

DOT Drug & Alcohol Testing

Your Comprehensive Guide to Getting It Right the First Time


From background checks to reasonable suspicion testing to all the different types and panels of drug tests, there are a lot of rules and regulations to know about when it comes to DOT (Department of Transportation) testing — and a lot to potentially get wrong.

Get it right the first time. Learn everything you need to know with this guide before you get in over your head.



Find out why thousands of companies choose SureHire as their trusted provider of occupational testing services in North America.





DOT Vs. Non-DOT

Whether you are operating in Canada or in the U.S., as an employer, you have a **legal responsibility** to provide a safe working environment for your employees.

DOT vs. Non-DOT Drug Testing

Drug tests in the workplace will fall into 2 categories: those governed by the Department of Transportation (DOT) and everything else, commonly referred to as non-DOT testing. Although non-DOT employers may administer drug and alcohol tests to their employees, DOT employers are legally obligated to do so.

DOT governed employers must adhere to very strict rules, known as 49 CFR Part 40, that govern when, where, why, and even how drug and alcohol testing is administered in the DOT workplace.

How Do I Know if I Am a DOT Employer?

DOT regulations regarding drug and alcohol testing apply to all employers or contractors who have employees in safety-sensitive positions that are governed by the following agencies:

- Federal Aviation Administration (FAA)
- Federal Motor Carrier Safety Administration (FMCSA)
- Federal Railroad Administration (FRA)
- Federal Transit Administration (FTA)
- Pipeline & Hazardous Materials Safety Administration (PHMSA)
- United States Coast Guard (USCG)

What If I Am Both?

If you are an employer who has both DOT and non-DOT employees, or if you elect to test beyond the DOT requirements, you need to ensure that:

- DOT & non-DOT tests are conducted separately
- DOT testing & results take precedence and are completed first
- Non-DOT tests use fresh samples and not remnants of DOT tests
- DOT tests constitute the final word regardless of Non-DOT results.

If you have any doubt concerning compliance, an employer or employee can take a quick test online offered by the U.S. Department of Transportation to see if they are covered under the DOT Drug and Alcohol program at “Am I Covered.” *(Note: This only applies if you have employees crossing the Canada/U.S. border or have U.S. based divisions that meet the criteria.)*



**Read: DOT or
Non-DOT Testing?**



Managing Marijuana in the DOT Workplace

Cannabis, also known as marijuana (among other names), is a psychoactive drug from the cannabis plant intended for medical or recreational use. There are 2 primary types of cannabis plants, Cannabis Indica and Cannabis Sativa.



Cannabis Indica Effects

- Relaxing & laid back
- Relieves pain and aches
- Reduces anxiety & stress
- Aids sleep



Cannabis Sativa Effects

- Energizing & uplifting
- Stimulates creativity & thoughts
- Relieves headaches, migraines, & nausea
- Relives depression

There are about 85 known cannabinoids within the Cannabis plant.

The most common cannabinoids with medical interest are:

- **THC (Delta-9-tetrahydrocannabinol)**. This is responsible for the psychoactive effect or “high”
- **CBD (Cannabidiol)**. There are several potential benefits to the ingestion of CBD, including anti-inflammatory, anti-depressant, anti-epileptic. It does not have any psychoactive effects.
- **CBN (Cannabinol)**. This is a mildly psychoactive cannabinoid found only in trace amounts in Cannabis, and is mostly found in aged Cannabis.
- **CBG (Cannabigerol)**. This is the decarboxylated form of cannabigerolic acid, the parent molecule from which other cannabinoids are synthesized.
- **CBC (Cannabichromene)**. This is known as a phytocannabinoid and produces numerous psychotropic and therapeutic effects.

Required DOT Tests

Despite the legalization of both medical and recreational marijuana in Canada and in many states, it is still treated as an illicit drug under U.S. federal law and therefore the DOT 5-panel test includes a test for marijuana.

The DOT testing process must begin prior to the hiring of any employee and must continue throughout the employee's time with the company. Because of this, there are a number of tests that DOT-covered employers are legally obligated to conduct with their employees. Here are the types of different tests required under DOT legislation.

Drug History Checks | The first DOT requirement is a drug and alcohol background check on all potential employees. DOT employers must obtain the last 2 years of drug and alcohol test history from previous employers. It is important to note, however, that individual agencies may have additional requirements. The FMSCA demands a 3-year history while the FAA demands records from the last 5 years of drug and alcohol test history.

