# Employer Drug Testing Compliance Checklist

## Employer Information

**Company Name:** _____

**Completed By:** _____

**Review Date:** _____

**Program Type:** _____

## 1. Written Drug & Alcohol Policy

**A written policy is the foundation of every compliant program. It must be provided to all covered employees before they begin work — and updated whenever regulations change.**

- ☐ Policy is in writing and covers all prohibited behaviors, testing occasions, consequences, and employee rights
- ☐ Policy distributed to every covered employee before they perform safety-sensitive or covered duties
- ☐ Employees signed an acknowledgment of receipt — records are retained
- ☐ Policy reviewed by qualified employment counsel familiar with current federal and state requirements
- ☐ Policy updated within the last 12 months or upon any regulatory change
- ☐ Policy specifies the name and contact information of the Designated Employer Representative (DER)
- ☐ Employee Assistance Program (EAP) information included in the policy
- ☐ For DOT programs: policy meets all applicable modal agency requirements (49 CFR Part 382, 49 CFR Part 655, etc.)

## 2. Covered Employee Identification & Enrollment

**Accurately identifying which employees are subject to testing — and keeping that list current — is essential. Missed employees create significant compliance gaps.**

- ☐ All positions subject to drug testing have been formally identified in writing
- ☐ Every covered employee is enrolled in the testing program before beginning covered duties
- ☐ Program enrollment is updated promptly when employees are hired, transferred, promoted, or terminated
- ☐ For DOT programs: all safety-sensitive employees as defined by the applicable modal agency are enrolled
- ☐ Owner-operators (if applicable) are enrolled in a qualified random testing consortium
- ☐ Contractors and temporary workers performing covered functions are included in the program

## 3. Designated Employer Representative (DER)

**The DER is the employer's point of contact for all drug and alcohol testing matters. This person must be immediately reachable whenever covered employees are on duty.**

- [ ] A qualified DER has been formally designated and their name is in the written policy
- [ ] The DER understands their responsibilities: receiving results, removing employees from duty, providing SAP referrals
- [ ] The DER is reachable at all times when covered employees are performing safety-sensitive functions
- [ ] A backup DER has been designated to cover absences, vacations, and emergencies
- [ ] The DER has completed any required DOT DER training or orientation
- [ ] DER contact information is on file with all service agents (collection sites, MRO, C/TPA)

## 4. Service Agents: Collection Sites, Lab & MRO

**Your testing program is only as strong as the vendors behind it. Verify each service agent is properly qualified — and document that verification.**

- [ ] A qualified DER has been formally designated and their name is in the written policy
- [ ] Collection sites are staffed by DOT-trained collectors (for DOT programs)
- [ ] Collection sites use the federal Custody and Control Form (CCF) for all DOT specimens
- [ ] Laboratory holds current SAMHSA certification (required for all DOT drug tests)
- [ ] Medical Review Officer (MRO) is a licensed physician with current DOT MRO certification
- [ ] MRO reviews all non-negative results before they are reported to the employer
- [ ] C/TPA (if used) has been verified as familiar with 49 CFR Part 40 requirements
- [ ] Service agent contracts are current and include required compliance provisions
- [ ] Employer has retained verification documentation for all service agents

## 5. Pre-Employment Drug Testing

**Pre-employment testing is the employer's first line of defense. Timing and documentation are critical — especially for DOT-covered roles.**

- [ ] Pre-employment drug test is required for all new hires before performing covered duties
- [ ] Test is administered after a conditional offer of employment is extended (not before — ADA risk)
- [ ] No covered employee begins safety-sensitive duties until a verified negative result is received
- [ ] For FMCSA (CDL drivers): Clearinghouse full query with driver consent completed before hire
- [ ] Pre-employment test records are retained per applicable retention schedule

- [ ] Transfer and re-hire situations: pre-employment test policy is consistently applied

## 6. Random Drug & Alcohol Testing Program

**Random testing is the backbone of any ongoing drug-free workplace program. The selection method, rate, timing, and documentation all matter.**

- [ ] Random pool uses a scientifically valid, computer-generated random selection methodology
- [ ] Every covered employee has an equal chance of being selected on every selection date
- [ ] Selections are distributed throughout the calendar year — not concentrated in one period
- [ ] Employees are notified of selection the same day and must report to the collection site immediately
- [ ] Current-year random testing rates verified against applicable agency minimums (see table below)
- [ ] All random selection records, notifications, and results are documented and retained
- [ ] Employees on leave are removed from the pool; selection is immediately re-run if a selected employee is unavailable

## 2026 DOT Minimum Random Testing Rates

| Agency | Covered Employees | Drug Rate | Alcohol Rate |
|---|---|---|---|
| FMCSA | CDL Drivers | 50% | 10% |
| FAA | Aviation Safety-Sensitive | 25% | 10% |
| FRA | Railroad Safety-Sensitive | 25% | 10% |
| FTA | Transit Safety-Sensitive | 25% | 10% |
| PHMSA | Pipeline Operations | 25% | N/A |
| USCG | Merchant Mariners | 25% | N/A |
| Non-DOT | Employer-Determined | Varies | Varies |

## 7. Reasonable Suspicion Testing

**Reasonable suspicion testing protects both the employer and the employee — but only if it is directed consistently, by trained supervisors, and properly documented every time.**

