

DRUG AND ALCOHOL TESTING FOR ALL PERSONS SUBJECT TO COMMERCIAL DRIVER'S LICENSE REQUIREMENTS

Persons subject to commercial driver's license requirements shall be subject to a drug and alcohol testing program that fulfills the requirements of the Code of Federal Regulations, Title 49, Part 382.

Other persons who drive vehicles designed to transport 16 or more passengers, including the driver, are likewise subject to the drug and alcohol testing program. (49 CFR 382.103)

Testing procedures and facilities used for the tests shall conform with the requirements of the Code of Federal Regulations, Title 49, Section 40 et seq.

Pre-Employment Tests

Tests shall normally be conducted before the first time a driver performs any safety-sensitive function for the district.

Safety-sensitive functions include all on-duty functions performed from the time a driver begins to work or is required to be ready to work until he/she is relieved from work and all responsibility for performing work. Functions include driving; waiting to be dispatched; inspecting and servicing equipment; supervising, performing or assisting in loading and unloading; repairing or obtaining and waiting for help with a disabled vehicle; performing driver requirements related to accidents; and performing any other work for the district or paid work for any other entity. (40 CFR 382.107, 392.2)

The tests shall be required of an applicant only after he/she has been offered the position.

Exceptions may be made for the drivers who have had the alcohol test required by law within the previous six months and participated in the drug testing program required by law within the previous 30 days, provided that the district has been able to make all verification required by law. (49 CFR 382.301)

Post Accident Tests

Alcohol and controlled substance tests shall be conducted as soon after an accident as practicable on any driver:

1. Who was performing safety-sensitive functions with respect to the vehicle, if the accident involved loss of human life; or
2. Who receives a citation under state and local law for a moving traffic violation arising from the accident (49 CFR 382.303)

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Drivers shall make themselves readily available for testing, absent the need for immediate medical attention. (49 CFR 382.209)

No such driver shall use alcohol for eight hours after the accident, or until after he/she undergoes a post accident alcohol test, whichever occurs first. (40 CFR 382.209)

If an alcohol test is not administered within two hours or if a drug test is not administered within 32 hours, the district shall prepare and maintain records explaining why the test was not conducted. Tests will not be given if not administered within eight hours after the accident for alcohol or within 32 hours for drugs.

Tests conducted by authorized federal, state or local officials will fulfill post-accident testing requirements provided they conform to applicable legal requirements and are obtained by the district. Breath tests will validate only the alcohol test and cannot be used to fulfill controlled substance testing obligations. (49 CFR 382.305)

Random Tests

Tests shall be conducted on a random basis at unannounced times throughout the year. Tests for alcohol shall be conducted just before, during, or just after the performance of safety-sensitive functions. The number of random alcohol tests annually must equal 25% of the average number of the drivers positions. The number of random drug tests annually must equal 50% of the average number of drivers positions. Drivers shall be selected by scientifically valid random process matched with social security, numbers, and each driver shall have an equal chance to begin testing each time selections are made. (49 CFR 382.303)

Reasonable Suspicion Tests

Persons designated to determine whether reasonable suspicion exists must receive at least 60 minutes of training that covers the physical, behavioral, speech, and performance indicators of alcohol misuse and an additional 60 minutes of training that covers these indicators of controlled substance use. (49 CFR 382.603)

Tests shall be conducted when a supervisor or district official trained in accordance with the law has reasonable suspicion that the driver has violated the district's alcohol and drug prohibitions. This reasonable suspicion must be based on specific, contemporaneous, articulable observations concerning the driver's appearance, behavior, speech, or body odor. The observations may include indications of the chronic and withdrawal effects of controlled substances. (49 CFR 382.307)

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Alcohol tests are authorized for reasonable suspicion only if the required observations are made during, just before or just after the period of the workday when the driver must comply with alcohol prohibitions. An alcohol test may not be conducted by the person who determines that reasonable suspicion exists to conduct such a test. If an alcohol test is not administered within two hours of a determination of reasonable suspicion, the district shall prepare and maintain a record explaining why this was not done. The driver will be given a copy of this statement. Attempts to conduct alcohol tests shall terminate after eight hours. (49 CFR 382.307)

A supervisor or district official who makes observations leading to a controlled substance reasonable suspicion test shall make a written record of his/her observation within 24 hours of the observed behavior or before the result of the drug test are released, whichever is earlier. A copy of this record will be given to the driver when the results of the test are released. (49 CFR 382.307)

Enforcement

Any driver who refuses to submit to a post-accident, random reasonable suspicion or follow-up test shall not perform or continue to perform safety-sensitive functions. (49 CFR 382.211)

Drivers who test positive for alcohol or drugs shall be subject to dismissal. Drivers will be subject to immediate dismissal for refusal to submit to a test authorized by this article.

