garments and empty your pockets (you may retain your wallet).
- Instruct you to wash and dry your hands.
- Select or have you select a sealed collection kit and open it in your presence.
- Request you to provide a specimen (a minimum of 45 mL) of your urine into a collection container.
- Check the temperature and color of the urine.
- In your presence, pour the urine into two separate bottles (A or primary and B or split), seal them with tamper-evident tape, and then ask you to sign the seals after they have been placed on the bottles.

 **Remember:** Neither you nor the collector should let the specimen out of your sight until it has been poured into two separate bottles and sealed.

- Ask you to provide your name, date of birth, and daytime and evening phone numbers on the Medical Review Officer Copy (Copy #2) of the Federal Drug Testing Custody and Control Form (CCF).
  - This is so the Medical Review Officer (MRO) can contact you directly if there are any questions about your test.
- Complete necessary documentation on the "Test Facility Copy" (Copy #1) of the CCF to demonstrate the chain of custody (i.e. handling) of the specimen.
- Give you the Employee Copy (Copy # 5) of the CCF and may suggest you list any prescription and over-the-counter medications you may be taking on the back of your copy of the CCF (this may serve as a reminder for you in the event the MRO calls you to discuss your test results).
- Package and ship both sealed bottles and completed CCF to a U.S. Health and Human Services (HHS) certified testing laboratory as quickly as possible.

If you are unable to provide 45 mL of urine on the first attempt, the time will be noted, and you will be:

- Required to remain in the testing area under the supervision of the collection site personnel, their supervisor, or a representative from your company,
  - Leaving the testing area without authorization may be considered a refusal to test
- Urged to drink up to 40 oz. of fluid, distributed reasonably over a period of up to three hours,

- Asked to provide a new specimen (into a new collection container).
- If you do not provide a sufficient specimen within three hours, you must obtain a medical evaluation<sup>9</sup> within five days to determine if there is an acceptable medical reason for not being able to provide a specimen. If it is determined that there is no legitimate physiological or pre-existing psychological reason for not providing a urine specimen, it will be considered a refusal to test.

**How do you know if you are taking a federal or a private company drug test?**

All DOT drug tests are completed using the Federal Drug Testing Custody and Control Form. Those words appear at the top of each form.

**Testing at the Laboratory**

At the laboratory, the staff will:

- Determine if flaws exist. If flaws exist, the specimen is rejected for testing.
- Open only the A bottle and conduct a screening test. Specimens that screen positive will be analyzed again using a completely different testing methodology.
  - If the specimen tests negative in either test, the result will be reported as a negative.
  - Only if the specimen tests positive under both methods will the specimen be reported to the medical review officer as a positive test.
- Report the findings of the analysis of the A bottle to the Medical Review Officer (MRO).
- Store the A and B bottles for any reported positive, adulterated, or substituted result for at least 12 months.

**Remember:** The Lab will conduct specimen validity tests (SVTs) to determine if the specimen was adulterated or substituted. Tests found to be adulterated or substituted are also reported to the MRO and may be considered a refusal to test.

**Review by the Medical Review Officer (MRO)**

Upon receipt of the test result from the laboratory, the MRO will:

- Review paperwork for accuracy.
- Report a negative result to the Designated Employer Representative (DER).
- If the result is positive, conduct an interview with you to determine if there is a legitimate medical reason for the result. If a legitimate medical reason is established, the MRO will report the result to the DER as negative. If not, the MRO will report the result to the DER as positive.
- If the result is an adulterated or substituted test, conduct an interview with you to determine if there is a legitimate medical reason for the result. If a legitimate medical reason is established, the MRO will report the result to the DER as cancelled. If not, the MRO will report the result to the DER as a refusal.
- Report a non-negative test result to the DER if:
  - You refused to discuss the results with the MRO;
  - You did not provide the MRO with acceptable medical documentation to explain the non-negative test result.

<sup>9</sup> The physical exam is scheduled after the designated employer representative consults with the medical review officer. The physician chosen to complete the evaluation must have expertise in the medical issues raised and be acceptable to the Medical Review Officer.

