



DOT DRUG & ALCOHOL TESTING FAQS

Drug & Alcohol Prohibitions FAQ

Drug and Alcohol Testing Programs FAQ

Drug and Alcohol Testing FAQ

Drug and Alcohol Test Results FAQ

Small Companies and Owner-Operators FAQ

Drug and Alcohol Testing Forms FAQ

Pre-Employment Testing FAQ

Reasonable-Suspicion Testing FAQ

Post-Accident Testing FAQ

Random Testing FAQ

Follow-Up Testing FAQ

FTA Testing FAQ

Non-DOT Testing and DOT-Regulated Employees FAQ

Substance Abuse Professionals FAQ

Medical Review Officers FAQ

Shy Bladder Situations FAQ

New Entrant Safety Audits

Who is subject to a DOT Safety Audit?

All New Entrant motor carriers are subject to DOT Safety Audits. Upon issuance of a Federal USDOT number, motor carriers are granted temporary operating authority and automatically enrolled in the DOT's New Entrant Safety Program – which requires a Safety Audit.

Drug & Alcohol Prohibitions FAQ

What are the Drug and Alcohol Prohibitions for drivers under FMCSA rules?

- 382.201 — Alcohol concentration of 0.04 or greater
- 382.205 — On-duty use of alcohol
- 382.207 — Pre-duty use of alcohol (within four hours)
- 382.209 — Use following an accident
- 382.211 — Refusal to submit
- 382.213 — Drug use at any time (without valid prescription)
- 382.215 — Positive or adulterated controlled substances test result

Is it O.K. for me to drink alcohol during my off hours even if I am subject to Random alcohol testing?

Yes. Alcohol is a legal substance and employees who choose to consume alcohol during their personal time are free to do so. To comply with the regulations, safety-sensitive employees must not consume alcohol for 4 hours before reporting for duty, and cannot have an alcohol concentration of 0.02 or greater at any time they are available to work.

An individual, who has been consuming alcohol while on call, is called into work. Would the driver be guilty of a prohibited conduct event if his or her alcohol concentration is greater than 0.04?.

No. The driver has not violated any Federal regulations by drinking while on call. (Drinking while on call may be a violation of company policy, but that is another issue.) Upon reporting for duty, the driver should tell his employer that he has consumed alcohol within the last four hours and therefore is not permitted to drive. If the driver shows up for work, doesn't disclose that he or she has been drinking and then begins safety-sensitive functions, he or she would be in violation of the prohibitions for drinking within four hours of reporting for duty.

Is possession of drugs prohibited under 49 CFR Part 382 with 49 CFR Part 40 consequences?

No. Possession of drugs is prohibited under 49 CFR Part 391, not 49 CFR Part 382. Safety-sensitive employees regulated by the Federal Motor Carrier Safety Administration (FMCSA) who violate this rule are subject to disqualification, but are not required to complete the 49 CFR Part 40 Return-to-Duty process.

Drug and Alcohol Testing Programs FAQ

What regulation requires a detailed drug and alcohol testing policy for truck drivers?

The Federal Motor Carrier Safety Regulation that requires a detailed drug and alcohol testing policy is 49 CFR Part 382.601.

What must be included in my drug and alcohol testing policy?

49 CFR Part 382.601 details what must be included in a drug and alcohol testing policy for safety-sensitive employees regulated by the FMCSA. The materials made available to employees shall include a detailed discussion of prohibited driver conduct, circumstances and procedures for testing, an explanation of what constitutes a refusal to submit, consequences for policy violation and more.

An effective drug and alcohol testing policy covers all the required material and is written in plain English so that employees can understand their rights and responsibilities

In my policy, can I state that I will terminate an employee after the first positive drug test result yet after the second positive alcohol test result?

