IMPLEMENTATION GUIDELINES FOR ALCOHOL AND DRUG REGULATIONS IN HIGHWAY TRANSPORTATION

U.S. Department of Transportation
Federal Motor Carrier Safety Administration

FMCSA-CMO-04-001

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Chapter 1.
INTRODUCTION

Section 1. PURPOSE AND SCOPE OF THESE GUIDELINES

The Federal Motor Carrier Safety Administration (FMCSA) recognizes that controlled substances use and alcohol misuse affect everyone in the United States in one way or another. In response to passage of the Omnibus Transportation Employee Testing Act of 1991, the FMCSA has published regulations prohibiting controlled substances use and alcohol misuse and modified other current regulations. The current regulation is 49 CFR part 382, "Controlled Substances and Alcohol Use and Testing," which replaced 49 CFR part 391, subpart H, "Controlled Substances Testing." In addition, the Department of Transportation (DOT) has issued 49 CFR part 40, "Procedures for Transportation Workplace Drug and Alcohol Testing Programs," which prescribes testing methods to be followed.

To assist employers (motor carriers) in implementing those regulations, the FMCSA has developed these guidelines. The ultimate goal for the FMCSA and the commercial motor vehicle (CMV)* industry is to achieve a controlled substance and alcohol-free work force in the interest of the health and safety of employers, employees, and the public.

These guidelines are the FMCSA's "small entity compliance guide" for purposes of the Contract With America Advancement Act of 1996 (Pub. L. 104-121, Title II, Subtitle A, March 29, 1996). Under this act, the content of this small entity compliance guide is not subject to judicial review but may be considered as evidence of the reasonableness or appropriateness of any proposed fines, penalties, or damages in an FMCSA civil or administrative action.

These guidelines are written as if an employer has no controlled substances and/or alcohol testing program already in place. They provide a logical sequence for implementing the various elements of a successful program and contain examples of documents, checklists, forms, and procedures that may be used by individual employers in formulating their programs. The following required elements of a controlled substances use and alcohol misuse program are discussed:

- Policy and procedure development
- Driver education and supervisor training
- Urine specimen collection and testing
- Breath and saliva sample collection and testing
- Recordkeeping and reporting.

As an employer (motor carrier), you may go beyond these requirements to incorporate additional features (such as employee assistance programs) that are not mandated by FMCSA regulations. However, you must make clear that any features you add are not part of the FMCSA-mandated program and will be conducted under other applicable authority, not the FMCSA's. For example, if you test for controlled substances other than the five that the FMCSA specifies, you must make the employees aware that they are being tested for those additional controlled substances under your authority, not the FMCSA's. You must collect separate specimens for analysis, and you must not use the Federal Drug Testing Custody and Control Form.

*Note: The term "Commercial Motor Vehicle" or "CMV" as used in this document is defined in the appendix of this chapter, page 1-22.

Employers Domiciled in the United States

For employers domiciled in the United States, the rules require testing to have begun by January 1, 1996.

If you begin your highway transportation operations after January 1, 1996, you must start your testing program on the day you begin transportation operations. The development of policies and procedures, including preemployment testing, must be completed prior to the date you begin transportation operations.

Employers Domiciled in Foreign Countries

For employers domiciled in foreign countries that operate in the United States, the rules require testing to have begun by July 1, 1997. If you began your highway transportation operations in the United States after July 1, 1997, you must start your testing program on the day you begin operations in the United States. The development of policies and procedures, including preemployment testing, must be completed prior to the day you begin operations in the United States.

Section 2. HOW TO USE THESE GUIDELINES

These guidelines are a ready reference for those in the CMV industry that must formulate and implement programs to control substance abuse. They are organized by subject, and each subject is addressed in the general order that it would be encountered in the actual formulation and implementation of a controlled substances use and alcohol misuse program.

Each major subject is discussed in a separate section. Sample documents, forms, terms and definitions, and checklists are provided in the appendix at the end of each chapter. These materials were designed to help employers meet the minimum regulatory requirements contained in 49 CFR parts 40 and 382.

These guidelines do not take precedence over or alter any requirement established under FMCSA or DOT regulations.

In certain cases, the information in this document goes beyond the regulatory minimum and covers additional aspects of a controlled substances use and alcohol misuse program that are considered helpful in developing a comprehensive program. It is the option of each employer to implement a program that goes beyond the regulatory minimum.

To assist you in differentiating between program elements required by regulation and optional suggestions for maximizing program effectiveness, certain key words are used throughout the text (see the box on next page).

Regulatory Text

Statements in this manual that refer to **regulatory requirements** contain the words **"shall"** or **"must"** (e.g., "A substance abuse management program shall include a policy statement"). Program elements **not** explicitly **required** by regulations, but suggested as an integral part of successful implementation, are generally addressed using the word **"should." Optional** elements, or those program features that have several acceptable alternatives, are normally expressed by use of the word **"may."**

Section numbers from the regulations are also used to more clearly define regulatory requirements. For example, §382.103 means that this regulation is specifically mentioned in 49 CFR part 382, section 103; and, in a similar manner, §40.25 references 49 CFR part 40, section 25.

Section 3. OTHER RESOURCES

While every attempt has been made to make these guidelines as complete and self-supporting as possible, additional published material is available. Where appropriate, these additional resources are identified.

The appendix at the end of this chapter contains a list of sources of additional information that you may wish to acquire as you begin developing your controlled substances use and alcohol misuse program.

FMCSA division offices located throughout the United States are listed in the appendix for additional information. Division offices should be consulted for specific guidance applicable to an employer's program implementation and for any updates and amendments to the these regulations and guidance.

To access FMCSA or the DOT's Office of Drug and Alcohol Policy and Compliance on the web, go to:

www.fmcsa.dot.gov
www.dot.gov/ost/dapc

FMCSA does not maintain lists of trade associations, unions, or insurance companies, but these can be good sources of additional information.

If you want additional copies of these guidelines, you may reproduce as many copies as you need.

Chapter 1 Appendix

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Sources of Additional Information and Other Published Documentation

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Sources of Additional Information and Other Published Documentation

Drug Testing Procedures Handbook *Urine Specimen Collection Procedures Guidelines* *Substance Abuse Professional Procedures Guidelines*	U.S. Dept. of Transportation Office of Drug and Alcohol Policy and Compliance 400 Seventh Street, S.W. Room 10317 Washington, DC 20590 Phone (202) 366-DRUG Fax On Demand: (800) 225-(DRUG)
Drug & Alcohol Abuse Prevention and the ADA: An Employer's Guide	The Institute for a Drug-Free Workplace East Tower Suite 1010 1301 K Street, N.W. Washington, DC 20005 Phone: (202) 842-7400 Fax: (202) 842-0011
Random Drug Testing Manual	Office of Safety & Security Federal Transit Administration 400 Seventh Street, S.W. Room 6432 Washington, DC 20590
Breath Alcohol Technician and Screening Test Technician Training Curricula (Teacher and Student Guide) *Alcohol and Drug Testing Regulations* 49 CFR parts 40 and 382	*Order by Mail:* Superintendent of Documents P.O. Box 371954 Pittsburgh, PA 15250-7954 *Order by Telephone or Fax:* Phone: (202) 512-1800 Fax: (202) 512-2250
A central information and referral service for technical support, printed materials, audiovisuals, and networking.	National Clearinghouse for Alcohol and Drug Information P.O. Box 2345 Rockville, MD 20847-2345 (800) 729-6686 (outside Maryland and DC area) (301) 468-2600 (DC and Maryland)

