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# Controlled Substance & Alcohol Testing

## Part 382/40

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# CMV Definition

- GVWR over 26,000 lbs.
- GCWR over 26,000 lbs. including a towed unit over 10,000 GVWR
- Designed to transport 16 or more passengers
- Any size requiring HazMat placards

# Drug & Alcohol- *Types of Tests (382)*

- 382.301- Pre-Employment (*drugs only*)
- 382.305- Random
- 382.307- Reasonable Suspicion
  - *Trained supervisors (2 hours training)*
- 382.303- Post-Accident
- 382.309- Return to Duty
- 382.311- Followup
  - *At least 6 test in first 12 months, not to exceed 60 months*

# What happens when an employer receives a report of a dilute specimen? (§ 40.197)

- (1) If the MRO directs you to conduct a recollection under direct observation (i.e., because the creatinine concentration of the specimen was equal to or greater than 2mg/dL, but less than or equal to 5 mg/dL (see §40.155(c)), you must do so immediately.
  - (a) As the employer, if the MRO informs you that a positive drug test was dilute, you simply treat the test as a verified positive test. You must not direct the employee to take another test based on the fact that the specimen was dilute.
  - (b) As an employer, if the MRO informs you that a negative test was dilute, take the following action:
- (2) Otherwise (i.e., if the creatinine concentration of the dilute specimen is greater than 5 mg/dL), you may, but are not required to, direct the employee to take another test immediately.
- (3) Such recollections must not be collected under direct observation, unless there is another basis for use of direct observation (see §40.67 (b) and (c)).

# What should your drug testing policy include?

- Employee Categories Subject To Testing
- Tests Required
- Consequences of Using Drugs While Performing Safety-Sensitive Functions
- Consequences of a Verified Positive Drug Test
- Consequences of Refusing to Submit to a Required Drug Test
- **Alcohol Use & Testing**
- Functions and Period of the Work Day Employees are Covered by the DOT
- Conduct Prohibited by the DOT
- Circumstances Under Which a Covered Employee will be Tested for Alcohol
- Collection Procedures
- Requirements that a covered employee submit to a alcohol tests.
- Consequences of refusing or failing a drug or alcohol test. Immediate removal from safety sensitive function.
- The consequences for covered employees found to have an alcohol concentration of .02 or greater but less than .04.
- Effects of drugs & alcohol misuse on an individuals health, work, and personal life.
- Signs and symptoms of a drug or alcohol problem.
- Available method of evaluating and resolving problems associated with drug or alcohol misuse.



# When Can a Driver Be Tested?

## Drugs:

Anytime. It does not have to be tied to a safety sensitive function.

Note: if the driver is required to log, the test must be logged including time driving to and from the collections site.

## Alcohol:

Only when a driver is starting, doing or has just completed a safety sensitive function. Not when a driver is off duty.

Note: if the driver is required to log, the test must be logged including time driving to and from the collections site.



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# Post-Accident Testing- *When?*

- Fatality
- Injury & Citation
- Disabled Vehicle & Citation
- 8 & 32 hour rules



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# Post Accident Testing- Alcohol

- Alcohol test must be conducted within 2 hours of the accident
  - If not administered within 2 hours, the employer must document the reason for the delay
  - If not administered within 8 hours, the employer must cease attempts to test and document why the test was not administered



# Post Accident Testing- *Drug*

- Controlled substance (drug test) must be conducted within 32 hours
  - If the test is not administered within 32 hours, the employer must cease attempts to test and document why the test was not performed

# Reasonable Suspicion Training

- Supervisors in direct contact with drivers are required to be trained for recognizing the use of drugs and alcohol.
  - 1 hour for drugs
  - 1 hour for alcohol.

# Former Employer Check- *Subpart D*

- 382.413 (b) Prior 3 years:
  - Employment
  - Accident history
  - Drug & Alcohol results
- Must obtain driver's consent

382.405 (f) & 40.25

- Former employers required to report

# What if a previous employer returns a verification of employment with a positive result or refusal to take a test?

- The driver must show proof of being evaluated by a Substance Abuse Professional (S.A.P.).
- Completed treatment if required by S.A.P.
- Completed return to duty testing and follow up testing.
- If none of this has been done and you are still interested in hiring this driver, you will be required to put that individual through all the above steps.

# Record Retention- 382.401

- 5 year- positive results, refusals, etc.
- 2 year- records relate to the collection process
- 1 year- negatives and cancelled results
- Indefinite- company policy, training for supervisors

# Records

## 382.401 Retention of Records

- Secure location with controlled access
- Must be made available for inspection at the employer's principal place of business within 2 business days after a request by an authorized representative of FHWA



# Drug & Alcohol Audit- 382 & 40

- Drug & Alcohol Testing Policy
- Negative drug test before driving
- Previous Employer check (3 years)
- Random Testing at Proper Rate (company pool or consortium)
- If positive tests, how handled including follow-up
- Accident- test or no test
- Annual summary of selection & result
  - *Third Party Administrator*



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Thank you for your time!



Questions?