Yes. The DOT regulations do not address employee terminations for prohibited drug- and alcohol-related conduct. The employer can establish a policy to terminate after the first prohibitive conduct event, second event or not at all. The regulations only require that employers continue to meet the regulatory requirements after a violation by removing the individual from safety-sensitive functions and making sure the employee completes the Substance Abuse Professional (SAP) evaluation and recommended

treatment, receives a negative Return-to-Duty test result and complies with the SAP's Follow-Up testing program.

What are the six DOT testing situations?

- Pre-Employment
- Random
- Post-Accident
- Reasonable-Suspicion
- Return-to-Duty
- Follow-Up

What drugs are tested in the DOT Drug and Alcohol Testing Program?

Five drugs and drug metabolites are tested for in the DOT program: Marijuana, Cocaine, Amphetamines, Opiates and Phencyclidine (PCP).

Where are DOT-regulated employees tested for substance abuse?

A collection site is the simple answer. As long as it meets the applicable Department of Transportation (DOT) requirements, a collection site may be in a medical facility, mobile facility, a dedicated collection facility or any other location. Per DOT regulations, the facility must employ qualified collectors and provide the donor with substantial privacy while urinating. Collection sites must also have all the necessary personnel, supervision, materials, equipment and facilities to provide for the temporary storage and shipping of the specimen to the laboratory.

How long does it take to get a test result?

Results are generally reported to the MRO and then the client within 24 to 48 hours after the lab received the specimen.

I was supposed to have a drug and alcohol testing program years ago, but I never implemented one. It's now August 15. What do I need to do to start a program so that I can be in compliance?

You could join a consortium pool managed by a Consortium/Third-Party Administrator, such as Foley. This would allow you to meet your annual testing requirement before the

end of the calendar year. However, you would still not be able to satisfy the part of the regulation that requires testing to be spread throughout the year.

Do I have to be in this program? I know other guys who own their own trucks and they say I'm crazy for being in a program. They've never had any trouble from the DOT.

According to DOT regulations, you must be in a comprehensive drug and alcohol testing program including Random testing. Both you and the other companies are being closely monitored by the Federal Motor Carrier Safety Administration's CSA2010 safety measurement system and trouble in the drug and alcohol or any other DOT compliance category could trigger a review of your company at any time. Once FMCSA discovers that your acquaintance does not have a program, the fines will add up quickly.

All of our supervisors have commercial driver's licenses (CDLs) in case we need them to drive. Do they need to be in our DOT drug and alcohol testing program?

Yes. The Federal Motor Carrier Safety Regulations (FMCSRs) state that employees who are available to drive if needed must be in a Drug and Alcohol Testing Program. The fact that they are available to perform safety-sensitive functions requires them to be in a program.

I have three employees who have CDLs, but they rarely drive vehicles over 26,000 pounds. Do they need to be in the Random testing program?

Yes. The Federal Motor Carrier Safety Administration (FMCSA) requires that anyone "available to drive" a vehicle over 26,000 pounds must be in a Random testing program.

My employees drive trucks with gross vehicle weight (GVW) ratings of 28,000 pounds, and they also paint gas pipelines. What type of drug and alcohol testing program do they need to be in?

Your employees must be in a program that complies with both Federal Motor Carrier Safety Administration (FMCSA) and Pipeline and Hazardous Materials Safety Administration (PHMSA) rules. The FMCSA regulations apply because your employees drive trucks with a GVW rating greater than 26,000 pounds and the PHMSA regulations apply because they work on pipelines.

I have a part-time driver who is in a drug and alcohol testing program with his full-time employer. Does he have to be in my program also?

FMCSA has issued an interpretation stating that a driver must be covered in each employer's program for which the driver drives unless the employers have an agreement to share drug and alcohol testing program information. Essentially, the other company must agree in writing to provide you with the driver's Random testing events as well as any other pertinent drug and alcohol testing program information. We find that most employers are reluctant to enter this type of agreement and that it is often less time consuming and less costly to merely add the part-time driver to your program..

Do Mexican and Canadian employers need to have a Drug and Alcohol Testing Program if they have drivers who drive into the United States?