Sources of Additional Information and Other Published Documentation

Toll-Free Information Lines	Alcoholics Anonymous— (800) 356-9996 American Council on Alcoholism Helpline—(800)527-5433 Cocaine Hotline— (800) COCAINE National Council on Alcoholism— (800) NCA-CALL National Institute on Drug Abuse Hotline— (800) 662-HELP National Institute on Drug Abuse Helpline— (800) 843-4971
Collection Sites, Consortia, Medical Review Officers	National Association of Collection Sites (800) 355-1257 Substance Abuse Program Administrators Association— (615) 834-8288 American Association of Medical Review Officers— (919) 489-5407 American College of Occupational & Environmental Medicine, Medical Review Officer Certification Council (708) 228-6850 American Society of Addiction Medicine (301) 656-3920
Various Materials	(Check local listings) • State and local governments • State and local truck & motor coach associations • State and local employee counseling programs

FMCSA Service Centers

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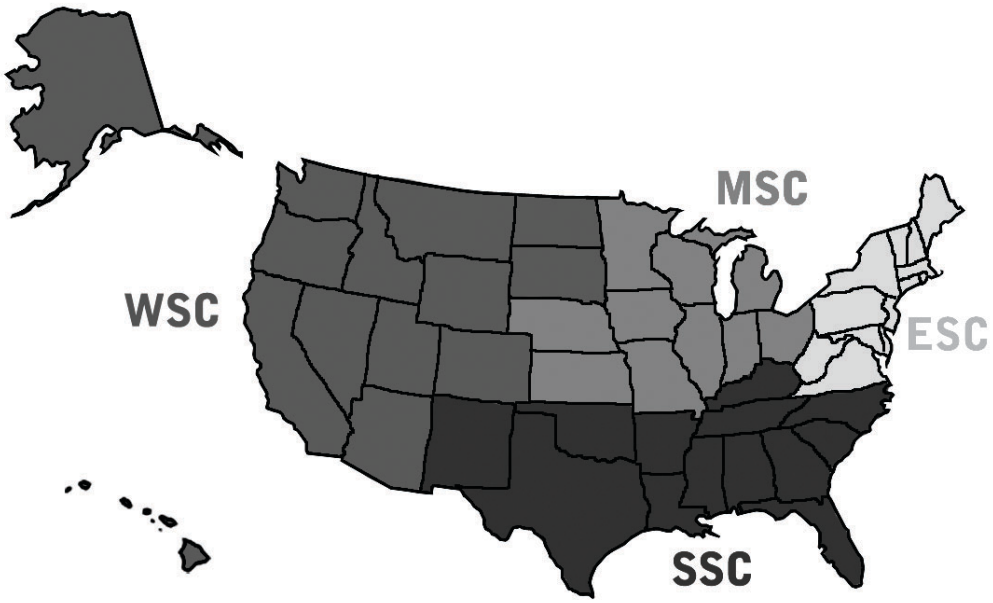
FMCSA Service Centers



Eastern Service Center: CT, DE, MA, MD, ME, NH, NJ, NY, PA, VA, VT, WV

802 Cromwell Park drive
Suite N
Glen Burnie, MD 21061

Phone: (443) 703-2240
Fax: (443) 703-2253

Midwestern Service Center: IA, IL, IN, KS, MI, MN, MO, NE, OH, WI

19900 Governors Drive
Suite 210
Olympia Fields, IL 60461

Phone: (708) 283-3577
Fax: (708) 283-3579

Southern Service Center: AL, AR, FL, GA, KY, LA, MS, NC, NM, OK, SC, TN, TX

61 Forsyth Street S.W.
Suite 17T75
Atlanta, GA 30303

Phone: (404) 562-3600
Fax: (404) 562-3704

Western Service Center: AK, AZ, CA, CO, HI, ID, MT, ND, NV, OR, SD, UT, WA, WY

201 Mission Street
Suite 2100
San Francisco, CA 94105

Phone: (415) 744-3088
Fax: (415) 744-2665

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FMCSA Division Offices

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FMCSA Division Offices

State	City	Phone	Fax
Alabama	Montgomery	(334) 223-7244	(334) 223-7700
Alaska	Anchorage	(907) 271-4068	(907) 271- 4069
Arizona	Phoenix	(602) 379-6851	(602) 379-3627
	Douglas	(520) 364-6422	(520) 364-6456
	Nogales	(520) 761-4419	(520) 761-3093
	San Luis	(928) 627-1336	(928) 627-1770
Arkansas	Little Rock	(501) 324-5050	(501) 324-6562
California	Sacramento	(916) 930-2760	(916) 930-2278
	Calexico	(760) 768-7300	(760) 768-6423
	Ontario	(909) 937-2949	(909) 390-5642
	San Diego	(619) 710-8400	(619) 710-2804
Colorado	Denver	(303) 969-6748	(303) 969 6741
Connecticut	Glastonbury	(860) 659-6700	(860) 659-6725
Delaware	Dover	(302) 734-8173	(302) 734-5380
District of Columbia	Washington	(202) 219-3553	(202) 219-3546
Florida	Tallahassee	(850) 942-9338	(850) 942-9680
Georgia	Atlanta	(404) 562-3620	(404) 562-3704
Hawaii	Honolulu	(808) 541-2700	(808) 541-2702
Idaho	Boise	(208) 334-1842	(208) 334-1046
Illinois	Springfield	(217) 492-4608	(217) 492-4986
Indiana	Indianapolis	(317) 226-7474	(317) 226-5657
Iowa	Ames	(515) 233-7400	(515) 233-7494
Kansas	Topeka	(913) 267-7288	(913) 267-7290
Kentucky	Frankfort	(502) 223-6779	(502) 223-6767
Louisiana	Baton Rouge	(225) 757-7640	(225) 757-7636
Maine	Augusta	(207) 622-8358	(207) 622-8477
Maryland	Baltimore	(410) 962-2889	(410) 962-3916
Massachusetts	Cambridge	(617) 494-2770	(617) 494-2783
Michigan	Lansing	(517) 377-1866	(517) 377-1868
Minnesota	Minneapolis	(651) 291-6150	(651) 291-6001
Mississippi	Jackson	(601) 965-4219	(601) 965-4674
Missouri	Jefferson City	(573) 636-3246	(573) 636-8901
Montana	Helena	(406) 449-5304	(406) 449-5318
Nebraska	Lincoln	(402) 437-5986	(402) 437-5146
Nevada	Carson City	(775) 687-5335	(775) 687-3803
New Hampshire	Concord	(603) 228-3112	(603) 228-0390
New Jersey	Trenton	(609) 637-4222	(609) 538-4913
	Little Falls	(973) 357-4134	(973) 357-4099
New Mexico	Albuquerque	(505) 346-7858	(505) 346-7859