The drug history check will reveal if your applicant has previously tested positive for drug or alcohol use or has violated any DOT regulations regarding drug and alcohol testing including a refusal to test. This check will inform you about both the nature of the violation and the consequences assessed for that violation, including any rehabilitation efforts. If you are unable to obtain this information, you must keep careful records of all attempts as well as the results, or lack of result, of those attempts. These may be requested during a DOT or agency audit.

In 2020, the FMSCA's Commercial Driver's License (CDL) Drug and Alcohol Clearinghouse went live allowing employers to access an employee's entire drug and alcohol testing history.

NOTE: You are expected to contribute information from your testing program to the Clearinghouse.

Pre-Employment Testing | All of your potential new employees who fall under DOT regulations must undergo a pre-employment drug test prior to being hired. A negative test result must be received from these employees before they begin working for you, although exemptions may be made for new hires who were tested in the past 6 months or were involved in a random drug screening in the past 12 months.

Alcohol Testing. Pre-employment alcohol testing is not required for DOT, but it is also not prohibited. The only stipulations are that this testing must be conducted on all potential applicants and that it follows DOT Part 49, Subpart 3 rules for alcohol testing.

These tests must be conducted by specially trained Screening Test Technicians (STTs) or Breath Alcohol Technicians (BATs) but only BATs are allowed to conduct confirmation tests. Confirmation tests are conducted following any positive tests. The test must also be conducted using either a DOT-approved alcohol screening device (ASD) to measure alcohol in bodily fluids or approved Evidential Breath Measurement Devices (EBD). The ASD, however, may not be used in confirmation tests.

DID YOU KNOW?

SureHire's Breath Alcohol Technicians are certified based on U.S. DOT standards. Our Power Centres and Exclusive Testing Facilities follow the same procedures as police forces across North America. Contact a member of our team today to learn more.

[Click here to inquire.](#)

Random Testing. DOT requires that random testing be conducted on 25 to 50% of employees, depending on the specific agency that governs your workplace. DOT further requires that random testing be truly random using a scientifically approved method.

Post-Incident Testing. This testing is mandated under very narrowly defined circumstances for DOT governed employees and generally applies to situations where your employee is cited or where the accident results in injury or death.

DID YOU KNOW?

SureHire's DOT Consortium Random Program groups test participants from various companies into a pool for random drug and alcohol testing of drivers required to cross U.S. borders. We can also manage Clearinghouse programs for Owner-Operators and Employers.

[Click here to inquire.](#)

SureHire offers both DOT & Non-DOT Random Testing as well as 24/7 • 365 Post-Incident Testing.



Learn more about
Random Testing.



Learn more about
Post-Incident Testing.

Reasonable Suspicion Testing. DOT is very specific that reasonable suspicion testing cannot be based on a hunch or guess made by you or your supervisors. It must be based on observations of acute signs, such as current behavior, speech or appearance.



**Read: Do You Have
Ransonable Suspicion?**
Subject Matter Expert Series Article

DOT also requires that supervisors receive a minimum of one hour each of alcohol and drug abuse reasonable suspicion training. Several agencies further require that a minimum of two supervisors confirm the symptoms prompting reasonable suspicion testing.

Return-to-Duty Testing. DOT employees who fail drug tests must submit to a return-to-duty test prior to returning to a safety-sensitive position. They are also subject to random tests at least 6 times in their first year after returning to duty. You must, however, provide your employees who fail their drug tests with a list of Substance Abuse Professionals (SAPs) in your area who will assess the employee and can dictate additional randomized testing if they feel the situation warrants it.

Follow-Up Testing. Employees who test positive for drug use can be subject to follow-up drug tests for up to five years, depending on the recommendations made by the SAP.

Valid vs. Invalid Results. Validity tests are conducted on specimens in laboratories. A valid result will offer a sound positive or negative result. An invalid drug test, however, is one that is deemed to contain an unidentified adulterant or unidentified interfering substance, to have abnormal physical characteristics, or to have an endogenous substance at an abnormal concentration that prevents the laboratory from completing or obtaining a valid drug test result. Some of the reasons for an invalid test include:

- The sample is not suitable for testing
- The pH or temperature is out of range
- The presence of an adulterant or unidentified substance

Following an invalid drug test, a Medical Review Officer (MRO) will interview the test participant to find out if there is a medically acceptable reason for the invalid result. The MRO may allow the results to stand or require an observed retest to ensure no adulterant is added to the second sample.