Yes. All safety-sensitive employees who drive in the United States — including drivers from Canada and Mexico — must meet the requirements of Part 40.

Are 49 CFR Part 382 alcohol and drug testing requirements applicable to firefighters in a state that gives them the option of obtaining a CDL or a noncommercial Class A or B license restricted to operating fire equipment only?

No. The applicability of Part 382 is coextensive with Part 383 — the general commercial driver's license (CDL) requirements. Only those persons required to obtain a CDL under Federal law and who actually perform safety-sensitive duties are required to be tested for drugs and alcohol.

The Federal Highway Administration (FHWA) has granted states the option of waiving CDL requirements for firefighters. A state that gives firefighters the option of obtaining either a CDL or a non-commercial license has exercised the option not to require CDLs. 49 CFR Part 382 is not applicable to firefighters who obtained their driver's licenses from states that do not require a CDL for firefighters.

I had an employee who was out under Family Medical Leave Act (FMLA) for six months. During this time he was removed from the Random pool. Now that he is ready to return to work, should he be tested?

Yes. The employee must take a Pre-Employment test, and you as the employer must have a negative test result on file before he can resume safety-sensitive duties. All

employees regulated by the Federal Motor Carrier Safety Administration (FMCSA) must take a Pre-Employment test if they have been out of the employer's Random testing pool for more than 30 days. Employers should not confuse this test with the Return-to-Duty test, which is administered before an employee can return to safety-sensitive duties following a violation of the DOT drug and alcohol regulations.

When may I, as the employer, release the driver's test information kept under the drug and alcohol testing program if I do not have the driver's written permission?.

You may release drug and alcohol testing program information when it is:

1. Required by a DOT agency.
2. as part of a lawsuit, grievance or other proceeding initiated by the driver

How does blind specimen testing work?

An employer or Consortium/Third Party Administrator (C/TPA) with a total of 2,000 or more DOT-regulated employees must send blind specimens to the laboratories that process its drug tests. The blind specimens, which are known positives, negatives, adulterated and substituted specimens, are sent to the laboratory with fictitious identifiers so that the laboratory can not distinguish them from employee specimens. They are submitted for quality control purposes.

What is the only authorized confirmation method for drugs?

GC/MS – Gas Chromatography Mass Spectrometry.

Why didn't I receive a statistical summary report from my Consortium/Third Party Administrator?

DOT regulation [49 CFR Part 40.111] states that an employer with fewer than five test results in a six-month period will not receive a statistical report. This is to avoid the possibility that information about an employee's test result will be inferred.

Drug and Alcohol Testing FAQ

What do my employees need to take with them to the testing facility?

At a minimum, employees must bring a photo ID, such as a driver's license, to the collection facility. However, if the employee fails to bring an acceptable photo ID to the collection site, the employee's Designated Employer Representative (DER) can positively identify him or her over the telephone. Though not required, employers may also want to provide the necessary Custody and Control Form (CCF) for their employee drug tests.

What's to keep an individual from substituting someone else's urine for his in the drug urine collection process?

Keep in mind that your drug testing program is primarily one of deterrence, although, it has a significant detection result. As a part of the collection process, there are several safeguards in place to help prevent a substitution from going undetected. The urine specimen must be within a specific temperature range (90° to 100° F). If the urine collected is outside that temperature range, a directly observed collection is conducted to ensure that the urine comes directly from the donor's body.

Can an individual add something to his urine specimen that will hide his drug use and produce a negative test result?

Many people believe they can get a negative test result by adulterating their urine specimen. However, such efforts to produce a negative test result are generally revealed in validity testing conducted by laboratories. Sometimes individuals using adulterants self-identify. We have had situations where an individual says that he couldn't have a positive test result because he used a guaranteed adulterant.

Drug and Alcohol Test Results FAQ

I just received a canceled test result. Do I have to send my driver for another test?