FMCSA Division Offices

State	City	Phone	Fax
New York	Albany	(518) 431-4145	(518) 431-4140
	Buffalo	(716) 551-4701	(716) 551-3312
	New York City	(212) 668-2130	(212) 668-2133
	Syracuse	(315) 448-0311	(315) 448-0313
North Carolina	Raleigh	(919) 856-4378	(919) 856-4369
North Dakota	Bismarck	(701) 250-4346	(701) 250-4389
Ohio	Columbus	(614) 280-5657	(614) 280-6875
Oklahoma	Oklahoma City	(405) 605-6047	(405) 605-6176
Oregon	Salem	(503) 399-5775	(503) 399-5838
Pennsylvania	Harrisburg	(717) 221-4443	(717) 221-4552
	King of Prussia	(610) 992-8680	(610) 992-8685
	Pittsburgh	(412) 395-6935	(412) 395-5078
	Scranton	(570) 346-4949	(570) 821-4080
Puerto Rico	Hato Rey	(787) 766-5985	(787) 766-5015
Rhode Island	Providence	(401) 431-6010	(401) 431-6019
South Carolina	Columbia	(803) 765-5414	(803) 765-5413
South Dakota	Pierre	(605) 224-8202	(605) 224-1766
Tennessee	Nashville	(615) 781-5781	(615) 781-5755
	Jackson	(731) 424-9332	(731) 424-0783
Texas	Austin	(512) 536-5980	(512) 916-5980
	Brownsville	(956) 541-5894	(956) 982-0741
	Eagle Pass	(830) 757-6749	(830) 757-9097
	El Paso	(915) 593-8574	(915) 594-8857
	Fort Worth	(817) 978-3225	(817) 978-4666
	Laredo	(956) 712-1385	(956) 723-1479
	McAllen	(956) 683-0181	(956) 683-7280
	Roma	(956) 847-7209	(956) 847-7409
Utah	Salt Lake City	(801) 963-0096	(801) 963-0096
Vermont	Montpelier	(802) 828-4480	(802) 828-4424
Virginia	Richmond	(804) 771-8585	(804) 771-8681
Washington	Olympia	(360) 753-9875	(360) 753-9024
West Virginia	Charleston	(304) 347-5935	(304) 347-5617
Wisconsin	Madison	(608) 829-7530	(608) 829-7540
Wyoming	Cheyenne	(307) 722-2305	(307) 772-2905

Terms and Definitions Used in Chapter 1

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Terms and Definitions

Alcohol

The intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols, including methyl and isopropyl alcohol.

Alcohol Use

The drinking or swallowing of any beverage, liquid mixture, or preparation, including any medication, containing alcohol.

Commercial Driver's License (CDL)

A license issued by a State or other jurisdiction, in accordance with the standards contained in 49 CFR part 383, authorizing an individual to operate a class of commercial motor vehicle (CMV). The individuals required to have a CDL under 49 CFR part 383 are subject to controlled substances and alcohol testing. Individuals who are required to possess CDLs by virtue of State or local law or by employer policy, but not by Federal regulation, are not subject to the provisions of 49 CFR parts 382 and 383

Commercial Motor Vehicle (CMV)

A motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle

(a) Has a gross combination weight rating (GCWR) of 11,794 kilograms or more (26,001 pounds or more) inclusive of a towed unit, with a gross vehicle weight rating (GVWR) of more than 4,536 kilograms (10,000 pounds); or
(b) Has a GVWR of 11,794 kilograms or more (26,001 pounds or more); or
(c) Is designed to transport 16 or more passengers, including the driver; or
(d) Is of any size and is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act and is required the to be placarded under the Hazardous Materials regulations (49 CFR part 172, subpart F).

Consortium/Third Party Administrator (C/TPA)

A service agent that provides or coordinates one or more drug and/or alcohol testing services to DOT-regulated employers. C/TPAs typically provide or coordinate the provision of a number of such services and perform administrative tasks concerning the operation of the employers' drug and alcohol testing programs. This term includes, but is not limited to, groups of employers that join together to administer, as a single entity, the DOT drug and alcohol testing programs of its members (e.g., having a combined random testing pool). C/TPAs are not employers under the rules.

Controlled Substances

For the purposes of these guidelines, the terms "drugs" and

	"controlled substances" are interchangeable and have the same meaning. The DOT is testing only for the following five controlled substances: marijuana (THC), cocaine, opiates, phencyclidine (PCP), and amphetamines (including methamphetamines).
Designated Employer Representative (DER)	An individual identified by the employer as able to receive communications and test results from service agents and who is authorized to take immediate actions to remove employees from safety-sensitive duties and to make required decisions in the testing and evaluation processes. The individual must be an employee of the company. Service agents cannot serve as DERs.
Driver	Any person (volunteer or paid) who operates a CMV and is required to have a CDL. This includes, but is not limited to, ▪ Full-time, regularly employed drivers ▪ Leased drivers ▪ Independent owner-operator contractors (employed directly or leased) ▪ Casual, intermittent, or occasional drivers.
Drug	See Controlled Substances.
Employee	See Driver.
Employer (or Motor Carrier)	Any person engaged in a business affecting interstate commerce who owns or leases a commercial motor vehicle in connection with that business, or assigns employees to operate it, but such terms does not include the United States, any State, any political subdivision of a State, or an agency established under a compact between States approved by the Congress of the United States.
FMCSA	Federal Motor Carrier Safety Administration.
FRA	Federal Railroad Administration.
Gross Combination Weight Rating	The total value specified by the manufacturer(s) of the vehicle as the loaded weight of two or more vehicles. In the absence of a value specified by the manufacturer, it will be determined by adding the gross vehicle weight rating of the power unit to the total weight of the towed unit and any load thereon.
Gross Vehicle Weight Rating	The value specified by the manufacturer of the vehicle as the loaded weight of a single vehicle.

Seating Capacity or Designed to Transport	The value specified by the manufacturer of the vehicle as the maximum number of persons that may sit in a single vehicle. A commercial motor vehicle that is altered by removing seats continues to be a commercial motor vehicle until the vehicle's seating capacity certification plate is replaced by a manufacturer.
Service Agent	Any person or entity, other than an employee of the employer, that provides services specified under the regulations to employers and/or employees in connection with DOT drug and alcohol testing requirements.
Stand-Down	The practice of temporarily removing an employee from the performance of safety-sensitive functions based only on a report from a laboratory to the medical review officer (MRO) of a confirmed positive test, an adulterated test, or a substituted test, before the MRO has completed verification of the test results.

Complete definitions of terms used in parts 40 and 382 may be found in §40.3 and §382.107.

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Chapter 2.
REGULATORY OVERVIEW

Implementing portions of the FMCSA–required controlled substances use and alcohol misuse program may require you to modify existing substance abuse policies and programs or, in some cases, develop entirely new programs. The critical program element will be to test drivers in positions that require the driver to drive CMVs and perform attendant safety-sensitive functions. It is in this context that you must formulate controlled substances and alcohol policies, communicate them to your drivers, and conduct testing. The goals of these activities are to enhance worker productivity and safety and ensure positive acceptance of the program. In keeping with the stated objective of enhancing productivity and safety, you are encouraged to make your controlled substances use and alcohol misuse program an integral part of your overall safety program.

