



THE

5 MINUTE COMPLIANCE BRIEF

OCTOBER 2026

What changed in DOT drug and alcohol testing, and what to check in your own program this month.

INSIDE THIS ISSUE

WATCH · PAGE 2

A DOT petition on invalid specimen results. Nothing changes in your program yet.

CONFIRM · PAGE 2

A collection rule already in effect. Ask your Designated Employer Representative how it reaches you.

CHECK · PAGE 5

Five records you should be able to find in two minutes.



1 REGULATORY WATCH

What changed, and what it means for you

I checked the DOT Office of Drug and Alcohol Policy and Compliance (ODAPC) Federal Register list on October 10. Nothing new changes what you must do today. Two items are worth your attention.

[\[ODAPC Federal Register list\]](#)



NEW THIS MONTH

A petition on invalid specimen results is open for comment

What changed. On October 1, DOT published a notice of a petition for rulemaking. It asks DOT to add medical review steps to Part 40 when an employee gives a plausible medical explanation for an abnormal specimen validity result, including abnormal pH. DOT has not proposed or adopted any change. Comments are due November 2, 2026.

[\[Federal Register notice\]](#)

Who it affects. Employers with DOT-regulated employees, plus the MROs and service agents who handle these results.

What to do now. Nothing changes in your program today. Watch for DOT's decision on the petition. The docket is DOT-OST-2026-3664.

STILL IN EFFECT

Directly observed collections: check your instructions

What changed. A DOT final rule took effect June 10, 2026. When an oral fluid test is required but oral fluid testing is not yet available, the collection must be a directly observed urine collection.

[\[Federal Register final rule\]](#)

Who it affects. Employers whose DOT-regulated employees test under Part 40.

Why it matters. If no same-sex observer is at the site, the collector contacts your Designated Employer Representative (DER). The DER either arranges an observer or sends the employee to an acceptable site. A new section, 40.65(d), also tells collectors to check for your standing order or call your DER in certain recollection situations.

[\[Federal Register final rule\]](#)

What to do now. Tell your DER this call may come. Decide whether you want a standing order in place.

ALSO OPEN

ODAPC's list shows no final rule adding fentanyl to the DOT panel. That remains a September 2025 proposal. It also shows no notice that the 18-month period for directly observed collections has started. [\[ODAPC Federal Register list\]](#)

FMCSA, FAA AND USCG

I found no new testing requirement this month. I will say so each month when nothing changed.



2 COMPLIANCE MISTAKE OF THE MONTH

A record problem, not a testing problem



COMMON SCENARIO, NOT A DOCUMENTED ENFORCEMENT CASE

“The random selection happened. The record did not.”

The scenario. A carrier runs its random program on schedule. Months later, someone asks which drivers were in the pool for the March selection. The list sits in an email thread, and the person who sent it has left.

What went wrong. The selection may have been fine. The proof was not. Random selection must use a scientifically valid method, and every covered driver must have an equal chance of being picked each time.

[\[49 CFR 382.305\]](#) The recordkeeping rules also list documents relating to the random selection process. [\[49 CFR 382.401\]](#)

THE FIX

Save the eligible list, the selection result and the date together, in one place, every period.

3 CAN YOU ANSWER THIS?

Three questions to ask about your own program

- 1 Can you show which employees were eligible for your last random selection?
- 2 Who receives your Clearinghouse notifications if your program administrator leaves tomorrow?
- 3 If an employee refuses a DOT test today, does your supervisor know exactly what happens next?

YOUR TO-DO LIST

If you hesitated on any of them, that is your to-do list for the week.



4 INDUSTRY RISK SPOTLIGHT

Construction and utility contractors



Where DOT testing applies depends on the driver and the vehicle, not the industry. The risk is the assumption.

Many crews run a mix: CDL dump truck and lowboy drivers, equipment operators, laborers and supervisors. Some employers treat everyone the same way, DOT or not. That blurs two separate programs.

DOT ROLES

Federal rules apply to people who operate a commercial motor vehicle in commerce and are subject to CDL requirements. [\[49 CFR 382.103\]](#)

EVERYTHING ELSE

A non-DOT program is your policy decision, written and applied the same way each time. Ask your attorney about Washington requirements before you finalize it.

A CDL driver who stays inside Washington is not exempt. FMCSA says anyone who operates a commercial motor vehicle requiring a CDL in intrastate or interstate commerce must take part in a DOT testing program.

[\[FMCSA FAQ\]](#)

DO THIS MONTH

Make three lists. CDL drivers. Other safety-sensitive roles. Everyone else.



5 2-MINUTE AUDIT CHECK

Locate these five things



- 1 Your written policy and the signed acknowledgments.
- 2 A current list of DOT roles and non-DOT roles.
- 3 The eligible list and result from your last DOT random selection.
- 4 The names of your DER and a backup.
- 5 The record of each Clearinghouse query. Employers keep it for three years. [\[49 CFR 382.701\]](#)

WHY IT MATTERS

Locate each one. If you cannot find it in two minutes, someone else will not find it either.





6 ASK SKYSIDE

Owner-operators and the random pool



QUESTION

Does an owner-operator have to belong to a random consortium?

Short answer: Yes, if you operate a commercial motor vehicle that requires a CDL. FMCSA says owner-operators must register with a consortium and participate in the consortium's random testing pool.

[\[FMCSA FAQ\]](#)

The rule: 49 CFR 382.103 and 382.305. [\[49 CFR 382.103\]](#)

The distinction: This applies to drivers who need a CDL. If you also drive under a carrier's authority, confirm in writing which random pool you are in so you are not missed or entered twice.

HAVE A QUESTION ABOUT YOUR TESTING PROGRAM?

Send me your question and I may answer it in a future issue.

Skyside Compliance helps employers manage DOT and non-DOT drug and alcohol testing programs.

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Have a question about your testing program? Reach out and I will answer it.

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Skyside Compliance LLC is a Washington Consortium/Third-Party Administrator.

Sources checked: October 10, 2026. This newsletter is general information for employers. It is not legal advice. DOT requirements apply to DOT-regulated employees. Non-DOT programs are employer policy decisions.