- Inform you that you have 72 hours from the time of the verified result to request to have your B “split” bottle sent to another certified lab for analysis for the same substance or condition that was found in the A “primary” bottle.

***If I disclose my prescribed medication use/medical information to the MRO during my interview, will the MRO report that information to a third party?***

The DOT’s regulation requires the MRO to report your medication use/medical information to a third party (e.g. your employer, health care provider responsible for your medical qualifications, etc.), if the MRO determines in his/her reasonable medical judgement that you may be medically unqualified according to DOT Agency regulations, or if your continued performance is likely to pose a significant safety risk. The MRO may report this information even if the MRO verifies your drug test result as ‘negative’.

Prior to the MRO reporting your information to a third party you will have up to five days to have your prescribing physician contact the MRO. You are responsible for facilitating the contact between the MRO and your prescribing physician. Your prescribing physician should be willing to state to the MRO that you can safely perform your safety-sensitive functions while taking the medication(s), or consider changing your medication to one that does not make you medically unqualified or does not pose a significant safety risk.

***What are Medical Review Officers (MROs)?***

Under DOT regulations, MROs are licensed physicians with knowledge and clinical experience in substance abuse disorders. They must also complete qualification training courses and fulfill obligations for continuing education courses. They serve as independent, impartial gatekeepers to the accuracy and integrity of the DOT drug testing program. All laboratory results are sent to an MRO for verification before a company is informed of the result. As a safeguard to quality and accuracy, the MRO reviews each test and rules out any other legitimate medical explanation before verifying the results as positive, adulterated or substituted.

***How is an alcohol test administered?***

The DOT performs alcohol testing in a manner to ensure the validity of the testing as well as provide confidentiality of the employee’s testing information.

**How do you know if you are taking a federal or a private company alcohol test?**  
 All DOT alcohol tests are documented with a form with the words Department of Transportation at the top.

At the start of the test, a Screening Test Technician (STT) or a Breath Alcohol Technician (BAT), using only a DOT-approved device, will:

- Establish a private testing area to prevent unauthorized people from hearing or seeing your test result.
- Require you to sign Step #2 of the Alcohol Testing Form (ATF).
- Perform a screening test and show you the test result. If the screening test result is an alcohol concentration of less than 0.02, no further testing is authorized, and there is no DOT action to be taken. The technician will document the result on the ATF, provide you a copy and provide your employer a copy.

If the screening test result is 0.02 or greater, you will be required to take a confirmation test, which can only be administered by BAT using an Evidential Breath Testing (EBT) device. The BAT will:

- Wait at least 15 minutes, but not more than 30 minutes, before conducting the confirmation test. During that time, you are not allowed to eat, drink, smoke, belch, put anything in you mouth or leave the testing area.



**Remember:** Leaving the testing area without authorization may be considered a refusal to test.

- Perform an “air blank” (which must read 0.00) on the EBT device to ensure that there is no residual alcohol in the EBT or in the air around it.
- Perform a confirmation test using a new mouthpiece.
- Display the test result to you on the EBT and on the printout from the EBT.
- Document the confirmation test result on the ATF, provide you a copy and provide your employer a copy.
- Report any result of 0.02 or greater immediately to the employer.

If after several attempts you are unable to provide an adequate amount of breath, the testing will be stopped. You will be instructed to take a medical evaluation to determine if there is an acceptable medical reason for not providing a sample. If it is determined that there is no legitimate physiological or psychological reason, the test will be treated as a refusal to test.

<b>Confirmation test results are the final outcome of the test.</b>	
<b>Result</b>	<b>Action</b>
Less than 0.02	No action required under 49 CFR Part 40.
0.02 – 0.039	Varies among DOT agencies. For example, FMCSA requires that you not resume safety-sensitive functions for 24 hours [382.505], while the FRA requires 8 hours [219.101(a)(4)]. The FTA & PHMSA require only that you test below 0.02 or cannot work until the next scheduled duty period but not less than 8 hours from the time of the test [655.35 & 199.237 respectively]. And, the FAA requires only that you test below 0.02, if the employer wants to put you back to work within 8 hours [14 CFR Part 120, Subpart F, 120.217(g)]. Also, be sure to check other agency specific regulations for their restrictions.
0.04 or greater	Immediate removal from safety-sensitive functions. You may not resume safety-sensitive functions until you successfully complete the return-to-duty process.