Section 1. WHAT THE REGULATIONS REQUIRE

The FMCSA regulations require that the following program elements be implemented or updated:

- A policy statement on controlled substances use and alcohol misuse in the workplace (see Chapter 3, "Policy Development and Communication")

- Supervisor education and training program (see Chapter 4, "Education and Training")

- A controlled substances and alcohol testing program for persons, used in duties requiring the driving of CMVs (see Chapters 5, "Types of Testing," 6, "Controlled Substances Testing Procedures," and 7, "Alcohol Testing Procedures")

- Evaluation of the driver who has violated the controlled substances and alcohol regulations (see Chapter 8, "Employee Assistance Programs, Rehabilitation, and Treatment")

- Administrative procedures for recordkeeping, reporting, releasing information, and certifying compliance (see Chapter 9, "Administration").

Who Must Participate

These regulations apply to both employers and drivers of CMVs. An employer (also known as a motor carrier) is any person who owns or leases a CMV or assigns persons to operate such a vehicle (including the United States, a State, or the District of Columbia, (§383.5), but not including U.S. territories such as Guam, Puerto Rico, and the U.S. Virgin Islands). A driver is any person who operates a CMV in commerce and is subject to commercial driver's license (CDL) requirements (§382.103). The exemptions mentioned in parts 390 and 391 are not applicable to this program.

This definition also includes any employers who employ themselves as drivers. An employer who employs only himself/herself must comply with both the requirements that apply to both employers and to drivers. He/she must be part of a random testing pool of two or more persons.

The FMCSA regulations do not apply to employers and their drivers

(1) Who are required to comply with the Federal Transit Administration's (FTA) alcohol and controlled

substance testing (49 CFR parts 653 and 654).

(2) Whom a State must waive from the Federal CDL requirements (part 383). These individuals include active duty military personnel, members of the Reserves; National Guard on active duty, including personnel on full-time National Guard duty, personnel on part-time National Guard training; and National Guard military technicians (civilians who are required to wear military uniforms); and active duty U.S. Coast Guard personnel, but not U.S. Reserve technicians (for more information, see "Drivers Waived from Obtaining a Commercial Driver's License" in the appendix).

(3) Whom a State has, at its discretion, waived from the requirements of the Federal CDL requirements. These individuals may include the following:

(i) Operators of a farm vehicle that is

(a) Controlled and operated by a farmer;

(b) Used to transport either agricultural products, farm machinery, farm supplies, or all three to or from a farm;

(c) Not used in the operations of a common or contract motor carrier; and

(d) Used within 150 miles of the person's farm.

(ii) Firefighters or other persons who operate CMVs that are necessary for the preservation of life or property or the execution of emergency governmental functions, are equipped with audible and visual signals, and are not subject to normal traffic regulation (for more information, see "Drivers Waived from Obtaining a Commercial Driver's License" in the appendix).

Some drivers are covered by more than one DOT agency (multimodal coverage). In most cases, the drivers are tested based on the tasks they perform the majority of the time.

Employees Who Are Affected

All drivers who drive CMVs must be included in your alcohol misuse and controlled substances use program. No other employees may be included. Although this sounds like a simple distinction, it is important to understand the definitions of "driver" and "safety-sensitive function."

"Driver" means anyone who operates a CMV, whether full-time, part-time, casual, intermittent, occasional, volunteer, leased, or independent. Independent drivers are included

whether they are directly employed or under lease and whether they operate their own CMV or one of yours. As long as an independent driver is operating at your direction, he/she must be included in your program. Other employees who may not have the title of driver, but who sometimes operate a CMV, also must be included in your program. These may include maintenance workers, supervisors, clerks, and possibly even the president of your company. "Safety-sensitive functions" are tasks performed by CMV drivers that are applicable to prohibited conduct, testing, and consequences under these alcohol and drug testing regulations. See table 2.1 for a complete description of the various safety-sensitive functions.

Multimodal Coverage

In general, a person is subject only to one DOT agency rule at any point in time. The employer, however, may be subject to more than one DOT rule. Any employer that is subject to more than one DOT rule must determine when each rule is applicable.

Policy Statement

You must adopt a policy on substance abuse in the workplace (§382.601). Among other items, the policy must

- Identify which categories of drivers are subject to testing
- Describe prohibited behavior
- Describe testing procedures
- Describe consequences for violating the controlled substances and alcohol regulations.

A detailed discussion of the specific requirements of the controlled substances and alcohol program policy statement is provided in Chapter 3, "Policy Development and Communication."

Education and Training

You must provide to all drivers educational materials that explain the requirements of your policies and procedures for the FMCSA controlled substances and alcohol testing regulations (§382.601). Information on the effects and consequences of substance abuse on personal health, safety, and the work site, as well as indicators of substance abuse, must be provided.

Driver supervisors must receive additional training on the physical, behavioral, and performance indicators of controlled substances use or alcohol misuse to determine when drivers must be tested under reasonable suspicion (§382.603). Chapter 4, "Education and Training," provides greater detail on the

training and information requirements for employees and supervisors.

Testing

You must establish a controlled substances and alcohol (part 382, subpart C) testing program that follows FMCSA regulations for controlled substances testing (Chapter 6, "Controlled Substances Testing Procedures") and alcohol testing (Chapter 7, "Alcohol Testing Procedures"). The types of tests are

- Preemployment (required for controlled substances only, optional for alcohol)
- Reasonable suspicion
- Post-accident
- Random
- Return-to-duty
- Follow-up.

Each of these tests is described in detail in Chapter 5, "Types of Testing."

It is very important that your employees and supervisors understand the definitions of "driver" and "safety-sensitive" as used in the context of your testing program. The FMCSA originally determined that "safety-sensitive" functions (§382.107) were functions performed as part of on-duty time. However, the FMCSA amended the rule to remove this complex link

with on-duty time. See table 2.1 for a complete description of safety-sensitive functions.

Stand-Down

The drug testing process provides for an MRO to receive test results from the laboratory, verify a positive or negative result, and only then contact the employer to report the test result. Some employers wanted to be able to remove a driver from safety-sensitive functions during the time between the laboratory notifying the MRO of a positive test result and the MRO verifying the test result.

The current rules in effect since August 1, 2001, allow employers to request a waiver from the standard test result reporting requirements and establish a stand-down program, to remove drivers from safety-sensitive functions during the time the MRO is verifying a positive test. The employer wishing a stand-down waiver

Table 2.1. Safety-Sensitive Functions

Safety-Sensitive Function	Not Safety-Sensitive
• All time at a carrier or shipper plant, terminal, facility, or other property, or on any public property, waiting to be dispatched, unless the driver has been relieved from duty by the employer. *This includes employees who are "eligible" at work to drive a CMV at anytime, e.g., salespersons, clerks, secretaries, supervisors.* • All time inspecting equipment as required by §392.7, "Equipment, Inspection, and Use," and §392.8, "Emergency Equipment and Use," or otherwise inspecting, servicing, or conditioning any CMV at any time. • All driving time, which is any time spent at the driving controls of a CMV in operation. • All time, other than driving time, in or upon any CMV except time spent resting in a sleeper berth. • All time loading or unloading a vehicle, supervising or assisting in loading or unloading, attending a vehicle being loaded or unloaded, remaining ready to operate the vehicle, or giving or receiving receipts for shipments loaded or unloaded. • All time repairing, obtaining assistance for, or remaining with a disabled vehicle.	• All time spent providing a breath sample or urine specimen, including travel time to and from the collection site, in order to comply with the random, reasonable suspicion, postaccident, or follow-up testing required by part 382 when directed by an employer. • Performing any other work in the capacity of or in the employ or service of a common, contract, or private employer. • Performing any compensated work for any nonmotor carrier entity.

must submit an application for such a waiver to the FMCSA, in accordance with §382.119. If the waiver is granted, the employer may establish a stand-down program provided that such a program will provide that all drivers are treated fairly and confidentiality is protected.