- [ ] Pre-employment drug test is required for all new hires before performing covered duties
- [ ] All supervisors of covered employees have completed required DOT reasonable suspicion training (60 min drug + 60 min alcohol for FMCSA)
- [ ] Training completion is documented: date, content, duration, trainer name, supervisor signature
- [ ] Supervisor training records are retained for the duration of employment plus 2 years
- [ ] Supervisors document specific, contemporaneous observations in writing before directing a test
- [ ] Alcohol testing is administered within 2 hours of the supervisor's determination; delays are documented
- [ ] Alcohol testing attempts cease and are documented if not completed within 8 hours
- [ ] Drug testing is administered as soon as practicable following the determination
- [ ] Reasonable suspicion testing is applied consistently regardless of employee seniority or position

## 8. Post-Accident Drug & Alcohol Testing

**Post-accident testing must happen fast. Know your triggering criteria and timing requirements before an incident occurs — not after.**

- [ ] Written policy clearly defines which accidents or incidents trigger post-accident testing
- [ ] For FMCSA: alcohol testing administered within 8 hours; drug testing within 32 hours of the accident
- [ ] Delays in testing are documented in writing, including the reason and what was attempted
- [ ] Employees are instructed not to consume alcohol for 8 hours post-accident or until tested
- [ ] Employees who leave the scene without authorization are treated as a test refusal
- [ ] Post-accident test results are documented and retained in the required program records
- [ ] Supervisors know post-accident triggering criteria and testing procedures by memory — not just policy

## 9. Return-to-Duty & Follow-Up Testing

**When an employee violates your drug or alcohol policy, the return-to-duty process is precise and non-negotiable. Every step must be documented.**

- [ ] Employee is immediately removed from safety-sensitive duties upon violation
- [ ] Employee is provided a list of qualified Substance Abuse Professionals (SAPs) without delay
- [ ] Employee completes all SAP-recommended education, treatment, and aftercare before return consideration
- [ ] SAP provides written clearance and return-to-duty recommendation to the employer
- [ ] Return-to-duty test is directly observed and yields a verified negative result before duty resumes
- [ ] Follow-up testing plan (minimum 6 tests in first 12 months) is documented and tracked
- [ ] All follow-up tests are unannounced and conducted under direct observation
- [ ] For FMCSA-covered drivers: violation and RTD completion are reported to the Clearinghouse

## 10. FMCSA Drug & Alcohol Clearinghouse (CDL Employers)

**This section applies to employers regulated by the FMCSA who employ CDL drivers in safety-sensitive positions. Non-FMCSA employers may skip this section.**

- [ ] Employer is registered with the FMCSA Drug and Alcohol Clearinghouse
- [ ] Pre-employment full Clearinghouse query (with driver written consent) completed for every new CDL hire
- [ ] Annual Clearinghouse query (limited or full) completed for every active covered CDL driver
- [ ] All violations reported to the Clearinghouse within 3 business days of knowledge
- [ ] Drivers with a Clearinghouse prohibition are not permitted to perform safety-sensitive functions
- [ ] Clearinghouse query records and driver consents retained for 3 years
- [ ] C/TPA Clearinghouse reporting (if used) is verified for accuracy and timeliness

## Retention Requirements (49 CFR Part 40.333)

| Record Type | Retention |
|---|---|
| Verified positive drug test results | 5 Years |
| Refusals to submit to testing | 5 Years |
| Confirmed alcohol results (BAC >=0.02) | 5 Years |
| EBT calibration records | 5 Years |
| SAP reports and follow-up plans | 5 Years |
| Negative and cancelled drug test results | 1 Year |
| Alcohol results below 0.02 BAC | 1 Year |
| Collection logbooks | 2 Years |
| Supervisor training documentation | Employment + 2 Years |

| | |
|---|---|
| Clearinghouse queries and consents | 3 Years |

## 11. Recordkeeping & Secure Storage)

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- [ ] Clearinghouse query records and driver consents retained for 3 years
- [ ] C/TPA Clearinghouse reporting (if used) is verified for accuracy and timeliness

## 12. State Law Compliance)

**State drug testing laws vary widely — especially regarding marijuana. Multi-state employers face the highest compliance risk. Review state law before taking adverse action on any test result.**

- [ ] State-specific drug testing laws have been reviewed for every state where covered employees work
- [ ] Policy reflects state-law differences, particularly for marijuana-related employment protections
- [ ] Adverse action decisions (discipline, termination) reviewed for compliance with applicable state law
- [ ] Multi-state employers have state-specific policy addenda where required
- [ ] Policy reviewed by counsel when employees work in states with employee marijuana use protections
- [ ] Testing procedures comply with any state-required notice, consent, or procedural requirements
- [ ] Policy is updated when state laws change — annually at minimum

## 13. Annual Program Review)

**A documented annual review is the employer's best protection against compliance gaps. It demonstrates good faith and catches drift before regulators do.**

- [ ] Annual program review conducted and documented (date, participants, findings)
- [ ] Random testing rates for current year verified against updated modal agency minimums
- [ ] Covered employee roster audited for accuracy: new hires, terminations, transfers, leaves
- [ ] Service agent qualifications re-verified: SAMHSA lab certification, MRO certification, collection site compliance
- [ ] Written policy reviewed and updated as needed for regulatory or state law changes
- [ ] All supervisor training records confirmed current; refresher training scheduled as needed
- [ ] Clearinghouse registration and query procedures confirmed current (FMCSA employers)
- [ ] Recordkeeping audit: verify retention compliance, secure storage, and access controls
- [ ] Prior year's test results reviewed for any trends requiring program adjustments
- [ ] Action items from prior year's review confirmed resolved and documented

## Program Review Notes

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