Define: Adulterant



Define: MRO



Define: SAP



**Read: 3 Common
Oral Fluid Adulteration
Methods Article**



**Learn more
about Reasonable
Suspicion Training.**



**Learn more
about Substance
Abuse Programs.**



Urine vs. Hair Tests

Urine tests are considered to be the most cost effective and easy to administer option. In the medical community, they are considered the best biological specimen test to determine the presence or absence of drugs. Urine is the only specimen accepted for DOT drug testing.

Hair testing, in which a sample of the participant's hair is tested for the presence of drugs, does provide a longer window of detection and is more difficult to tamper with, but it is **currently not approved for DOT testing**. This is expected to change in the near future to also allow for lab-based oral fluid testing.



Define:
Oral Fluid Testing



Define:
Hair Testing



POCT vs. Lab-Based Tests

Point of Care Testing (POCT) is a test that can be completed at the workplace or at a designated testing site, as opposed to a lab test in which the sample is delivered to a laboratory for analysis. **POCT** does have advantages; however, it is still considered to be less reliable than lab testing and is **not allowed for DOT mandated testing**.



Define:
POCT Testing



Define:
Lab-Based Testing

DID YOU KNOW?

SureHire offers a range of drug testing services to help employers manage substance abuse in the workplace. We also utilizes a Substance Abuse and Mental Health Association SAMHSA certified laboratory for all lab-based urine testing.

Our knowledgeable team of experts is here to answer all of your questions. Contact us today to learn more.

[Click here to inquire.](#)

Testing Results

Although employers often view drug testing as a black and white process, there are actually several results that can occur, and each has a different DOT protocol which must be followed.

Negative Tests are the easy result. It means that no drugs were detected and there are no consequences or follow-ups required.

Positive Tests are those in which the presence of a specific drug has been detected. The MRO will interview the employee whose test is reported as positive. In accordance with DOT, if the drug detected is an illegal substance, your DER must immediately remove the employee from any/all safety-sensitive positions. If the drug detected is a legal narcotic, then the MRO will request a meeting with the employee to determine if the employee has a legal prescription and if they are taking the prescribed amount. Additional requests can also be made of the employee's physician to confirm that the prescription and dosage are required and that the employee is able to function in a safety-sensitive role.

False Positives are thought to occur in about 10% of tests. These are tests in which a positive result is claimed to be related to external factors such as the ingestion of poppy seeds, hemp products or over the counter medications. Fortunately, a second test called a gaschromatography-mass spectrometry is conducted following a positive test result and this second test will rule out these kinds of external factors.

False Negatives may be of more concern to you, but the good news is that they are relatively rare. Most are the result of an employee diluting a sample or providing a fraudulent sample. These are typically caught by validity testing.

Compliance

DOT has very stringent regulations regarding compliance and record keeping. You are required to keep records of all drug and alcohol testing activities along with any actions you may take as the result of a positive test and any interactions you have with service providers such as SAPs and MROs. These records must be retained for a minimum of 2 years, and even longer for some agencies.

DOT or any of the agencies under DOT jurisdiction can conduct a compliance audit at any time, which will include a review of all records alongside a review of your testing operation, education efforts, policies and distribution of policies. DOT does require you to put a drug and alcohol testing policy into place and to communicate that policy to your employees. You will need a separate policy for your non-DOT employees.

Who Sees Results?

The Following individuals will see test results:

- employee
- employer
- DER
- MRO
- SAP

Apart from that, the test results are always confidential and cannot be disclosed to a third party except in very specific situations such as a lawsuit or grievance.

Employer Rights

As an employer, you do have the right to test beyond DOT requirements and to test any of your employees who are not governed by DOT regulations. You also have the right to contract out any or all of your drug and alcohol testing, including SAPs, MROs, BATs and laboratory and collection work. The only exception is the role of the DER, which must be filled by an employee.

Employee Rights

Your employees have a right to:

- Refuse a test. However, the consequences of refusal are similar to a failed test and they may face termination.
- To produce their sample in private, unobserved. The only exceptions to this are: (1) if there is a suspicion that the employee has attempted to alter or tamper with a previous sample (in this case, an MRO can then require an observed sample), and (2) if a participant is completing Follow Up testing (all Follow Up testing requires observed collection as per DOT protocol).
- A list of SAPs in the event of a positive test result, and to select a SAP from that list.
- A meeting with the MRO to explain positive test results from a prescription medication the employee may be taking.



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