Referral for Evaluation

You must immediately remove every driver who has violated the prohibitions in Part 382, subpart B from driving CMVs and performing other safety-sensitive functions and refer the driver to a substance abuse professional for an evaluation. The evaluation is to determine the level of assistance the driver needs in resolving problems with alcohol misuse and/or controlled substances use.

The employer must advise the driver of the various resources available to the driver. These must include, but are not limited to, the names, addresses, and telephone numbers of substance abuse professionals, counseling, and treatment programs. Employers that have established employee assistance programs or have health insurance programs that include substance abuse treatment may refer their drivers to these programs.

Administrative Requirements

You must maintain certain testing records (§382.401). Such records and other personal data associated with the testing program are subject to conditions for release. If requested by the FMCSA, annual reports must be submitted (§382.403). ***DO NOT*** *send your annual summary to the FMCSA unless the FMCSA requests that you do so.*

State and Local Issues

The FMCSA regulations (§382.109) preempt any State or local law, rule, regulation, or order when

- Compliance with both the State or local requirement and these regulations is not possible,
- Compliance with the State or local requirement is an obstacle to accomplishing and executing any requirement in these regulations.

However, these regulations do not preempt any provisions of State criminal law that impose sanctions for conduct leading to loss of life, injury, or damage to property.

Section 2. WHAT THE REGULATIONS DO NOT REQUIRE

The FMCSA regulations are focused on public safety and, therefore, do not address a number of concerns that are considered internal affairs of employers. The following issues are **not** specifically included in the FMCSA regulations:

- The FMCSA does not require or authorize testing of employees who are not drivers (although you may choose to do so under your own separate authority if State and Local law permit).

- The FMCSA does not require that you provide an employee assistance program (EAP) (although you may and are encouraged to do so).

- The FMCSA does not require that employees be rehabilitated and reinstated (although you may do so).

- Other than split-specimen testing, the FMCSA does not specify who pays for testing (check your State and local laws).

You may expand upon the regulatory requirements to tailor a program to meet specific needs. However, your policy must be very specific about what activities are conducted under Federal regulations, which activities are conducted under your own authority, and which forms are to be used.

Going Beyond the Regulatory Requirements

Whenever you expand your controlled substances use and alcohol misuse program beyond the regulatory requirements and include aspects not specifically required by the regulations, you must make sure that your employees know which parts are FMCSA regulatory requirements and which are your own extensions beyond the regulations. For example, if you wish to test nonsafety-sensitive employees, you may do this under your own authority but must establish a separate testing pool.

Section 3. THE CONSEQUENCES OF FAILURE TO COMPLY

Penalties are assessed administratively by the FMCSA for violations of parts 382 and 40 and administrative orders may be issued to bring about satisfactory compliance. Criminal penalties are also authorized to be sought in U.S. District Court under certain circumstances.

The maximum amounts of civil penalties that can be assessed for regulatory violations are established in the statutes granting

enforcement powers. The determination of the actual civil penalties assessed in each case is based on those defined limits and consideration of information available at the time the claim is made concerning the nature, circumstances, extent and gravity of the violation, and with respect to the violator, the degree of culpability, history of prior offenses, ability to pay, effect on ability to continue to do business, and such other matters as justice and public safety may require. In adjudicating civil penalty claims, and orders under the administrative procedures in this subchapter, additional information may be developed regarding these factors that may affect the final amount of the claim. Furthermore, consideration will be given to good-faith efforts to achieve compliance.

Criminal penalties may be sought against a motor carrier (employer), its officers or agents, a driver, or other persons when it can be established that violations were deliberate or resulted from a willful disregard for the regulations. Criminal penalties may be sought against an employee only when a causative link can be established between a knowing and willful violation and an accident or the risk thereof.

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Chapter 2 Appendix

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Terms and Definitions Used in Chapter 2

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Drivers Waived From Obtaining a Commercial Driver's License

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Drivers Waived from Obtaining a Commercial Driver's License

(subject to change without notice, check with your State licensing agency)

FULL WAIVERS

Non-Civilian U.S. Military Personnel

All non-civilian U.S. military personnel are waived from the requirement to obtain a State's CDL to drive commercial motor vehicles (CMVs). This includes **active duty military personnel, active duty Reserves and National Guard, and National Guard Military Technicians** while on active duty. These personnel, who also drive non-military CMVs, must have a CDL for driving a private sector CMV.

OPTIONAL STATE WAIVERS

Farm Vehicle Operations, Firefighters,
Emergency Response, Recreational Vehicles, Personal Use
Drivers Removing Snow and Ice

A State may waive the CDL requirement for certain groups of individuals. In the following table, an "X" in a specific box means that the State has waived the CDL requirement for that specific group. *Check with your State licensing agency for those drivers who may be exempt from the "drivers removing Snow and Ice" exception, published April 3, 1996 (61 FR 14677).*

Column headings definitions:

Farm -Farm vehicle operations which are

1. *Controlled and operated by a farmer*
2. *Used to transport either agricultural products, farm machinery, farm supplies, or both to or from a farm*
3. *Not used in the operations of a common or contract motor carrier*
4. *Used within 241 kilometers (150 miles) of the person's farm.*

Fire - Firefighters operating equipment which is necessary to the preservation of life or property or the execution of emergency governmental functions and are not subject to normal traffic regulation.

Emerg -Persons operating vehicles only used in response to emergencies.

R.V. - Persons operating recreational vehicles for personal recreation. Does not include operation of such vehicles used to conduct business.

Personal -Persons operating vehicles used to transport personal goods or equipment. Such persons would use the vehicle to transport household goods when moving, or

when renting a vehicle to perform household repairs. Does not include operation of such vehicles used to conduct business.

Notes explaining a particular State's waiver:

1 Exempts military personnel operating equipment owned by the Department of Defense.
2 Includes drivers of riot buses, wilderness search and rescue, and disaster relief in government vehicles.
3 Applies to "Federal Firefighters" (Any person hired by the Federal government to fight fires.)
4 For personal use only.
5 For recreational and personal use of rented vehicles, a CDL is not required, but an "R" endorsement on the non-CDL is required.
6 Not subject to the regulations.
7 Emergency equipment waived where operated by a city, parish, or State employee.
8 Exempts persons when operating any size vehicle for personal use.
9 A wrecker used as a first response vehicle only.
10 Must display exempt license plates.
11 Military personnel in uniform operating government vehicles.