If a second collection were required, it would have been indicated on the MRO verification statement. What was the reason for the canceled test? If it was a Random test, no recollection is required or allowed. However, in the case of a Pre-Employment, Return-to-Duty or Follow-Up test, the driver must submit to a recollection. For these

three test types, the regulations require that an employee has a negative result before performing safety-sensitive duties.

Can I release an employee's positive test information in an unemployment hearing?

49 CFR Part 40.323 allows you, as an employer, to release information pertaining to an employee's drug or alcohol test without the employee's consent in certain legal proceedings. These proceedings include a lawsuit, grievance or administrative proceeding (e.g., unemployment compensation hearing) brought by, or on behalf of, an employee and resulting from a positive DOT drug or alcohol test or a refusal to test (including, but not limited to, adulterated or substituted test results).

I talked to my driver about his positive drug test result. He apologized and explained the situation. He said that he was at a party and did something foolish. He promised me that he's fine and it won't happen again. I really don't think he needs treatment. Can't I just send him in for another test?

No. Your driver violated the DOT drug and alcohol prohibitions, and he must complete the Return-to-Duty process. DOT regulations do not differentiate between one-time and reoccurring substance abuse problems. If he wants to return to work as a driver, he must contact a Substance Abuse Professional (SAP) and complete the Return-to-Duty process — even if he will not continue in your employment. Whether or not the driver remains in your employ will be determined by your company's drug and alcohol testing policy since terminations are not a regulatory issue.

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Small Companies and Owner-Operators FAQ

I'm an owner-operator with no other drivers. Do I need a drug and alcohol testing program?

Yes. Not only do the regulations require that you have a program, they specifically state that you must participate in a drug and alcohol testing consortium.

I am a small company. Why do I need a Consortium/Third Party Administrator when I can adequately manage my company's Drug and Alcohol Testing Program?

There are no rules or regulations stating that you cannot run your own DOT drug and alcohol testing program. However, there are so many regulatory requirements — such as a policy, a certified MRO, Reasonable-Suspicion training for supervisors, Post-Accident training, etc. — that it is often difficult for a small company to manage its own program. An effective Consortium/Third Party Administrator will also keep you informed of regulation changes and provide required reports.

In our company, my husband is the only one who drives. Does he really have to read the policy and sign the acknowledgement form?

The regulations require that every driver receives a policy containing specific information. The regulations also require employers to maintain a receipt signed by the driver to verify that he has been told about the drug and alcohol program requirements. These rules apply to all employers, even owner-operators. [49 CFR Part 382.601].

Is there any difference in the drug and alcohol testing requirements for small companies and those for companies with large fleets?

The drug and alcohol testing regulations address and apply to motor carriers of all sizes equally, whether there is only one driver or many drivers. [49 CFR Part 382]

Drug and Alcohol Testing Forms FAQ

What is a Custody and Control Form?

A Custody and Control Form, often called a CCF, is a five-part carbon copy form used to document the information pertaining to a drug test.

How do I know what type of testing form I have?

To determine whether you have a Federal, Non-Federal or Forensic form, look at the identifier on the top of the form. For example, a Federal Form — the type of form used for all DOT testing — says “Federal Drug Testing Custody and Control Form.” A Non-Federal Form simply says “Custody and Control Form” with “Do Not Use this Form for DOT Collections” underneath. The name of the laboratory (Quest Diagnostics, LabCorp, Advanced Toxicology Network (ATN), MedTox, etc.) is found in the upper right corner.

Please send me Custody and Control Forms (CCFs) coded for XYZ Company. Can you also print my information on it?

We can provide CCFs that are coded for a specific company. However, we do not print medical facility or collection site information on CCFs.

My driver is on the road, but doesn't have a CCF. Can you please give me the name of a collection facility in XYZ city?

