



Loss Control TIPS

Technical Information Paper Series

Innovative Safety and Health SolutionsSM

Federal Motor Carrier Safety Regulations: *Controlled Substances and Alcohol Use and Testing*

All fleet operators should know that the Federal Government has instituted drug and alcohol testing requirements for commercial fleets. This paper presents a brief overview of the requirements, but this information should *not* be used in lieu of the actual regulations, which may be found in the *Code of Federal Regulations* (49 CFR 382).

Applicability

This part of the regulation applies to any person who operates a Commercial Motor Vehicle (CMV), as defined in §382.107, in intrastate or interstate commerce and is subject to the Commercial Driver's License (CDL) requirements of 49 CFR 383.

Exemptions

- Drivers and their employers who are required to comply with the Federal Transit Administration alcohol and controlled substances testing requirements.
- Members of the military.
- Drivers and their employers who a state has, at its discretion, exempted from the requirements of 49 CFR 383.

Test Requirements

Employers are required to perform the following tests:

Pre-Employment Tests

Prior to the first time a driver performs safety-sensitive functions for an employer, the driver shall undergo testing for controlled substances. No employer shall allow a driver, who the employer intends to hire or use, to perform safety-sensitive functions unless the results of drug testing show the following:

- Controlled substances. Test results from the MRO indicate a verified negative result.



Post-Accident Tests

Post-accident testing must be performed as soon as practicable following an accident involving a CMV 1) in which there was a fatality; or 2) in which any vehicle involved had to be towed from the scene due to disabling damage and in which the driver was issued a citation in connection with the accident; and 3) in which someone involved in the accident received immediate medical treatment away from the scene and the driver was issued a citation in connection with the accident:

- Alcohol. Driver must be tested within 2 to 8 hours following the accident
- Controlled substances. Driver must be tested within 32 hours following the accident

Random Testing

Employers are required to randomly test their drivers for alcohol and controlled substances. The selection of drivers for random alcohol and controlled substances testing shall be made by a scientifically valid method where each driver has an equal chance of being selected. Tests must be unannounced and reasonably spread throughout the year. Small employers may elect to have their drivers placed in a pool or consortium to determine selection.

- Alcohol. The minimum annual percentage rate for random alcohol testing is 10% of the average number of driver positions.
- Controlled substances. The minimum annual percentage rate for random controlled substances testing is 50% of the average number of driver positions.

Reasonable Suspicion Testing

An employer shall require a driver to submit to an alcohol or controlled substances test when the employer has reasonable suspicion to believe that the driver has violated the alcohol or drug prohibitions. The required observations must be made by a supervisor or company official who is trained in accordance with §382.603.

Return to Duty Testing

The employer shall ensure that, before a driver who has violated the alcohol or drug prohibitions is returned to a safety-sensitive position, he/she undergoes an alcohol or controlled substances test that indicate an alcohol concentration of less than 0.02 or a verified negative result for controlled substances.

Follow-Up Testing

A substance abuse professional must require follow-up testing for drivers who were referred for treatment. A minimum of six tests must be conducted within the first 12 months, and the driver may only be subjected to this type of testing for a maximum of 60 months.

Record Retention

Employers are required to maintain records of alcohol misuse and controlled substances use prevention programs. Records must be maintained in a secure location with controlled access. The period of retention shall follow the following schedule:

Five years:

- Test results indicating an alcohol concentration of 0.02 or greater
- Test results indicating a verified positive for controlled substances
- Documentation of refusals to take required alcohol or controlled substances tests
- Driver evaluation and referrals
- Calibration documentation
- Records relating to the administration of the alcohol and controlled substances testing programs
- A copy of each annual calendar year summary required by §382.403.

Two years:

- Records related to the alcohol and controlled substances collection process (except calibration of evidential breath testing devices)

One year:

- Records of negative and canceled controlled substances test results
- Alcohol test results with concentrations of less than 0.02

Indefinite:

- Records related to the education and training of breath alcohol technicians, screening test technicians, supervisors, and drivers, *during* the period that these individuals perform the functions which require the training, and for two years *after* they cease to perform those functions.

Conclusion

The regulations also have specific requirements concerning reporting of results, access to records, medical review and information, training and referral. Consult the entire regulation before instituting any alcohol or controlled substances program.

For more information, contact your local Hartford agent or your Hartford Loss Control Consultant. Visit The Hartford's Loss Control web site at <http://www.thehartford.com/corporate/losscontrol/>

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