Commercial Driver's License Waivers by State

State	Waivers				
	Farm	Fire	Emerg.	R.V.	Personal
Alabama	X	X	X	X	X
Alaska	X	X	X	X[4]	
Arizona	X	X	X		
Arkansas	X	X	X	[6]	[6]
California	X	X			
Colorado	X	X	X		
Connecticut	X	X	X	X	
District of Columbia	X	X	X	X	X
Delaware	X	X	X	X	X
Florida	X	X	X	X	
Georgia	X	X	X	X	
Hawaii		X[3]			
Idaho	X	X		X	
Illinois	X	X	X	X	X
Indiana	X	X	X	X	
Iowa	X	X		X	
Kansas	X	X		X	X
Kentucky	X	X	X	X	X
Louisiana	X	X	[7]	[8]	[8]
Maine[1]	X	X		X[4]	
Maryland	X	X	X	X	X
Massachusetts	X	X	X	X	
Michigan	X	X		X	X
Minnesota	X	X		X	
Missouri	X	X	X[2]	X	X
Mississippi	X	X	X	X	X
Montana[11]	X[10]	X[10]	X	X	
Nebraska	X	X	X	X	X
Nevada[1]	X	X	X	X[4]	X
New Hampshire	X	X		X	
New Jersey[1]	X	X	X	X	
New Mexico	X	X	X	X	

State	Waivers				
	Farm	Fire	Emerg.	R.V.	Personal
New York	X	X	X	X[5]	X[5]
North Carolina	X	X	X	X	X
North Dakota	X	X	X		
Ohio	X	X		X	
Oklahoma	X	X	[9]		
Oregon	X	X			
Pennsylvania	X	X	X	X	X
Rhode Island	X	X			
South Carolina	X	X	X	X	
South Dakota	X	X	X	X	X
Tennessee	X	X	X	X	X
Texas	X	X	X	X	
Utah	X	X		X	
Vermont[1]	X	X	X	X	X
Virginia	X	X	X	X	X
Washington	X	X	X	X	X
West Virginia	X	X	X	X	X
Wisconsin	X	X		X	
Wyoming	X	X		X	

Chapter 3.
POLICY DEVELOPMENT AND COMMUNICATION

The FMCSA regulations require that you develop a written policy on controlled substances use and alcohol misuse in the workplace and that the policy be provided to every driver. You may use this chapter as a checklist of the items that should be included in your policy.

Section 1. POLICY DEVELOPMENT

As you begin developing your policy, you may want to involve other members of your organization. This could include, but is not limited to, your company officials, union representatives, medical review officers (MROs), substance abuse professionals (SAPs), breath alcohol technicians, screening test technicians, and legal representatives.

A final review of your draft policy should be conducted by your legal representatives, your labor relations personnel, and your executives. The purpose of the legal review is to ensure that there are no conflicts between the provisions of the policy and the requirements of the FMCSA and other Federal, State, provincial, or local laws such as the Americans with Disabilities Act (ADA), the Family Medical Leave Act (FMLA), or the Drug-Free Workplace Act (DFWA).

The labor relations/company official review should identify and resolve any conflicts between the policy and existing labor agreements or personnel policies. It should be noted that requirements of the FMCSA regulations are not subject to bargaining.

Section 2. REQUIRED POLICY STATEMENT

The controlled substances and alcohol regulations require that you have a policy statement that incorporates your position and information on virtually all aspects of your controlled substances use and alcohol misuse program (§382.601).

Policy Components Required by the Controlled Substances and Alcohol Rule (§382.601)
Overview (suggested but not required)
Categories of drivers subject to testing
Participation as a requirement of employment
Required hours of compliance
Prohibited behavior
Circumstances for testing
Behavior that constitutes a refusal to submit to a test
Consequences for drivers with an alcohol concentration of 0.02 or greater but less than 0.04
Testing procedures
Consequences of use of controlled substances and misuse of alcohol
Identity of contact person
Effects of alcohol and controlled substances

Overview

The policy statement should begin with a short statement describing the objective or purpose of the policy.

Categories of Drivers Subject to Testing

All drivers/employees who operate CMVs must be subject to testing as defined in Chapter 2, “Regulatory Overview” (§382.103).

Participation as a Requirement of Employment

The policy must indicate that participation in the employer's controlled substances and alcohol testing program is a requirement of each driver/employee, and therefore, is a condition of employment or use.

Required Hours of Compliance

The policy must clearly identify the time periods during which drivers must be in compliance with the alcohol rule. A driver must not consume alcohol while on duty (§382.205), four hours prior to on duty time (§382.207), and up to eight hours following an accident or until the employee undergoes a post-accident test, whichever occurs first (§382.209).

A driver shall not report for duty or remain on duty that requires performing safety-sensitive functions when the driver uses any controlled substance, except when the use is at the instruction of a physician who has advised the driver that the substance does not adversely affect the ability to safely operate a CMV (§382.213).

Prohibited Behavior

Employers must describe driver behavior that is prohibited by the FMCSA rules.

Circumstances for Testing

The FMCSA requires that controlled substances and alcohol tests be given to drivers in specific circumstances: pre-employment (for controlled substances only), reasonable suspicion, post-accident, random, return-to-duty,
and follow-up (see Chapter 5, "Types of Testing," for a description of these tests).

Your policy must define these circumstances in sufficient detail to inform the drivers what circumstances will trigger these tests (Part 382, subpart C).

Behavior That Constitutes a Refusal to Submit to a Test

The policy must describe the kinds of behavior that constitute a refusal to submit to a test. Such behavior includes refusal to take the test (§382.211); inability to provide sufficient quantities of breath, saliva, or urine to be tested without a valid medical explanation; tampering with or attempting to adulterate the specimen; interfering with the collection procedure; not immediately reporting to the collection site; failing to remain at the collection site until the collection process is complete; having a test result reported by an MRO as adulterated or substituted; or leaving the scene of an accident without a valid reason before the tests have been conducted. See the definition of "Refuse to Submit" in §382.107.

Consequences for Drivers With an Alcohol Concentration of 0.02 or Greater but Less Than 0.04

The policy must state that any driver who has an alcohol concentration of 0.02 or greater but less than 0.04 shall not perform or continue to perform safety-sensitive functions until 24 hours following the administration of the test (§382.505).

No other action can be taken under FMCSA or DOT authority against the driver based solely on test results showing an alcohol concentration of less than 0.04. This does not prohibit the employer with authority independent of FMCSA regulations from taking any action otherwise consistent with the law (§382.505(b)).

No action shall be taken under FMCSA or DOT authority against the driver based solely on test results showing an alcohol concentration of less than 0.02. Alcohol concentration results of less than 0.02 are considered negative for the purposes of this employer testing program. No employer may penalize a driver based on a test result of less than 0.02 alcohol concentration conducted under Federal requirements.

Testing Procedures

The policy must describe the procedures (49 CFR part 40) for how:

- Controlled substances tests will be performed, including split specimen collection and analysis for controlled substances
- Alcohol tests will be performed, including whether breath or saliva screening tests will be performed
- Privacy of the employee will be protected

• Integrity of the test process will be maintained

• Test results will be attributed to the correct driver.

• Post-accident testing will be conducted including instructions to the driver.

The policy must indicate that the employer will strictly adhere to all standards of confidentiality and assure all drivers that testing records and results will be released only to those authorized by the FMCSA rules to receive such information (§382.405).

