



DOT Controlled Substances & Alcohol Use Testing: Required Tests

*Information excerpted from the U.S. Department of Transportation website

§ 382.301: Pre-employment Testing

A. Prior to the first time a driver performs safety-sensitive functions for an employer, the driver shall undergo testing for controlled substances as a condition prior to being used, unless the employer uses the exception in paragraph B of this section. No employer shall allow a driver, who the employer intends to hire or use, to perform safety-sensitive functions unless the employer has received a controlled substances test result from the MRO or C/TPA indicating a verified negative test result for that driver.

B. An employer is not required to administer a controlled substances test required by paragraph A of this section if:

1. The driver has participated in a controlled substances testing program that meets the requirements of this part within the previous 30 days; and
2. While participating in that program, either:
 - i. Was tested for controlled substances within the past 6 months (from the date of application with the employer), or
 - ii. Participated in the random controlled substances testing program for the previous 12 months (from the date of application with the employer);and
3. The employer ensures that no prior employer of the driver of whom the employer has knowledge has records of a violation of this part or the controlled substances use rule of another DOT agency within the previous six months.

C.

1. An employer who exercises the exception in paragraph B of this section shall contact the controlled substances testing program(s) in which the driver participates or participated and shall obtain and retain from the testing program(s) the following information:

- i. Name(s) and address(es) of the program(s).
- ii. Verification that the driver participates or participated in the program(s).
- iii. Verification that the program(s) conforms to part 40 of this title.
- iv. Verification that the driver is qualified under the rules of this part, including that the driver has not refused to be tested for controlled substances.



- v. The date the driver was last tested for controlled substances.
 - vi. The results of any tests taken within the previous six months and any other violations of subpart B of this part.
2. An employer who uses, but does not employ a driver more than once a year to operate commercial motor vehicles must obtain the information in paragraph C. 1 of this section at least once every six months. The records prepared under this paragraph shall be maintained in accordance with §382.401. If the employer cannot verify that the driver is participating in a controlled substances testing program in accordance with this part and part 40 of this title, the employer shall conduct a pre-employment controlled substances test.

D. An employer may, but is not required to, conduct pre-employment alcohol testing under this part. If an employer chooses to conduct pre-employment alcohol testing, it must comply with the following requirements:

- 1. It must conduct a pre-employment alcohol test before the first performance of safety-sensitive functions by every covered employee (whether a new employee or someone who has transferred to a position involving the performance of safety-sensitive functions).
- 2. It must treat all safety-sensitive employees performing safety-sensitive functions the same for the purpose of pre-employment alcohol testing (i.e., it must not test some covered employees and not others).
- 3. It must conduct the pre-employment tests after making a contingent offer of employment or transfer, subject to the employee passing the pre-employment alcohol test.
- 4. It must conduct all pre-employment alcohol tests using the alcohol testing procedures of 49 CFR part 40 of this title.
- 5. It must not allow a covered employee to begin performing safety-sensitive functions unless the result of the employee's test indicates an alcohol concentration of less than 0.04.

§ 382.303: Post-accident Testing

A. As soon as practicable following an occurrence involving a commercial motor vehicle operating on a public road in commerce, each employer shall test for alcohol for each of its surviving drivers:

- 1. Who was performing safety-sensitive functions with respect to the vehicle, if the accident involved the loss of human life; or



2. Who receives a citation within 8 hours of the occurrence under State or local law for a moving traffic violation arising from the accident, if the accident involved:

- i. Bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or
- ii. 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.

B. As soon as practicable following an occurrence involving a commercial motor vehicle operating on a public road in commerce, each employer shall test for controlled substances for each of its surviving drivers:

- 1. Who was performing safety-sensitive functions with respect to the vehicle, if the accident involved the loss of human life; or
- 2. Who receives a citation within thirty-two hours of the occurrence under State or local law for a moving traffic violation arising from the accident, if the accident involved:

- i. Bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or
- ii. 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.

C. The following table notes when a post-accident test is required to be conducted by paragraphs A.1, A. 2, B. 1, and B. 2 of this section:

Table for § 382.303(a) and (b)

Type of accident involved	Citation issued to the CMV driver	Test must be performed by employer
i. Human fatality	YESNO	YESYES
ii. Bodily injury with immediate medical treatment away from the scene	YESNO	YESNO
iii. Disabling damage to any motor vehicle requiring tow away	YESNO	YESNO

D.

