

CONTROLLED SUBSTANCES AND ALCOHOL USE TESTING REGULATIONS FOR MANAGEMENT



U.S. Department of Transportation
Federal Motor Carrier Safety Administration



F M C S A
Federal Motor Carrier Safety Administration

Critical Information

This presentation outlines important U.S. regulations.

- Employer **MUST** ensure that all regulations are followed by drivers
- Employer is responsible for any violation committed by a driver

Applicability

- Employers and drivers who operate CMVs in the U.S. and are subject to:
 - Commercial driver's license requirements
 - Vehicles 26,001 lbs. or more. *OR*
 - Is designed to transport 16 or more passengers, including the driver.
 - Hazmat Requiring Placards
 - Some exceptions exist.

Prohibitions (Alcohol)

- Alcohol Concentration above the legal limit set by the FMCSA
- On-duty use
- Pre-duty use
- Use following an accident



Controlled Substance Testing

If a driver tests positive for a controlled substance:

- Driver shall NOT report to duty, remain on duty or perform safety sensitive functions
- Employer shall NOT permit the driver to perform safety sensitive functions
- A driver may be required to inform the employer of any therapeutic drug use

Employer Responsibilities

- Compliance with Part 40
- Officials, Representatives and Agents
- Agreements and arrangements, written and verbal

Employer Responsibilities

Immediately remove employee from safety sensitive functions (until return to duty process is completed) after receipt of:

- Positive drug test results
- Verified tainted or substituted drug test results
- Alcohol test greater than .04
- Refer employee to a Substance Abuse Professional



Substance Abuse Professional

- Evaluates employees who have violated a DOT drug and alcohol regulation.
- Makes recommendations about education, treatment, follow-up testing and after care.
- qualifications for SAP's are found in 40.281.

Employer Responsibilities

Temporarily remove employee from safety sensitive functions after receipt of:

- Alcohol test between 0.02 and 0.39
- A diluted specimen
- Invalid drug test requiring a 2nd collection under direct observation



Consequences For Drivers In Alcohol Use Related Conduct

- No driver with an alcohol concentration between **0.02** and **0.39** shall drive for at least 24 hours after being tested

Required Tests

- Pre-employment (Controlled Substances Test only)
- Post Accident
- Random
- Reasonable Suspicion
- Return to Duty
- Follow-Up

Pre-Employment Testing

Driver shall not perform a safety sensitive function (including driving) until a negative controlled substance test result is received.



Post-Accident Testing

After an accident each employer shall test each surviving driver for alcohol and controlled substances when the following apply:

Type of accident involved	Citation issued to the CMV driver	Test must be performed by employer
i. Human fatality	YES	YES
	NO	YES
ii. Bodily injury with immediate medical treatment away from the scene	YES	YES
	NO	NO
iii. Disabling damage to any motor vehicle requiring tow away	YES	YES
	NO	NO



Post-Accident Testing

If after an accident, a driver needs to be tested, the alcohol test shall be done within 8 hours of the accident and the controlled substance test, shall be performed within 32 hours.



Accidents

An Accident means:

- 1) An occurrence involving a commercial motor vehicle operating on a highway in interstate or intrastate commerce which results in:
 - **(1)(i)** A fatality;
 - **(1)(ii)** Bodily injury to a person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or
 - **(1)(iii)** One or more motor vehicles incurring disabling damage as a result of the accident, requiring the motor vehicle(s) to be transported away from the scene by a tow truck or other motor vehicle.

Random Testing

- Every driver shall submit to random alcohol and controlled substance testing
- Every employer shall comply with random testing requirements

Random Testing

Companies must randomly test drivers at a minimum annual percentage rate of:

- 10% of the number of drivers for alcohol testing
- 25% for controlled substances testing

Random Testing

- The random alcohol test must be given immediately before, during or after a driver performs a safety sensitive function (including driving)
- All drivers must have an equal chance of selection by a scientifically valid method, such as:
 - Random number table
 - Computer based random number

Reasonable Suspicion Testing

A driver **MUST** submit to an alcohol and/or controlled substance test if there is reasonable suspicion that the prohibitions concerning alcohol and/or controlled substances have been violated.