Consequences of the Use of Controlled Substances and the Misuse of Alcohol

The policy must contain the consequences for a driver who refuses to submit to a test, has a verified positive controlled substances test result, or has an alcohol concentration of 0.04 or greater. This includes the mandatory requirement that a driver be removed immediately from his or her safety sensitive function (§382.501). The policy must also state that any driver who has a verified positive controlled substances test result, has an alcohol concentration of 0.04 or greater, or refuses to submit to a test must also be evaluated by a substance abuse professional, even if your policy requires the driver to be terminated.

Any further action (e.g., termination) taken against the driver is up to the employer, but must be described in detail in the policy. It should also be mentioned in the policy that these actions are employer-mandated, not FMCSA-mandated.

Identity of Contact Person

You must designate a person to answer questions about your controlled substances use and alcohol misuse program, with the telephone number and office location clearly indicated.

Effects of Alcohol and Controlled Substances

The policy must state where information can be obtained on the effects of alcohol misuse and controlled substances use on an individual's health, work, and personal life; signs and symptoms of an alcohol problem; and available methods of intervening when an alcohol and/or controlled substance problem is suspected. You must provide this information to your drivers.

More details on this can be found in Chapter 4, "Education and Training."

Any Additional Employer Provisions

If you wish to exceed the requirements of the Federal regulations, these provisions should be included in the policy. It must be made clear that these provisions are those of the employer and not required by the FMCSA.

This includes information concerning who will pay for the testing. The FMCSA regulations do not specify who pays for testing drivers. However, an employer must ensure all testing is conducted as required by part 40, including split-sample analysis when requested by the driver. An employer and MRO shall not delay testing because of issues over who will pay for a test (especially a split-sample analysis). The testing must be conducted and payment or reimbursement settled later.

Section 3. POLICY COMMUNICATION

Once you have developed and adopted a policy on controlled substances use and alcohol misuse, you must make sure that your drivers are aware of the policy and the effect it will have on them. You must provide materials that explain the regulations, policy, and corresponding procedures to all drivers and representatives of employee organizations (§382.601). You must require drivers to sign a certificate of receipt in accordance with §382.601(d).

You may wish to exceed this requirement by undertaking a more active approach to communicating the policy by using all the mechanisms available at your organization to inform and educate employees. These could include:

- Orientation sessions,
- Written materials,
- Audio/video tapes,
- Interactive forums,
- Informational material displays, or
- Ongoing dialogue among drivers, labor representatives, first-line supervisors, and company officials.

The requirement to notify drivers about your policy should not be confused with the requirement to formally train supervisors in selected aspects of your controlled substances use and alcohol misuse program. See Chapter 4, "Education and Training," for an explanation of your training obligations.

Suggestions for Communicating the Policy

As soon as the policy is adopted, initial policy communication sessions should be scheduled to inform the drivers of the requirements of the Federal regulations and the manner in which the employer will implement these regulations. This initial communication should be in a session of adequate length to assure the employees understand the policy and have all questions answered. A company official should be present and express support for the policy. However, if a session cannot be scheduled, you could distribute the policy to all employees, explaining some of the major points of the program and the implementation schedule. In the initial communication you should:

- Provide each driver with a copy of the required policy and explain that formal training on the details of the program will follow (if you intend to provide optional driver training). Summarize the policy.
- Provide a summary that explains the requirements set forth in the regulations.
- Have each driver sign the required certificate of receipt form acknowledging receipt of a copy of the policy and the regulation summary. An example form is provided in the appendix at the end of this section.
- Provide an overview of the employer's action plan for implementing the controlled substances use and alcohol misuse policy and discuss the major milestones.
- Provide a schedule, consistent with your action plan, of the formal driver training sessions.

You may wish to include other items in your initial policy orientation sessions. One suggestion is to provide an open forum where top management, company officials, union officials, laboratory representatives, a substance abuse professional, and possibly the MRO can answer questions regarding any aspect of the policy, its implications, testing procedures, or available employee assistance. Be sure that persons answering questions about the policy and regulations are completely knowledgeable concerning all aspects of the program. Generalities, vague answers, opinions, and guesses should be avoided. If a

specific issue has not been resolved or is not addressed by the policy, say so. If you do not know the answer to a question, assure the audience that you will get an answer as soon as possible, then make sure to follow up.

Management Commitment

Company officials should demonstrate their personal commitment to and support of the program by communicating the policy to drivers, setting an example, and ensuring fair and impartial implementation. Assurances of strict confidentiality and respect for driver privacy and dignity are key elements in promoting the program. Company officials should have been thoroughly briefed on the program and must be knowledgeable about the effects of controlled substances use and alcohol misuse, the various rehabilitation options available (if any), and the prescribed disciplinary actions the company has elected to implement. A positive attitude toward achieving a controlled substances and alcohol-free work site should be communicated at every opportunity and will do much to achieve a successful program.

Labor Involvement

Requirements of the FMCSA-mandated controlled substances use and alcohol misuse program are not subject to bargaining. However, it is advantageous to involve the union or driver leadership in the implementation process by providing periodic briefings on the status of program formulation. The briefings should stress the health and safety benefits to employers, drivers, and the public. Your driver representatives may actively support the program and may offer to become actively involved in it or in the support and administration of an EAP.

Applicants for Employment

You must make sure that all driver applicants are fully aware of the employer's commitment to a controlled substances and alcohol-free workplace.

A statement should be added to the driver application form in which the prospective driver agrees to follow the employer's controlled substances and alcohol policy and submit to testing if performing a safety-sensitive function. Persons who wish to transfer to a safety-sensitive function must be made aware of these policies. A statement similar to the one below should be added to all notices for driver applicants:

Applicants for positions that require driving a commercial motor vehicle (CMV) at any time

will be required to undergo controlled substances and at our discretion, alcohol testing prior to employment and will be subject to further testing throughout their period of employment. Applicants will also be asked to sign forms for release of information from previous employers in all cases where driving a CMV was one of your functions. Failure to sign will prevent this employer from using you as a CMV driver.

Drivers will be requested to provide written consent to obtain information from previous employers about the drivers (§40.25). This information must include

- Alcohol tests with concentrations of 0.04 or greater
- Positive controlled substances test results
- Refusals to test
- Information on other violations of DOT agency drug and alcohol testing regulations
- If necessary, evidence of successful completion of the return to duty process.

Details of this requirement and pre-employment testing can be found in Chapter 5, “Types of Testing.”

In addition to these pre-employment statements, as part of their orientation, driver applicants who submit to and pass the preemployment controlled substances tests should be given a briefing similar to that given current drivers and must be given a copy of the policy statement.

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Chapter 3 Appendix

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Certificate of Receipt

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Example of a
Certificate of Receipt

I have received a copy of _____'s controlled substances and
(employer)
alcohol policies and procedures.

_____ _____

Date **Driver's Signature**

_____

Driver's Name (printed)

_____

Driver Identification

Please Sign and Return This Card.

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Chapter 4.
EDUCATION AND TRAINING

The primary objective of the controlled substances use and alcohol misuse program is deterrence rather than detection. Public safety is best served if drivers are aware of the effects of alcohol and controlled substances on health, safety, and the work environment.

