

## **Applicability**

Drivers required to have a commercial drivers license (CDL) are subject to the controlled substance and alcohol testing rules. This requirement extends to those drivers currently covered by the rule, including interstate and intrastate truck and motor coach operations.

This includes commercial motor vehicles operated by:

### **For-hire and private companies**

- Federal, State, local, and tribal governments
- Church and civic organizations
- Apiarian industries

## **Exemptions**

- Drivers exempt from commercial driver's license requirements by their issuing State
- Active duty military personnel

## **Types of alcohol and controlled substance tests**

**Pre-employment:** No employer shall allow a driver to perform a safety sensitive function until they have received the negative controlled substance test result.

**Post-Accident:** As soon as practicable following an accident involving a commercial motor vehicle operating on a public road in commerce, each employer shall test for alcohol and controlled substances each surviving driver: Who was performing safety-sensitive functions with respect to the vehicle, if the accident involved the loss of human life; or Who receives a citation under State or local law for a moving traffic violation arising from the accident, if the accident involved: Bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or One or more motor vehicles incurring disabling damage as a result of the accident, requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle.

**Random:** Companies are to randomly test drivers at a minimum annual percentage rate of 10% of the number of drivers for alcohol testing, and 50% for controlled substances testing. The random alcohol test must be performed immediately prior, during or immediately after a driver is about to, or has performed a safety sensitive function as defined in Section 382.107. All drivers must have an equal chance of being selected.

**Reasonable Suspicion:** An employer shall require a driver to submit to an alcohol and/or controlled substance test when the employer has reasonable suspicion to believe that the driver has violated the prohibitions concerning alcohol and/or controlled substances. The employer's determination that reasonable suspicion exists to require the driver to undergo an alcohol and/or controlled substances test must be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the driver. The required observations shall be made by a supervisor or company official who is trained in accordance with 382.603.

**Return-to-Duty:** Each employer shall ensure that before a driver returns to duty requiring the performance of a safety-sensitive function after engaging in conduct prohibited by subpart B of this part concerning alcohol or controlled substances, the driver shall undergo a return-to-duty

alcohol test with a result indicating an alcohol concentration of less than 0.02 and/or the driver shall undergo a return-to-duty controlled substances test with a result indicating a verified negative result for controlled substances use.

Follow-up: The Substance Abuse Professional will establish a follow-up testing plan. The employer must ensure that the follow-up testing plan is carried out. A minimum of six tests must be conducted in the first 12 months, and the driver may be subject to this test for a maximum of 60 months.

### **Retention of records**

Five Years:

#### **Alcohol test results indicating a Breath Alcohol Concentration (BAC) of 0.02 or greater**

- Verified positive drug test results
- Refusals to submit to required alcohol and drug tests
- Driver evaluations and referrals
- Required calibration of Evidential Breath Testing (EBT) devices
- A copy of each calendar year summary required by 382.403.

Two Years:

#### **Records related to the collection process**

One Year:

#### **Negative and canceled controlled substance test results**

- Alcohol test results indicating a BAC of less than 0.02

Indefinite Period:

#### **Education and training records**

#### **Location of Records**

All required records shall be maintained in a secure location with limited access, and shall be made available for inspection by an authorized representative of the Federal Motor Carrier Safety Administration.

#### **Supervisor training/Driver awareness**

Every motor carrier shall provide educational materials explaining the requirements of the regulations as well as the employer's policies regarding alcohol misuse and controlled substances abuse. At a minimum, detailed discussions should include:

#### **The identity of the person designated to answer drug and alcohol questions**

- Which drivers are subject to these requirements, what behavior is prohibited, and clarification of what a "safety sensitive function" is.
- The circumstances under which a driver will be tested, and the procedures that will be used for testing.
- Explanations of the requirement that a driver submit to the testing, as well as what constitutes a driver's refusal to submit to testing.
- The consequences for drivers who have violated the testing requirements.

- Information concerning the effects of alcohol misuse, and controlled substances abuse on health, work, and personal life.

### **Inquiries to previous employers**

A motor carrier, with the driver's written authorization, shall inquire about the following information on a driver from the driver's previous employers for a period of two years preceding the driver's date of application:

#### **Alcohol tests with a result of 0.04 alcohol concentration or greater;**

- Verified positive controlled substances test results;
- Refusals to be tested;
- Other violations of drug and alcohol regulations; and
- Documentation of completion of return-to-duty requirements.

### **Applicant's previous pre-employment tests**

A motor carrier must ask an applicant about previous pre-employment tests or refusals where the applicant did not obtain a job, during the two years preceding the applicant's date of application. If the applicant had any positive tests or refusals, the applicant must have documented completion of the return-to-duty process.

It is not required to complete either the "FMCSA Controlled Substance and Alcohol Testing MIS Data Collect Report" form or the "EZ" version of the form contained in this section unless you have received official notification from the Federal Motor Carrier Safety Administration.