***Should I refuse a test if I believe I was unfairly selected for testing?***

**Rule of Thumb:** Comply then make a timely complaint.

If you are instructed to submit to a DOT drug or alcohol test and you don’t agree with the reason or rationale for the test, take the test anyway. Don’t interfere with the testing process or refuse the test.

After the test, express your concerns to your employer through a letter to your company’s dispute resolution office, by following an agreed upon labor grievance or other company procedures. You can also express your concerns to the



appropriate DOT agency drug & alcohol program office. (See contact numbers listed in the Appendix.) Whomever you decide to contact, please contact them as soon as possible after the test.

### ***What is considered a refusal to test?***

DOT regulations prohibit you from refusing a test. The following are some examples of conduct that the regulations define as refusing a test (See 49 CFR Part 40 Subpart I & Subpart N):

#### **Drug Testing:**

- Failure to appear for any test after being directed to do so by your employer.
- Failure to remain at the testing site until the testing process is complete.
- Failure to provide a urine sample for any test required by federal regulations.
- Failure to permit the observation or monitoring of you providing a urine sample (Please note tests conducted under direct observation or monitoring occur in limited situations. The majority of specimens are provided in private).
- Failure to provide a sufficient amount of urine when directed, and it has been determined, through a required medical evaluation, that there was not adequate medical explanation for the failure.
- Failure to take a second test when directed to do so.
- Failure to undergo a medical evaluation as part of “shy bladder” procedures.
- Providing a specimen that is verified as adulterated or substituted.
- Failure to cooperate with any part of the testing process (e.g., refuse to empty pockets when directed by the collector, behave in a confrontational way that disrupts the collection process, fail to wash hands after being directed to do so by the collector).
- Failure to follow the observer’s instructions [during a direct observation collection] to raise your clothing above the waist, lower clothing and underpants, and to turn around to permit the observer to determine if you have any type of prosthetic or other device that could be used to interfere with the collection process.
- Possess or wear a prosthetic or other device that could be used to interfere with the collection process.
- Admit to the collector or MRO that you adulterated or substituted the specimen.

#### **Alcohol Testing:**

- Failure to appear for any test after being directed to do so by your employer.
- Failure to remain at the testing site until the testing process is complete.
- Failure to sign Step #2 of the ATF
- Failure to provide a breath sample for any test required by federal regulations.
- Failure to provide a sufficient breath sample when directed, and it has been determined, through a required medical evaluation, that there was not adequate medical explanation for the failure.
- Failure to undergo a medical evaluation as part of “shy lung” procedures.
- Failure to cooperate with any part of the testing process.

### ***What happens if I test positive, refuse a test, or violate an agency-specific drug & alcohol rule?***

If you test positive, refuse a test, or violate DOT drug & alcohol rules:

- A supervisor or company official will immediately remove you from DOT-regulated safety-sensitive functions.

- You will not be permitted to return to performing DOT regulated safety-sensitive duties until you have:
  - Undergone an evaluation by a Substance Abuse Professional (SAP);
  - Successfully completed any education, counseling or treatment prescribed by the SAP prior to returning to service; and
  - Provided a negative test result for drugs and/or a test result of less than 0.02 for alcohol. (Return to duty testing).
- Upon return to a safety-sensitive job, you will be subject to unannounced testing for drugs and/or alcohol no less than 6 times during the first 12 months of active service with the possibility of unannounced testing for up to 60 months (as prescribed by the SAP). These tests (including the return-to-duty test) will be directly observed.

### ***What are Substance Abuse Professionals (SAPs)?***

Under DOT regulations, SAPs are Substance Abuse Professionals. They play a critical role in the work place testing program by professionally evaluating employees who have violated DOT drug & alcohol rules. SAPs recommend appropriate education, treatment, follow-up tests, and aftercare. They are the gate-keepers to the re-entry program by determining when a safety-sensitive employee can be returned to duty.