- 1. *Alcohol tests*- If a test required by this section is not administered within two hours following the accident, the employer shall prepare and maintain on file a record stating the reasons the test was not promptly administered. If a test



required by this section is not administered within eight hours following the accident, the employer shall cease attempts to administer an alcohol test and shall prepare and maintain the same record. Records shall be submitted to the FMCSA upon request.

2. *Controlled substance tests*- If a test required by this section is not administered within 32 hours following the accident, the employer shall cease attempts to administer a controlled substances test, and prepare and maintain on file a record stating the reasons the test was not promptly administered. Records shall be submitted to the FMCSA upon request.

E. A driver who is subject to post-accident testing shall remain readily available for such testing or may be deemed by the employer to have refused to submit to testing. Nothing in this section shall be construed to require the delay of necessary medical attention for injured people following an accident or to prohibit a driver from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident, or to obtain necessary emergency medical care.

F. An employer shall provide drivers with necessary post-accident information, procedures and instructions, prior to the driver operating a commercial motor vehicle, so that drivers will be able to comply with the requirements of this section.

G.

1. The results of a breath or blood test for the use of alcohol, conducted by Federal, State, or local officials having independent authority for the test, shall be considered to meet the requirements of this section, provided such tests conform to the applicable Federal, State or local alcohol testing requirements, and that the results of the tests are obtained by the employer.

2. The results of a urine test for the use of controlled substances, conducted by Federal, State, or local officials having independent authority for the test, shall be considered to meet the requirements of this section, provided such tests conform to the applicable Federal, State or local controlled substances testing requirements, and that the results of the tests are obtained by the employer.

H. Exception. This section does not apply to:

1. An occurrence involving only boarding or alighting from a stationary motor vehicle; or
2. An occurrence involving only the loading or unloading of cargo; or



3. An occurrence in the course of the operation of a passenger car or a multipurpose passenger vehicle (as defined in § 571.3 of this title) by an employer unless the motor vehicle is transporting passengers for hire or hazardous materials of a type and quantity that require the motor vehicle to be marked or placarded in accordance with §177.823 of this title.

§ 382.305: Random Testing

A. Every employer shall comply with the requirements of this section. Every driver shall submit to random alcohol and controlled substance testing as required in this section.

B.

1. Except as provided in paragraphs C through E of this section, the minimum annual percentage rate for random alcohol testing shall be 10 percent of the average number of driver positions.

2. Except as provided in paragraphs F through H of this section, the minimum annual percentage rate for random controlled substances testing shall be 50 percent of the average number of driver positions.

C. The FMCSA Administrator's decision to increase or decrease the minimum annual percentage rate for alcohol testing is based on the reported violation rate for the entire industry. All information used for this determination is drawn from the alcohol management information system reports required by §382.403. In order to ensure reliability of the data, the FMCSA Administrator considers the quality and completeness of the reported data, may obtain additional information or reports from employers, and may make appropriate modifications in calculating the industry violation rate. In the event of a change in the annual percentage rate, the FMCSA Administrator will publish in the Federal Register the new minimum annual percentage rate for random alcohol testing of drivers. The new minimum annual percentage rate for random alcohol testing will be applicable starting January 1 of the calendar year following publication in the Federal Register.

D.

1. When the minimum annual percentage rate for random alcohol testing is 25 percent or more, the FMCSA Administrator may lower this rate to 10 percent of all driver positions if the FMCSA Administrator determines that the data received under the reporting requirements of §382.403 for two consecutive calendar years indicate that the violation rate is less than 0.5 percent.



