

US DOT FMCSA Drug and Alcohol Rules Overview



HEALTHSERV (SASK)
OCCUPATIONAL HEALTH PROFESSIONALS

DRUG AND ALCOHOL RULES: AN OVERVIEW

The following is a general overview of the Federal Motor Carrier Safety Administration's (FMCSA) drug and alcohol testing rules that apply to transportation companies doing commercial work in the United States. The information that follows is intended to provide a general summary of the rules; it should not be relied upon to fulfill all legal requirements stipulated in the regulations. The full 49 CFR Parts 40 and 382 should be referenced for more details.

WHAT ARE THE RULES?

The FMCSA Part 40 has a set of regulations that require trucking companies to participate in drug and alcohol testing of drivers. The Department of Transportation (DOT) rules include procedures for urine drug testing, breath or saliva alcohol testing, help for employees who have a drug or alcohol problem, training for supervisors, and retention of records.

REQUIRED TESTS

Pre-Employment

- Conducted on new employees before they may perform safety-sensitive duties.

Post-Accident

- Conducted on drivers after accidents involving:
 - a. A citation issued to the driver *and* disabling damage to any motor vehicle,
 - b. A citation issued to the driver *and* someone received immediate medical attention away from the scene, or
 - c. A human fatality.

Reasonable Suspicion

- Conducted when a trained supervisor or company official observes behavior or appearance that is characteristic of drug or alcohol misuse.

Random

- Conducted on a random unannounced basis just before, during, or just after performance of safety-sensitive functions. *The employee must not have more than two hours' notice of his/her random test.*

Return-to-Duty and Follow-up

- Conducted when an individual who has violated the prohibited drug and alcohol rules returns to performing safety-sensitive duties. Follow-up tests are unannounced and at least six tests must be conducted in the first 12 months after an employee returns to duty.

RANDOM TESTING

A Third Party Administrator (TPA), such as HEALTHSERV (SASK), administers the random program on behalf of a consortium of companies. The drivers from all the companies form the random pool. Random selections of the pool are done quarterly, and are computerized in order to comply with DOT regulations. The number of random drug tests conducted over the calendar year must equal 50% of the pool, and the number of random alcohol tests must equal 10% of the pool.

DRUG TESTING

Drug testing is performed by analyzing an employee's urine specimen. At a collection site that affords privacy, the employee provides a urine sample. Before sending the sample to the laboratory, the collector divides it into two bottles, labelled 'A' for primary and 'B' for split. The sample is then sealed for delivery to the laboratory and the chain of custody is completed. The laboratory, which must be certified and monitored by the Department of Health and Human Services (DHHS), will open and test only the primary specimen (bottle 'A'). The two-stage testing process begins with a screening test. If the screening test shows positive for one or more of the drugs, a confirmation test is performed for each identified drug using gas chromatography/mass spectrometry (GC/MS) analysis. If the confirmation test confirms the presence of a controlled substance, the employee has 72 hours from the time he/she is notified of the result to request that the split specimen (bottle 'B') be sent to another DHHS-certified laboratory for analysis.

WHAT DRUGS ARE TESTED FOR?

All urine specimens are analyzed for the following drugs:

1. Marijuana (THC metabolite)
2. Cocaine
3. Amphetamines
4. Opiates (including heroin)
5. Phencyclidine (PCP)

MEDICAL REVIEW OFFICER

Before test results are reported to employers, they are reviewed and interpreted by a physician who is qualified to act as a Medical Review Officer (MRO). If the MRO receives a positive result from the laboratory, he/she contacts the employee and conducts an interview to determine if there is a medical explanation for the positive result. The drug test result is reported as negative to the employer if the employee provides appropriate documentation and the MRO determines that it is legitimate medical use of the prohibited drug(s).

PROHIBITED DRUG USE

The drug rules prohibit any unauthorized use of controlled substances. Illicit use of drugs by safety-sensitive employees is prohibited on or off duty. The FMCSA has additional rules that prohibit the use of legally prescribed controlled substances (such as barbiturates, amphetamines, morphine, etc.) by safety-sensitive employees.