SAPs are required to have a certain background and credentials, which include clinical experience in diagnosis and treatment of substance abuse-related disorders. They must also complete qualification training and fulfill obligations for continuing education courses. While SAPs do make recommendations to the employer about an employee's readiness to perform safety-sensitive duties, SAPs are neither an advocate for the employee or the employer, and they make return-to-duty recommendations according to their professional and ethical standards as well as DOT's regulations.

**Remember:** Even if a SAP believes that you are ready to return to work, an employer is under no obligation to return you to work. Under the regulations, hiring and reinstatement decisions are left to the employer. Also, under FAA regulations, SAPs cannot return a pilot to duty without the prior approval of the FAA's Federal Air Surgeon.

### ***How do I find a SAP?***

If you violate a DOT drug or alcohol rule, your employer is required to provide you with a list of SAPs' names, addresses, and phone numbers that are available to you and acceptable to them.<sup>10</sup> This is true even if your employer terminates your employment.

### ***Will I lose my job if I violate drug & alcohol regulations?***

DOT regulations do not address employment actions such as hiring, firing or granting leaves of absence. All employment decisions are the responsibility of the employers. Under Federal regulations, the main requirement for employers is to immediately remove employees from performing DOT safety-sensitive jobs. Be aware that a positive or refused DOT drug or alcohol test may trigger additional consequences based on company policy or employment agreement.

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<sup>10</sup> Employers cannot charge employees for the SAP list.

While you may not lose your job, you may lose your certification or license to perform that job. Be sure to check industry specific regulations. For example, someone operating a commercial motor vehicle may not lose their state-issued CDL, but they will lose their ability to perform any DOT regulated safety-sensitive tasks.

### ***Will my results be confidential?***

Your test results are confidential. An employer or service agent (e.g. testing laboratory, MRO or SAP) is not permitted to disclose your test results to outside parties without your written consent. But, your test information may be released (without your consent) in certain situations, such as: legal proceedings, grievances, or administrative proceedings brought by you or on your behalf, which resulted from a positive or refusal. When the information is released, the employer must notify you in writing of any information they released.

### ***Will the results follow me to different employers?***

Yes, your drug & alcohol testing history will follow you to your new employer, if that employer is regulated by a DOT agency. Employers are required by law to provide records of your drug & alcohol testing history to your new employer. This is to ensure that you have completed the return-to-duty process and are being tested according to your follow-up testing plan.

### ***What should I do if I have a drug or alcohol abuse problem?***

Seek help. Jobs performed by safety-sensitive transportation employees keep America's people and economy moving. Your work is a vital part of everyday life. Yet, by abusing drugs or alcohol, you risk your own life, your co-workers lives and the lives of the public.

Most every community in the country has resources available to confidentially assist you through the evaluation and treatment of your problem. If you would like to find a treatment facility close to you, check with your local yellow pages, local health department or visit the U.S. Department of Health and Human Services treatment facility locator at <http://findtreatment.samhsa.gov/>. This site provides contact information for substance abuse treatment programs by state, city and U.S. Territory.

Also, many work-place programs are in place to assist employees and family members with substance abuse, mental health and other problems that affect their job performance. While they may vary by industry, here is an overview of programs that may be available to you:

#### **Employee Assistance Programs (EAPs)**

While not required by DOT agency regulations, EAPs may be available to employees as a matter of company policy. EAPs are generally provided by employers or unions.



**Note:** Many employees believe they only need to contact an EAP counselor if they have a positive drug and/or alcohol test. Not true!


EAP programs vary considerably in design and scope. Some focus only on substance abuse problems; others undertake a broad brush approach to a range

of employee and family problems. Some include prevention, health and wellness activities. Some are linked to the employee health benefit structures. These programs offer nearly full privacy and confidentiality, unless someone's life is in danger.

Do you know what programs are available at your job? Be sure to ask your employer!