If the driver has been selected for a Random test, you may want to wait for him or her to return to your area so that he or she can get a CCF. When a driver does not bring a CCF to the collection site, the chance of a glitch in the testing process is greatly increased. However, remember that your driver must complete the Random selection within the current testing period (quarter)..

Someone told me it's illegal to change anything on a CCF. Is that true?

No. In fact, 49 CFR Part 40.45 specifically permits altering a CCF. Please call us at 800-253-5506, and we will fax you step-by-step instructions for altering a Federal CCF.

Where can I get an Alcohol Testing Form (ATF) for employee alcohol tests?

Collection sites keep the required Alcohol Testing Forms (ATFs) on hand, therefore, employees do not need to bring an ATF to a collection site. Employees should, however, bring Custody and Control Forms (CCFs) to collection sites for drug tests.

Pre-Employment Testing FAQ

Is it O.K. for me to let my new employee perform safety-sensitive functions before I have written verification of the negative drug test result?

Yes. According to the DOT, a verbal communication of a negative test result is an acceptable notification. Be sure to maintain a record of the date and time you were notified of the negative result.

I ‘hired’ this driver and sent him for his Pre-Employment drug test. The collection site called and told me he never showed up. Do I need to report to someone that he ‘refused to submit’?

Actually, he did not violate the drug and alcohol prohibitions. Since this was a Pre-Employment test, it is not considered a refusal-to-submit since he never “began the collection process.” If he had gone to the site, started the collection process and then left, it would be considered a refusal to submit and he would now need to comply with the Return-to-Duty requirements before driving for any employer. Note: For any other type of test, not showing up is considered a refusal since the employee has been told to proceed to the site for testing.

Why can’t I let an employee work for awhile before doing the Pre-Employment test? The testing costs a lot of money and sometimes new employees quit after just a month.

The DOT requires that an individual have a negative drug test result on file before beginning safety-sensitive functions. Pre-Employment testing also helps you – the employer — identify drug users before you hire them. Some employers have applicants pay for their own Pre-Employment tests (in states where it is not prohibited) and then reimburse the cost of the test after the employee has worked at the company for a period of time (e.g., six months).

An employee who has been off duty and not subject to Random testing for 30 days or more refuses to take a Pre-Employment test arguing that he or she is already an employee. Is a Pre-Employment test required?

Yes. A Pre-Employment drug test is actually a pre-safety-sensitive duty test.

Reasonable-Suspicion Testing FAQ

Must a supervisor complete a statement indicating why a Reasonable-Suspicion drug test was performed? What about for a Reasonable-Suspicion alcohol test?

Supervisors must document the contemporaneous indicators that were used to determine the need for a Reasonable-Suspicion drug test. This documentation must be completed before the test result is received. However, the regulations do not require such documentation for a Reasonable-Suspicion alcohol test.

Is ‘possession’ of marijuana a sufficient reason to conduct a DOT Reasonable-Suspicion drug test?

No. The employer’s determination that a reasonable suspicion exists to require testing for controlled substances must be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of the driver.

I have an employee who is getting out of rehab. He did not go into rehab due to a positive test result (or other prohibited drug- or alcohol-related conduct). Does he need to be tested before he returns to driving? If yes, is this a Reasonable-Suspicion test?

49 CFR Part 382.121 (4) states that an employer must conduct a Return-to-Duty test before an employee, who has admitted to alcohol and/or drug misuse, can return to a safety-sensitive function. Since it’s a Return-to-Duty test, the employee needs a verified negative result to return to work. You would not perform a Reasonable-Suspicion test on an employee getting out of rehab, because this situation does not meet the specific criteria required for a Reasonable-Suspicion test.

My drivers have been with me for 20 years. Why do I need supervisor training?

The regulations require that all persons who supervise drivers receive 60 minutes of education on alcohol misuse and 60 minutes of education on substance abuse in order to be able to make Reasonable-Suspicion determinations. [382.603]

How much supervisor Reasonable-Suspicion training is mandated?