ALCOHOL TESTING

Alcohol tests are conducted using saliva devices or breath testing using evidential breath testing (EBT) and non-evidential breath testing devices approved by the National Highway Traffic Safety Administration (NHTSA).

To determine a person's Breath Alcohol Content (BAC), a screening test is conducted. If the result from the screening test is less than 0.020 BAC the test is considered Negative, and a confirmation test is not required. If the result of the screening test is 0.020 or greater, a confirmation test must be done. The driver and the technician conducting the test complete the alcohol testing form to ensure the results are properly recorded. The confirmation test, if required, must be conducted 15 minutes after the screening test using an EBT that prints out the results, date, time, sequential test number, and the name and serial number of the EBT to ensure the reliability of the results. The confirmation test results determine any actions taken.

ALCOHOL TESTING PERSONNEL

Screening Test Technicians (STTs) and Breath Alcohol Technicians (BATs) who meet the requirements of 49 CFR Part 40 Subpart J are the only people who can perform DOT alcohol tests. A BAT may conduct both screening and confirmation tests, but an STT may conduct only screening tests.

PROHIBITED ALCOHOL USE

Alcohol is a legal substance; therefore, the rules define specific prohibited alcohol-related conduct. Performance of safety-sensitive functions is prohibited:

- While using alcohol
- While having a BAC of 0.04 percent or greater
- Within four hours after using alcohol

In addition, refusing to submit to an alcohol test, or using alcohol within eight hours after an accident or until tested (for drivers required to be tested) is prohibited. To further safeguard transportation safety, drivers who have an alcohol concentration between 0.020-0.039 when tested just before, during, or just after performing safety-sensitive functions must also be removed from performing such duties for 24 hours.

CONSEQUENCES OF A POSITIVE DRUG AND/OR ALCOHOL TEST

If an employee has a confirmed positive drug and/or alcohol test, he/she must be immediately removed from safety-sensitive duties. The employee cannot be returned to safety-sensitive duties until he/she has been evaluated by a Substance Abuse Professional (SAP), complied with recommended rehabilitation, and passed a return-to-duty test. Follow-up testing is also required on a schedule outlined by the SAP.

REQUIRED EDUCATION AND TRAINING

Employers must provide information on drug and alcohol misuse and treatment, the employer's policy, and testing requirements to their safety-sensitive employees. All supervisors of safety-sensitive employees must attend at least one hour of training on the signs and symptoms of drug abuse and at least one hour of training on the signs and symptoms of alcohol abuse. This training is necessary to assist supervisors and company officials in making appropriate determinations for reasonable suspicion testing.

CONFIDENTIALITY OF RECORDS

Test results and records are maintained under strict confidentiality by the employer, laboratory, TPA, and MRO, and may only be released to the SAP and the DOT (if requested). Any other release of this information is only with the employee's written consent. Exceptions to the confidentiality provisions are limited to a decision maker in arbitration, litigation, or administrative proceedings arising from a positive test result. Statistical records and reports are maintained by employers and drug testing laboratories. This information is aggregated data and is used to monitor compliance with the rules and to assess the effectiveness of the drug testing programs.

EMPLOYEE REHABILITATION

Employees who violate the drug and/or alcohol misuse rules will be referred to a SAP for evaluation. Any treatment or rehabilitation would be provided in accordance with the employer's policy or labor/management agreements. The employer is not required under these rules to provide rehabilitation, pay for treatment, or reinstate the driver in his/her safety-sensitive position. Any employer who does decide to return a driver to safety-sensitive duties must ensure that the driver:

1. Has been evaluated by a SAP;
2. Has complied with any recommended treatment;
3. Has taken a return-to-duty test (with a negative result); and
4. Is subject to unannounced follow-up tests as outlined by the SAP.

HOW WILL THE FMCSA KNOW IF THESE RULES ARE BEING FOLLOWED?

Employers are required to keep detailed records of their drug and alcohol misuse prevention programs. The FMCSA will conduct inspections or audits of employers' programs. Additionally, selected employers will have to prepare annual summary reports for the FMCSA. These reports will be used to help monitor compliance and enforcement of the rules, as well as to provide data on the extent of drug and alcohol misuse and the need for any future program and regulatory changes.