### **Voluntary Referral Programs**

Often sponsored by employers or unions, referral programs provide an opportunity to self-report to your employer a substance abuse problem before you violate testing rules. This gives you an opportunity for evaluation and treatment, while at times guaranteeing your job. Be sure to check your company to see if there is a voluntary referral program.

 **Remember:** Self-reporting just after being notified of a test does not release you from your responsibility of taking the test, and it also does not qualify as a voluntary referral.

### **Peer Reporting Programs**

Generally sponsored by employers or unions, you are encouraged or required to identify co-workers with substance abuse problems. The safety of everyone depends on it. Using peers to convince troubled friends and co-workers with a problem is one of the strengths of the program, often guaranteeing the co-worker struggling with substance abuse issues the same benefits as if he had self-reported.


### **Education and Training Programs (required by all Agencies)**

Topics may include the effects of drugs & alcohol use, company testing policies, DOT testing regulations and the consequences of a positive test. Materials may also contain information on how employees can get in touch with their Employee Assistance Programs and community service hot-lines.

In addition, supervisors sometimes receive additional training in the identification and documentation of signs and symptoms of employee's drug and/or alcohol use that trigger a reasonable suspicion drug or alcohol test.

### ***Did you know?***

Did you know that 6 out of 10 people suffering from substance abuse problems also suffer from mental conditions like depression?<sup>11</sup> Research has long documented that people suffering from depression try to self-medicate themselves through alcohol and other drugs. Typically, many of these individuals fail to remain clean and sober after rehabilitation because their underlying medical problem is not addressed and the cycle of self-medication begins again.

 **Remember:** If you have substance abuse issues, there is a 60% chance that you are also suffering from an underlying mental condition like depression.

Increase your chances of rehabilitation. Be sure to ask your doctor or other mental health professionals about depression as it relates to substance abuse issues.

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<sup>11</sup> The Dual Challenge of Substance Abuse and Mental Disorders, NIDA Director Nora D. Volkow, M.D., NIDA Notes, Vol. 18, No. 5.

***But, I have more questions?***

ODAPC is available to help answer anyone’s questions regarding DOT drug & alcohol testing regulations. Please contact us at 202-366-DRUG (3784) or visit our website at [www.transportation.gov/odapc](http://www.transportation.gov/odapc) for frequently asked questions, official interpretations of the regulations and regulatory guidelines.

If you have questions regarding DOT agency regulations on a specific industry, contact the agencies drug & alcohol abatement offices listed in the Appendix.

**Appendix**

**Drug & Alcohol Program Manager Contact Information**

**U.S. Department of Transportation**

FAA	Aviation	(202) 267-8442	<a href="http://www.faa.gov">www.faa.gov</a>
FMCSA	Motor Carrier	(202) 366-2096	<a href="http://www.fmcsa.dot.gov">www.fmcsa.dot.gov</a>
FTA	Public Transportation	(617) 494-2395	<a href="http://www.transit.dot.gov">www.transit.dot.gov</a>
FRA	Railroads	(202) 493-6313	<a href="http://www.railroads.dot.gov">www.railroads.dot.gov</a>
PHMSA	Pipeline	(909) 937-7232	<a href="http://www.phmsa.dot.gov">www.phmsa.dot.gov</a>

**U.S. Department of Homeland Security**

USCG	Maritime	(202) 372-1033	<a href="http://www.uscg.mil">http://www.uscg.mil</a>
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## **Notes**

See next few pages for:

**DOT OFFICE OF DRUG AND ALCOHOL POLICY AND  
COMPLIANCE NOTICES**

## DOT OFFICE OF DRUG AND ALCOHOL POLICY AND COMPLIANCE NOTICE



Recently, the Department of Justice (DOJ) issued guidelines for Federal prosecutors in states that have enacted laws authorizing the use of “medical marijuana.”

<http://www.justice.gov/opa/documents/medical-marijuana.pdf>.

We have had several inquiries about whether the DOJ advice to Federal prosecutors regarding pursuing criminal cases will have an impact upon the Department of Transportation’s longstanding regulation about the use of marijuana by safety-sensitive transportation employees – pilots, school bus drivers, truck drivers, train engineers, subway operators, aircraft maintenance personnel, transit fire-armed security personnel, ship captains, and pipeline emergency response personnel, among others.