The Federal Motor Carrier Safety Administration (FMCSA) requires one hour of training on controlled substances use and one hour of training on alcohol use.

If a driver undergoes a Reasonable-Suspicion test for drugs, when may he or she return to work?

The FMCSRs do not specify when a driver may return to work after a Reasonable-Suspicion test for drugs. We advise our clients to drive the employee home and not to allow the employee to return to work until a negative Reasonable-Suspicion test result has been received. If the test does come back negative, reimburse the employee for back pay.

When a driver is visibly impaired and no alcohol test can be completed, may the driver continue to perform safety-sensitive functions?

No. A visibly impaired individual may not perform safety-sensitive functions until a test has been conducted or 24 hours have passed.

Post-Accident Testing FAQ

When is Post-Accident testing required under FMCSA?

- Any fatality (except for the driver).
- Citation for moving violation and disabling damage to any involved vehicle.
- Citation for moving violation and medical treatment away from the scene.

My driver was just in an accident. The incident didn't meet the DOT requirements, but I want to do a drug and alcohol test as a precaution.

We strongly advise against performing any DOT Post-Accident drug or alcohol testing unless DOT criteria are met. However, if your policy clearly states that you require Post-Accident drug and alcohol testing for any accident or incident, you would conduct the testing using a Non-Federal custody and control form and a Non-Federal alcohol testing form.

One of my drivers was in a minor accident. There weren't any injuries or citations, but the truck was towed. Do I need to send him for a Post-Accident test?

If your driver is regulated by the Federal Motor Carrier Safety Administration (FMCSA), you do not need to send him for a Post-Accident test. In situations where there is disabling damage to a motor vehicle or bodily injury with immediate medical treatment away from the scene, the driver is subject to Post-Accident testing only if he receives a citation. Post-Accident testing must always be conducted in the event of a human fatality. Employers with a general drug and alcohol policy that requires post-incident testing may conduct a non-Federal test.

If an employer fails to conduct a FMCSA Post-Accident test within two hours what must be done?

When required, Post-Accident tests must be conducted as soon as practicable. If a test is not administered within two hours, the employer must prepare and maintain a file stating the reasons why a test was not promptly conducted. The employer must also continue to attempt to administer a Post-Accident alcohol test for up to eight hours and the Post-Accident controlled substances test for up to 32 hours after an incident. You must document the failure to conduct a Post-Accident test on your MIS report..

If a FMCSA Post-Accident alcohol test is not completed within eight hours, what must be done?

After eight hours has passed, the employer should cease all attempts to complete the alcohol test. The employer must record the failure to test in the file that was created when the test was not completed at the two-hour mark. The failure must also be documented in the employer's MIS report

My driver just told me he was in an accident on Friday night. It's now Monday morning. Do I need to send him for a Post-Accident test?

No. Even if the accident meets the Federal Motor Carrier Safety Administration (FMCSA) definition of an accident requiring testing, it is too late. The FMCSRs state that drivers who have been in an accident requiring Post-Accident testing must be tested for controlled substance and alcohol use as soon as practicable following an incident. If an alcohol test is not administered within 8 hours following the accident, the employer shall cease all attempts to administer a test. Similarly, a substance abuse test must be administered within 32 hours of an accident.

May a blood alcohol test conducted by Federal, state, or local authorities be used by an employer for Post-Accident testing?

Yes. If you are able to obtain a blood alcohol test result from the authorities, you may use it to satisfy your Post-Accident testing requirements. Often, it is easier for employers to administer their own tests.

May an employer use a blood drug test for a Post-Accident drug test result?

FMCSA requires a urine test to detect the use of controlled substances.

Random Testing FAQ

I have 11 commercial drivers. How many Random tests must be done in a calendar year?

If your drivers are in a separately managed pool of 11, you must do six Random drug tests and two Random alcohol tests to meet the minimum Random testing requirements of 50% for drugs and 10% for alcohol. However, if your drivers are in a consortium pool for Random selections, the group needs to meet the minimum testing requirements for drugs and alcohol. All you need to do to be in compliance with your Random requirement is to send your employees in for testing when you receive a Random selection.