Reasonable Suspicion Testing

Suspicion **MUST** be based on specific observations of the supervisor or company official concerning the driver's:

- Behavior
- Speech
- Body odor (such as marijuana or alcohol)

Return-To-Duty Testing

An employer shall ensure that before a driver returns to duty:

- Driver's return-to-duty alcohol test indicates an alcohol concentration of **less than 0.02**
- Driver's return-to-duty controlled substances test indicates a negative result



Follow-Up Testing

- Substance Abuse Professional will set up a follow-up testing plan
- Employer **MUST** ensure that the plan is carried out
- A minimum of 6 tests **MUST** be conducted in the first 12 month
- Driver may be subject to testing for a maximum of 60 months



Refusal to Submit

- No driver shall refuse to submit to a required test
- No employer shall permit a refusing driver to perform safety sensitive functions

Urine Collection Forms

- MUST use current Federal Drug Testing Custody and Control Form (CCF) to document every urine collection
- MUST use a five-part carbonless manifold CCF
- May NOT use Federal Form for non-DOT collection

What Laboratories Can Be Used?

- ONLY laboratories certified by the U.S. Department of Health and Human Services under the National Laboratory Certification Program (NLCP)
- To view approved drug testing labs: <http://www.health.org/workplace>

Controlled Substances

Laboratories **MUST** test for:

- Marijuana
- Cocaine
- Opiates
- Amphetamines
- Phencyclidine (PCP)



Why do we still test for Marijuana?

- Marijuana is a “Schedule 1” Drug as defined by the DEA.
 - Schedule I drugs, substances, or chemicals are defined as drugs with no currently accepted medical use and a high potential for abuse.
- There is no “exemption” for positive marijuana test results based on medical marijuana “card” holders and legal recreational use.

Record Retention

- Employer shall maintain records of alcohol misuse and controlled substance use prevention programs
- Records shall be maintained in a secure location with controlled access

Record Retention

Records kept for 5 years

- Alcohol test results showing a **0.02** BAC or greater
- Positive drug test results
- Refusals to submit to required tests
- Driver evaluations and referrals
- Required calibration of breath testing devices
- Copy of each calendar year summary

Record Retention

Records kept for two years

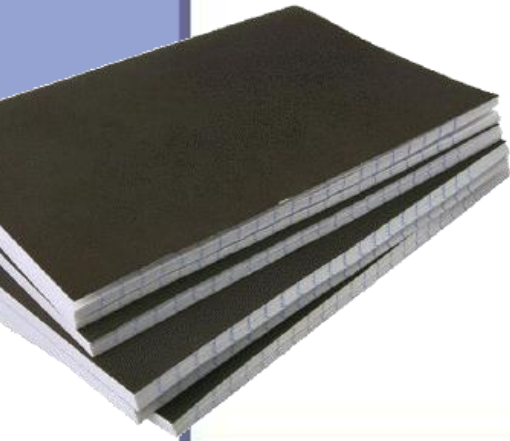
- Records related to the collection process

Records kept for two years

- Negative or cancelled drug test results
- Alcohol test results showing a **0.02** BAC or less

Records kept indefinitely

- Education and training records



Access To Records

Information **MUST** be released if:

- Specific written consent is received from employee
- Requested by a DOT agency
- Requested by the National Transportation Safety Board
- Requested by Federal, state or local safety agency

Employer Obligations

Employers shall provide materials explaining the regulation requirements and the employer's policies regarding alcohol misuse and controlled substances abuse.

Employer Obligations

- Materials shall be given to each driver before the start of alcohol and controlled substance testing
- Employer shall provide written notice of the availability of this information to representatives of employee organizations

Employer/Driver Discussions

Detailed discussions with drivers should include:

- Identity of person to answer drug/alcohol related questions
- Which drivers are subject to the requirements, what is prohibited and what a safety sensitive function is
- When and how a driver would be tested

Employer/Driver Discussions

Detailed discussions with drivers should include:

- Drivers' requirements to submit to testing and what constitutes a refusal
- Consequences for drivers that violate testing requirements
- Effects of alcohol misuse and drug use on health, work and personal life

Supervisor Training

Employer shall ensure that all supervisors receive:

- At least 60 minutes of alcohol misuse training
- At least 60 minutes of controlled substance use training

Supervisor Training

- Training will be used to help determine whether reasonable suspicion exists to require a driver to be tested
- Training shall include probable indicators of alcohol misuse and controlled substances use:
 - Behavioral
 - Speech
 - Performance
- Recurrent training not required for supervisors

Questions?

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