2. When the minimum annual percentage rate for random alcohol testing is 50 percent, the FMCSA Administrator may lower this rate to 25 percent of all driver positions if the FMCSA Administrator determines that the data received under the reporting requirements of §382.403 for two consecutive calendar years indicate that the violation rate is less than 1.0 percent but equal to or greater than 0.5 percent.
- E.
1. When the minimum annual percentage rate for random alcohol testing is 10 percent, and the data received under the reporting requirements of §382.403 for that calendar year indicate that the violation rate is equal to or greater than 0.5 percent, but less than 1.0 percent, the FMCSA Administrator will increase the minimum annual percentage rate for random alcohol testing to 25 percent for all driver positions.
 2. When the minimum annual percentage rate for random alcohol testing is 25 percent or less, and the data received under the reporting requirements of §382.403 for that calendar year indicate that the violation rate is equal to or greater than 1.0 percent, the FMCSA Administrator will increase the minimum annual percentage rate for random alcohol testing to 50 percent for all driver positions.
- F. The FMCSA Administrator's decision to increase or decrease the minimum annual percentage rate for controlled substances testing is based on the reported positive rate for the entire industry. All information used for this determination is drawn from the controlled substances management information system reports required by §382.403. In order to ensure reliability of the data, the FMCSA Administrator considers the quality and completeness of the reported data, may obtain additional information or reports from employers, and may make appropriate modifications in calculating the industry positive rate. In the event of a change in the annual percentage rate, the FMCSA Administrator will publish in the Federal Register the new minimum annual percentage rate for controlled substances testing of drivers. The new minimum annual percentage rate for random controlled substances testing will be applicable starting January 1 of the calendar year following publication in the Federal Register.
- G. When the minimum annual percentage rate for random controlled substances testing is 50 percent, the FMCSA Administrator may lower this rate to 25 percent of all driver positions if the FMCSA Administrator determines that the data received under the



reporting requirements of §382.403 for two consecutive calendar years indicate that the positive rate is less than 1.0 percent.

H. When the minimum annual percentage rate for random controlled substances testing is 25 percent, and the data received under the reporting requirements of §382.403 for any calendar year indicate that the reported positive rate is equal to or greater than 1.0 percent, the FMCSA Administrator will increase the minimum annual percentage rate for random controlled substances testing to 50 percent of all driver positions.

I.

1. The selection of drivers for random alcohol and controlled substances testing shall be made by a scientifically valid method, such as a random number table or a computer-based random number generator that is matched with drivers' Social Security numbers, payroll identification numbers, or other comparable identifying numbers.
2. Each driver selected for random alcohol and controlled substances testing under the selection process used, shall have an equal chance of being tested each time selections are made.
3. Each driver selected for testing shall be tested during the selection period.

J.

1. To calculate the total number of covered drivers eligible for random testing throughout the year, as an employer, you must add the total number of covered drivers eligible for testing during each random testing period for the year and divide that total by the number of random testing periods. Covered employees, and only covered employees, are to be in an employer's random testing pool, and all covered drivers must be in the random pool. If you are an employer conducting random testing more often than once per month (e.g., daily, weekly, bi-weekly) you do not need to compute this total number of covered drivers rate more than on a once per month basis.
2. As an employer, you may use a service agent (e.g., a C/TPA) to perform random selections for you, and your covered drivers may be part of a larger random testing pool of covered employees. However, you must ensure that the service agent you use is testing at the appropriate percentage established for your industry and that only covered employees are in the random testing pool.



K.

1. Each employer shall ensure that random alcohol and controlled substances tests conducted under this part are unannounced.
2. Each employer shall ensure that the dates for administering random alcohol and controlled substances tests conducted under this part are spread reasonably throughout the calendar year.

L. Each employer shall require that each driver who is notified of selection for random alcohol and/or controlled substances testing proceeds to the test site immediately; provided, however, that if the driver is performing a safety-sensitive function, other than driving a commercial motor vehicle, at the time of notification, the employer shall instead ensure that the driver ceases to perform the safety-sensitive function and proceeds to the testing site as soon as possible.

M. A driver shall only be tested for alcohol while the driver is performing safety-sensitive functions, just before the driver is to perform safety-sensitive functions, or just after the driver has ceased performing such functions.

N. If a given driver is subject to random alcohol or controlled substances testing under the random alcohol or controlled substances testing rules of more than one DOT agency for the same employer, the driver shall be subject to random alcohol and/or controlled substances testing at the annual percentage rate established for the calendar year by the DOT agency regulating more than 50 percent of the driver's function.

O. If an employer is required to conduct random alcohol or controlled substances testing under the alcohol or controlled substances testing rules of more than one DOT agency, the employer may—

1. Establish separate pools for random selection, with each pool containing the DOT-covered employees who are subject to testing at the same required minimum annual percentage rate; or
2. Randomly select such employees for testing at the highest minimum annual percentage rate established for the calendar year by any DOT agency to which the employer is subject.