We want to make it perfectly clear that the DOJ guidelines will have no bearing on the Department of Transportation’s regulated drug testing program. We will not change our regulated drug testing program based upon these guidelines to Federal prosecutors.

The Department of Transportation’s Drug and Alcohol Testing Regulation – 49 CFR Part 40, at 40.151(e) – does not authorize “medical marijuana” under a state law to be a valid medical explanation for a transportation employee’s positive drug test result.

That section states:

**§ 40.151 What are MROs prohibited from doing as part of the verification process?**

As an MRO, you are prohibited from doing the following as part of the verification process:

(e) You must not verify a test negative based on information that a physician recommended that the employee use a drug listed in Schedule I of the Controlled Substances Act. (e.g., under a state law that purports to authorize such recommendations, such as the “medical marijuana” laws that some states have adopted.)

Therefore, Medical Review Officers will not verify a drug test as negative based upon information that a physician recommended that the employee use “medical marijuana.” Please note that marijuana remains a drug listed in Schedule I of the Controlled Substances Act. It remains unacceptable for any safety-sensitive employee subject to drug testing under the Department of Transportation’s drug testing regulations to use marijuana.

We want to assure the traveling public that our transportation system is the safest it can possibly be.

Jim L. Swart  
Director  
Office of the Secretary of Transportation  
Office of Drug and Alcohol  
Policy and Compliance  
Department of Transportation  
October 22, 2009

## DOT OFFICE OF DRUG AND ALCOHOL POLICY AND COMPLIANCE NOTICE



Recently, some states passed initiatives to permit use of marijuana for so-called “recreational” purposes.

We have had several inquiries about whether these state initiatives will have an impact upon the Department of Transportation’s longstanding regulation about the use of marijuana by safety-sensitive transportation employees – pilots, school bus drivers, truck drivers, train engineers, subway operators, aircraft maintenance personnel, transit fire-armed security personnel, ship captains, and pipeline emergency response personnel, among others.

We want to make it perfectly clear that the state initiatives will have no bearing on the Department of Transportation’s regulated drug testing program. The Department of Transportation’s Drug and Alcohol Testing Regulation – 49 CFR Part 40 – does not authorize the use of Schedule I drugs, including marijuana, for any reason.

Therefore, Medical Review Officers (MROs) will not verify a drug test as negative based upon learning that the employee used “recreational marijuana” when states have passed “recreational marijuana” initiatives.

We also firmly reiterate that an MRO will not verify a drug test negative based upon information that a physician recommended that the employee use “medical marijuana” when states have passed “medical marijuana” initiatives.

It is important to note that marijuana remains a drug listed in Schedule I of the Controlled Substances Act. It remains unacceptable for any safety-sensitive employee subject to drug testing under the Department of Transportation’s drug testing regulations to use marijuana.

We want to assure the traveling public that our transportation system is the safest it can possibly be.

Jim L. Swart  
Director  
Office of the Secretary of Transportation  
Office of Drug and Alcohol Policy and Compliance  
Department of Transportation  
December 3, 2012



## DOT OFFICE OF DRUG AND ALCOHOL POLICY AND COMPLIANCE NOTICE



The Agricultural Improvement Act of 2018, Pub. L. 115-334, (Farm Bill) removed hemp from the definition of marijuana under the Controlled Substances Act. Under the Farm Bill, hemp-derived products containing a concentration of up to 0.3% tetrahydrocannabinol (THC) are not controlled substances. THC is the primary psychoactive component of marijuana. Any product, including “Cannabidiol” (CBD) products, with a concentration of more than 0.3% THC remains classified as marijuana, a Schedule I drug under the Controlled Substances Act.

We have had inquiries about whether the Department of Transportation-regulated safety-sensitive employees can use CBD products. Safety-sensitive employees who are subject to drug testing specified under 49 CFR part 40 (Part 40) include: pilots, school bus drivers, truck drivers, train engineers, transit vehicle operators, aircraft maintenance personnel, fire-armed transit security personnel, ship captains, and pipeline emergency response personnel, among others.