A driver who violated district prohibitions related to drugs and alcohol shall receive from the district the names, addresses, and telephone numbers of substance abuse professionals and counseling and treatment programs available to evaluate and resolve drug and alcohol-related problems. The employee shall be evaluated by a substance abuse professional who shall determine what help, if any, the driver needs in resolving such a problem. Any substance abuse professional who determines that a driver needs assistance shall not refer the driver to a private practice, person, or organization in which he/she has a financial interest, except under circumstances allowed by law.

An employee identified as needing help in resolving a drug or alcohol problem shall be evaluated by a substance abuse professional to determine that he/she has properly followed the prescribed rehabilitated program and shall be subject to an unannounced follow-up test after returning to duty. (49 CFR 382.605) The cost of treatment or rehabilitation is the responsibility of the driver.

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Return to Duty Tests

A drug or alcohol test shall be conducted when a driver who has violated the district's drug or alcohol prohibitions returns to performing safety-sensitive duties. (49 CFR 382.309)

Employees whose conduct involved drugs cannot return to duty in a safety-sensitive function until the return to duty drug test produces a verified negative result. (49 CFR 382.605)

Employees whose conduct involved alcohol cannot return to duty in a safety-sensitive function until the return to duty alcohol test produces a verified result that meets federal and district standards.

Follow-up Tests

A driver who violates the district's drug and alcohol prohibition and is subsequently identified by a substance abuse professional as needing assistance in resolving a drug or alcohol problem shall be subject to unannounced follow-up testing as directed by the substance abuse professional in accordance with law. Follow-up alcohol testing shall be conducted just before, during, or just after the time when the driver is performing safety-sensitive functions. (49 CFR 382.311)

Drivers returning to duty after rehabilitation shall be subject to unannounced follow-up testing of at least six tests in the first 12 months of return to duty.

Records

Employee drug and alcohol test results, and records shall be maintained under strict confidentiality and released in accordance with law. Upon written request, a driver shall receive copies of any records pertaining to his/her use of drugs or alcohol, including any record pertaining to his/her or alcohol tests. Records shall be made available to a subsequent employee or other identified persons only as expressly requested in writing by the driver. (49 CFR 382.405)

Notification

Each driver shall receive educational materials that explain the requirements of the Code of Federal Regulations, Title 49, Part 382, together with a copy of the district's policy and regulations for meeting these requirements. Representatives of employee organizations shall be notified of the availability of the information. The information shall identify:

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1. The person designated by the district to answer driver questions about the materials
2. The categories of drivers who are subject to the Code of Federal Regulations, Title 40. Part 382
3. Sufficient information about the safety-sensitive functions performed by drivers to make clear what period of the workday the driver is required to comply with Part 382
4. Specific information concerning driver conduct that is prohibited by Part 382
5. The circumstances under which a driver will be tested for drugs and/or alcohol under Part 382
6. The procedures that will be used to test for the presence of drugs and alcohol, protect the driver, and the integrity of the testing processes, safeguard the validity of test results, and ensure that test results are attributed to the correct driver
7. The requirements that a driver submit a drug and alcohol test administered in accordance with Part 382
8. An explanation of what constitutes a refusal to submit to drug and alcohol test and the attendant consequences
9. The consequences for drivers found to have violated the drug and alcohol prohibitions or Part 382, including the requirement that the driver be removed immediately from safety-sensitive functions and the procedures for referral, evaluations, and treatment
10. The consequences for drivers found to have an alcohol concentration of 0.02 or greater but less than 0.4
11. Information concerning the effects of drugs and alcohol on an individual's health, work, and personal life; signs and symptoms of drug or alcohol problems (the driver's or a coworker's); and available method of intervening when a drug or alcohol problem is suspected, including confrontation, referral to an employee assistance program, and/or referral to management. (49 CFR 382.601)

Drivers shall also receive information about legal requirements, district policies, disciplinary consequences, and the right to representation related to the use of alcohol and drugs.

Each driver shall sign a statement certifying that he/she has received a copy of the above materials. (40 CFR 382.601)

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Before any driver operates a commercial motor vehicle, the district shall provide him/her with post-accident procedures that will make it possible to comply with post-accident testing requirements. (49 CFR 382.303)

Before drug and alcohol tests are performed, the district shall inform drivers that the tests are given pursuant to the Code of Federal Regulations, Title 49, Part 382. This notice shall be provided only after the compliance date specified in law. (49 CFR 382.113)

The district shall notify a driver of the results of a pre-employment drug test if the driver request such results within 60 calendar days of being notified of the disposition of his/her employment application. (49 CFR 382.411)

The district shall notify a driver of the results of random, reasonable suspicion, and post-accident drug test if the test results are verified positive. The district shall also tell the driver which controlled substance(s) verified as positive. (49 CFR 381.411)

Drivers shall inform their supervisors if at any time they are using a controlled substance which their physician has prescribed for therapeutic purposes. Such a substance may be used only if the physician has advised the driver that it will not adversely affect his/her ability to safely operate a commercial motor vehicle. (49 CFR 382.213)