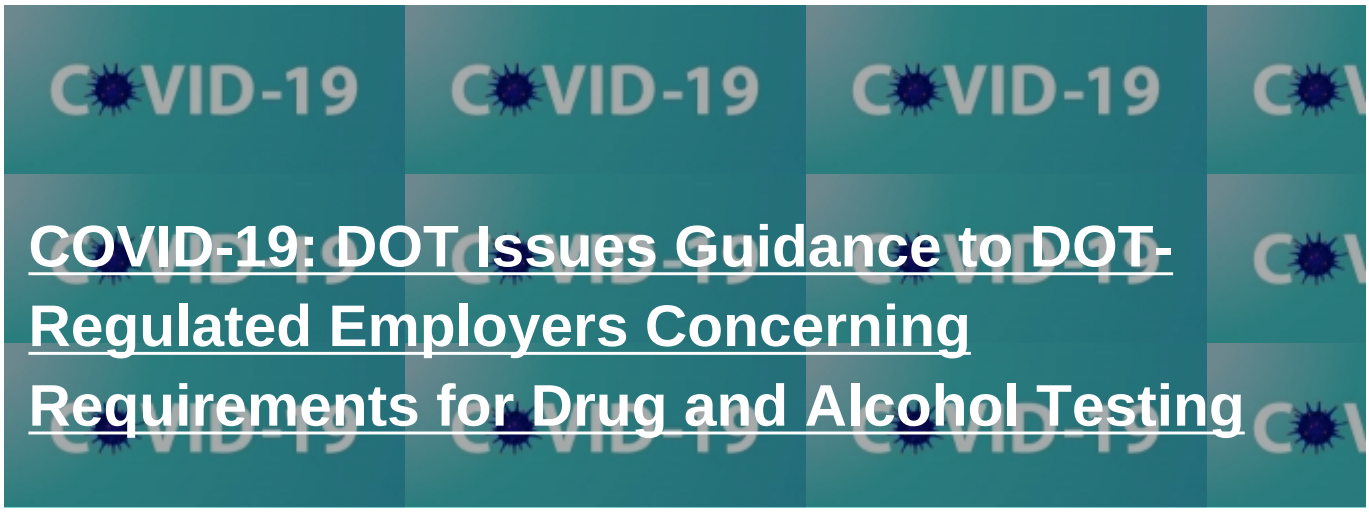


COVID-19: DOT Issues Guidance to DOT-Regulated Employers Concerning Requirements for Drug and Alcohol Testing

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By **Curry Sexton**

The U.S. Department of Transportation (DOT) recently issued guidance to DOT-Regulated Employers concerning DOT drug-and-alcohol testing requirements considering concerns related to COVID-19. DOT acknowledged that COVID-19 is straining medical resources and altering aspects of day-to-day life, including within the transportation industry. Accordingly, DOT is committed to providing "maximum flexibility to allow transportation industries to conduct their operations safely and efficiently during this period of national emergency" while maintaining a commitment to public safety.

DOT guidance on modal drug and alcohol testing compliance for DOT-Regulated Employers during this national emergency is summarized as follows:

• DOT-Regulated Employers must comply with applicable DOT training/testing requirements;
• A reasonable effort must be made to locate the necessary testing resources, and, as a best practice during this time, employers should consider mobile collection services if fixed-site collection facilities are unavailable;
• Employers unable to conduct DOT drug or alcohol training/testing due to the effects of COVID-19 are still required to comply with DOT Agency requirements to document why a test was not completed;
• If training/testing can be conducted later, employers are expected to do so in accordance with applicable modal regulations;
• If employers are unable to conduct DOT drug or alcohol testing, underlying modal regulations continue to apply; for instance, in the absence of a "negative" pre-employment drug test result, employers may not permit an employee to perform any DOT safety-sensitive functions;
• It is the employer's responsibility to evaluate the circumstances of an employee's refusal to test and to determine whether the actions should be considered a refusal pursuant to agency regulations, but employers should be sensitive to employees who are not comfortable or are afraid to go to clinics or collection sites; and
• Employers should verify that back-up plans are current and effective.

The full DOT guidance is **available here.**

This article is general in nature and does not constitute legal advice. Readers with legal questions should consult the author, Curry Sexton (csexton@sb-kc.com), or your regular contact at Seigfreid Bingham at 816-421-4460. For the latest updates from Seigfreid Bingham, please visit our **COVID-19 Resources**

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