It is important for all employers and safety-sensitive employees to know:

1. The Department of Transportation requires testing for marijuana and not CBD.
2. The labeling of many CBD products may be misleading because the products could contain higher levels of THC than what the product label states. The Food and Drug Administration (FDA) does not currently certify the levels of THC in CBD products, so there is no Federal oversight to ensure that the labels are accurate. The FDA has cautioned the public that: “Consumers should beware purchasing and using any [CBD] products.” The FDA has stated: “It is currently illegal to market CBD by adding it to a food or labeling it as a dietary supplement.”\* Also, the FDA has issued several warning letters to companies because their products contained more CBD than indicated on the product label. \*\*i
3. The Department of Transportation’s Drug and Alcohol Testing Regulation, Part 40, does not authorize the use of Schedule I drugs, including marijuana, for any reason. Furthermore, CBD use is not a legitimate medical explanation for a laboratory-confirmed marijuana positive result. Therefore, Medical Review Officers will verify a drug test confirmed at the appropriate cutoffs as positive, even if an employee claims they only used a CBD product.

It remains unacceptable for any safety-sensitive employee subject to the Department of Transportation’s drug testing regulations to use marijuana. Since the use of CBD products could lead to a positive drug test result, Department of Transportation-regulated safety-sensitive employees should exercise caution when considering whether to use CBD products.

The contents of this document do not have the force and effect of law and are not meant to bind the public in any way. This document is intended only to provide clarity to the public regarding existing requirements under the law or agency policies. This policy and compliance

notice is not legally binding in its own right and will not be relied upon by the Department as a separate basis for affirmative enforcement action or other administrative penalty. Conformity with this policy and compliance notice is voluntary only and nonconformity will not affect rights and obligations under existing statutes and regulations. Safety-sensitive employees must continue to comply with the underlying regulatory requirements for drug testing, specified at 49 CFR part 40.

February 18, 2020

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<sup>i</sup>\* What You Need to Know (And What We're Working to Find Out) About Products Containing Cannabis or Cannabis-derived Compounds, Including CBD: *The FDA is working to answer questions about the science, safety, and quality of products containing cannabis and cannabis-derived compounds, particularly CBD.*" <https://www.fda.gov/consumers/consumer-updates/what-you-need-know-and-what-were-working-find-out-about-products-containing-cannabis-or-cannabis>

<sup>\*\*</sup> <https://www.fda.gov/news-events/public-health-focus/warning-letters-and-test-results-cannabidiol-related-products>

## Changes from previous version [April 2014]:

- **Inside Front Cover:** Removed room number from office address and paragraph on 'electronic access to publication'
- **Page iv:** Added text "This page intentionally left blank"
- **Page v:** Added text to various section headings to match those in booklet and updated pagination
- **Page 1:** Added/updated text to FAA, PHMSA, FRA and FTA sections of the table
- **Page 3:** Updated list of drugs for which DOT tests
- **Page 3:** Added/removed web resources on 'effects of drugs' and 'where to dispose of unused medicines'
- **Page 4:** Updated footnote #5 to clearly state that State allowance of marijuana is not recognized
- **Page 7:** 11th bullet under 'The Collection' heading, replaced text 'Laboratory Copy' with 'Test Facility Copy'
- **Page 9:** Added new question and answer: "If I disclose my prescribed medication use/medical information to the MRO during my interview, will the MRO report that information to a third party?"
- **Page 11:** Reformatted refusal section into "Drug Testing" and "Alcohol Testing" sections
- **Page 15:** Appendix: In the Drug & Alcohol Program Manager Contact Information section, updated PHMSA's telephone number and updated FTA, FRA, and USCG's web addresses
- **Page 15:** Removed ODAPC contact information because it is on the inside cover of this publication
- **Inside Back Cover:** Added section to list text changes from previous version
- **Back Cover:** Changed revision date from 'April 2014' to 'March 2019'
- Updated various web site addresses/hyperlinks throughout the document, and reformatted pages as needed



U.S. Department  
of Transportation