How do I know when to send my drivers for Random testing?

If you are a Foley client, you will receive written notification from our Random Administrators identifying the individuals to be tested, the testing they are to complete

and the testing date. Although you are not required to complete the test on the specific date, you should try to schedule the test as close to the assigned date as possible.

Once notified to go for a Random test, may the driver drive a CMV to the collection site?

Yes. The only time an individual is not allowed to drive himself or herself to the collection site is for Pre-Employment or Reasonable-Suspicion testing.

We have a Saturday safety meeting coming up. Since the drivers come to work just for the meeting, they won't be doing any driving. Can I do Random drug and alcohol testing that day?

You may conduct drug testing in conjunction with your Saturday meeting since drug use is prohibited at all times. However, you may not conduct alcohol testing since Random alcohol tests must be done just before, during or after a driver has performed safety-sensitive functions (e.g., drive). Wait until a regular work day to send the employee for a Random alcohol tests.

One of my drivers was selected for a Random test at the end of June. I just received another selection for him for July 10th. Is that possible?

Yes. An employee can be randomly selected multiple times during a calendar year. Employees have an equal chance of being selected in each selection period, regardless of prior selections. In this case, the driver was selected in two different selection periods.

One of my employees has been selected three times, but the rest of my employees have never been chosen. The employee feels like he is being unfairly targeted. What should I tell him?

Explain to him that Random selections are derived from a computer-generated, unbiased selection process. As such, every employee in the testing pool has an equal chance of being selected during each selection period. Some employees are selected multiple times during the calendar year, while others may not be selected at all.

One of my employees keeps getting Random selections. Can I send another employee to be tested instead?

No. The employee who was randomly selected must be tested, per the DOT. You cannot get an alternate selection or send another employee simply because an individual has been selected multiple times.

Can I tell my driver on Friday afternoon that he has to go for a Random before work on Monday?

No. You are not to provide any advanced notification of a Random selection. The key to Random testing is that the tests are unannounced.

My boss was selected for Random testing. He says he doesn't need to go because he owns the company and only drives occasionally. Can I get another Random selection?

No. If your boss is available to drive, he must be in a Random selection program and report for testing when selected. By regulation, another selection cannot be substituted for your boss's selection.

One of my drivers just had surgery and is on pain medication. He doesn't want to take his Random test because he's afraid that he will have a positive test result. Can we pick someone else this time?

Is the individual driving now or is he out on worker's comp or medical leave? If he is not presently working and available to perform safety-sensitive functions, he should not go for testing at this time. If the individual is driving, or available to drive, did the doctor who prescribed the medication know that he drives for a living? (The doctor may decide he shouldn't drive while on the pain medication or may be able to prescribe something different that won't affect his driving.)

Should the result come back positive, our MRO would call him and discuss the result and your driver would state that he is on prescribed medication. An individual taking a medication prescribed to him, in the manner it is prescribed, shouldn't have anything to worry about.

The guy you chose only works for me on weekends a couple of times a month. Do I really need to send him for testing?.

You do need to send him for his Random testing. Let us check whether your collection site offers weekend hours. If not, we will try to find a collection site in your area that has hours that will fit with your employee's work schedule.

I think my driver may be using drugs. He's a family friend so I don't want to send him for a Reasonable-Suspicion test. Can I arrange for him to be randomly tested?.

If you have a reasonable suspicion that a DOT-regulated safety-sensitive employee is using drugs, you are required to send him for a Reasonable-Suspicion drug test. Your determination to test must be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the employee. The supervisor making the Reasonable-Suspicion determination must be trained in reasonable suspicion. The regulation specifies 60 minutes of alcohol and 60 minutes of controlled substances Reasonable-Suspicion training.

An individual cannot be "selected" for random testing at the request of an employer since this is not a scientifically valid method. Conducting a "random" test without documentation that shows how the individual was selected could put your company at risk for legal action.

Follow-Up Testing FAQ

What is the minimum number of Follow-Up tests required after a successful return-to-duty test?

The Substance Abuse Professional (SAP) may request any number of Follow-Up tests in a Follow-Up plan. However, there must be a minimum of six tests within the first 12 months of the employee's return to safety-sensitive functions.

FTA Testing FAQ

My driver, who is regulated by the Federal Transit Administration (FTA), didn't provide a urine specimen because the collection site asked him to sign its internal authorization form. Is that a refusal to submit?

Yes. Foley has a written response from Jerry Powers, FTA Drug Manager, and he states that this does qualify as a refusal to submit. If the authorization merely informs the employee that USDOT drug testing is not subject to the same privacy generally experienced in the Health Insurance Portability and Accountability Act (HIPAA) of 1996, the authorization would not constitute a consent, release, waiver of liability, or indemnification under 49 CFR Part 40.355.

The failure of the employee to provide a urine sample or comply with the collection must be considered a refusal. Even if the authorization did violate 49 CFR Part 40.355, FTA would expect the employee to comply with the test. An item of non-compliance on the part of the collection site is handled by FTA or the transit agency/TPA, not the employee. An authorization, such as the one in question, should not be used in U.S. Department of Transportation (DOT) testing. The testing form itself is the only authorization required..

Non-DOT Testing and DOT-Regulated Employees FAQ

I just received a verified positive non-Federal drug test result for my driver who is in the DOT testing program. What do I do now?.

Under 49 CFR Part 391.41(b)(12), the driver is to be removed from driving duties and is medically unqualified for the duration of the prohibited drug use. Before he or she can resume driving, the driver must be examined by a doctor chosen by the employer, who may determine that the driver needs to see a Substance Abuse Professional (SAP), complete a drug rehab program and/or have a negative drug test result. Once the doctor has determined that driver is drug free, the driver may return to safety-sensitive duties. Since this is a non-Federal drug test, the requirements of 49 CFR Parts 382 and 40 do not come into play.

Substance Abuse Professionals FAQ

Who is responsible for paying a Substance Abuse Professional (SAP) used in the return-to-duty process?

DOT regulations do not specify who is responsible for paying for SAP services. Who pays for such services may be determined by employers and employees and may be governed by existing management-labor agreements and could be covered by health care benefits. Many employers pass the costs associated with the return-to-duty process to the employee. However, an employer may choose to cover these costs.

May a Substance Abuse Professional (SAP) who conducted the evaluation also perform treatment?

As a general rule, the answer is “no.” There are, however, certain situations when it is acceptable for an SAP to evaluate and treat an individual going through the return-to-duty process.

Medical Review Officers FAQ

Can my personal doctor operate as my Medical Review Officer (MRO)?

It depends, but probably not. The DOT regulations require MROs to be certified. Unless your doctor is a certified MRO, he or she may not act as a Medical Review Officer.

Shy Bladder Situations FAQ

How long can a donor stay at the collection site to provide a urine specimen?

49 CFR Part 40 requires that a donor be allowed up to three hours after an initial failed attempt to produce a sufficient urine specimen. During this time, the donor may drink up to 40 ounces of fluid.

If an employee is not able to provide a sufficient volume of urine during the collection process, and the employee must undergo a medical examination to determine if there is a legitimate medical explanation for the “shy bladder,” can the employer make arrangements for the employee to see an employer-designated physician?.

Yes. When an employee is not able to produce a sufficient volume of urine for a drug test, the employer is required to direct the employee to obtain a medical evaluation from a licensed physician who is acceptable to the Medical Review Officer (MRO) and has expertise in the medical issues raised by the employee's failure to provide a sufficient specimen. The employer can facilitate the medical evaluation by scheduling an appointment for the employee with a MRO-approved physician.