Consequently, the FMCSA believes that educating drivers and training supervisors are essential for these programs to be effective. Employers are required to provide educational materials for drivers (see Chapter 3) and training for supervisors *prior to* the start of testing (§382.601 and §382.603, respectively).

Furthermore, the FMCSA regulations and associated DOT regulations (49 CFR part 40) specify the involvement of professional and technical personnel in the administration of your alcohol and controlled substances program. These personnel include the medical review officer (MRO), the substance abuse professional (SAP), the screening test

technician (STT), the breath alcohol technician (BAT), and urine collectors. Each of these individuals must have specific training and/or experience as described in the final section of this chapter.

Educating your work force and supervisors is a major component of a successful controlled substances use and alcohol misuse program. The benefits of the program are enhanced when drivers understand your policies and procedures, why you are implementing them, and what driver responsibilities are.

Well-trained supervisors help you achieve your safety goals and maintain program integrity, which in turn reduce your program costs and liabilities. The FMCSA regulations require specific training for supervisors. In addition, many employers may choose to augment required driver education with training programs tailored to local needs.

Section 1. EDUCATION OF DRIVERS

Employers must provide each driver subject to the regulations with written materials as described in Chapter 3.

The appendix in Chapter 3, "Policy Development and Communication," contains a sample form for use by drivers in confirming receipt of the educational materials. One effective way to distribute the educational materials is with the driver's paycheck. Be sure to retain, in a secure location, the signed certificate indicating that the driver has received the educational materials (§382.601(d)).

The appendix of this chapter contains information about alcohol and the five controlled substances tested for under part 382, which you may wish to include in your education and training materials. In addition, table 4.1 lists other organizations that will provide you with educational materials at little or no cost.

Many employers offer their drivers and other employees counseling and rehabilitation services through an employee assistance program (EAP). As part of its contractual obligation to the employer, the EAP should be required to supply and distribute educational and training materials. Similarly, your health insurance carrier may have informational and educational materials available to distribute to your work force.

Section 2. SUPERVISOR TRAINING

Employers must provide training to all persons who supervise drivers subject to the regulations, in accordance with §382.603.

Table 4-1. Sources of Educational Materials

1. National Clearinghouse for Alcohol and Drug Information (NCADI), PO Box 2345, Rockville, MD 20852. (800) 729-6686 or (301) 468-2600. Can provide fact sheets, films, posters, pamphlets, and brochures at no or low cost. Multilingual materials. Free quarterly catalog available

2. Your State substance abuse clearinghouse. Each State has at least one Federally funded clearinghouse, which can provide you with nationally and locally produced information materials.

3. Drug-Free Workplace Helpline, Center for Substance Abuse Prevention. (800) 843-4971. Operates from 9:00 AM to 5:30 PM Eastern time, Monday - Friday. Provides information on policy, controlled substance testing, employee assistance program models, and related topics. Offers literature at no cost to employers. Referrals to other information sources and lists of consultants by geographic area are available.
Website: http://www.drugfreeworkplace.gov

4. Partnership for a Drug Free America, 405 Lexington Avenue, New York, NY 10174-0002. (212) 922-1560. Provides high-quality, high-impact messages in the form of posters, audio tapes, and video tapes. No charge, but a donation will be requested.

The purpose of this training is to enable supervisors to determine whether reasonable suspicion exists to require a driver to undergo testing described in §382.307. It must include at least 60 minutes on alcohol misuse and 60 minutes on controlled substances use (120 minutes total). The training may consist of formal classroom training, videos, written materials, online training, or other appropriate methods. Interactive training is encouraged, as experience has shown it is more effective than passive methods.

The content of the training must include the physical, behavioral, speech, and performance indicators of probable alcohol misuse and controlled substances use. As with driver education, the material in this chapter's appendix may be used as part of your supervisor education and training materials, and the organizations listed in table 4.1 can provide additional information.

Section 3. TRAINING OF PROFESSIONAL AND TECHNICAL PERSONNEL

Individuals who perform certain professional and technical functions in DOT testing programs are required by 49 CFR part 40 to have specific qualifications and recurrent

training. These requirements apply whether the individuals are your in-house employees or external service agents. Before you use these types of professional and technical personnel, you should satisfy yourself that they have the requisite qualifications and are aware of the need for periodic refresher training. Below is a reference list of the part 40 sections that apply to each type of service agent subject to the training requirements:

Urine collection personnel – §40.31 and 33

Medical review officers (MROs) – §40.121

Screening test technicians (STTs) and breath alcohol technicians (BATs) – §40.211 and 213

Substance abuse professionals (SAPs) – §40.281

Chapter 4 Appendix

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Signs and Symptoms
of Alcohol and
Controlled Substances Use

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Detection Periods

Detection periods vary; rates of metabolism and excretion are different for each drug and use and vary by individual. Detection periods should be viewed as estimates. Cases can always be found to contradict these approximations.

Drug	Detection Period
Amphetamines	
Amphetamine	1–2 days
Methamphetamine	1–2 days
Cocaine	
Benzoylecgonine	2–3 days
Cannabinoids (Marijuana)	
Casual Use	Up to 7 days
Chronic Use	Up to 30 days
Alcohol	12–24 hours
Opiates	
Codeine	Usually up to 2 days
Hydromorphone (Dilaudid)	Usually up to 2 days
Morphine (for Heroin)	Usually up to 2 days
Phencyclidine (PCP)	
Casual Use	Up to 8 days
Chronic Use	Up to 30 days

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Alcohol Fact Sheet

Alcohol is a drug that has been consumed throughout the world for centuries. It is considered a recreational beverage when consumed in moderation for enjoyment and relaxation during social gatherings. However, when consumed primarily for its physical and mood-altering effects, it is a substance of abuse. As a depressant, it slows down physical responses and progressively impairs mental functions.

Description

- **Generic/Chemical Names (Representative):** Beer (about 4.5 percent alcohol), wine (about 14 to 20 percent alcohol), distilled spirits or liquor (about 50 percent alcohol).

- **Alternative Sources:** After-shave lotion, cough medicine, antiseptic mouthwash, vanilla extract, disinfectant, room deodorizer fluid, cologne, breath sprays, shaving creams, rubbing alcohol.

- **Common Street Names:** Booze, juice, brew, grain, shine, hooch.

- **Distinguishing Characteristics:** Pure ethanol (sold in some States as "grain alcohol") is a colorless liquid with a distinctive odor and taste. It has a cooling effect when rubbed on the skin. Most commonly, however, alcohol is consumed as the component of another beverage, and grain alcohol itself is normally diluted with juices or other soft drinks by the consumer. Depending upon the concentration of alcohol in the beverage, the aroma of alcohol may serve as an indicator of the presence of alcohol in a beverage. Since the sale and distribution of all products containing more than a trace amount of ethanol are regulated by Federal and State governments, the best guide to whether a specific beverage contains alcohol will be label information if the original container is available.

- **Paraphernalia:** Liquor, wine, after-shave, or cough medicine bottles; drinking glasses; cans of alcohol-containing beverages; can and bottle openers. Paper bags are sometimes used to conceal the container while the drink is being consumed.

- **Method of Intake:** Alcohol is consumed by mouth. It is infrequently consumed as pure (grain) alcohol. It is, however, frequently consumed in the form in which it is sold (e.g., cans of beer, "straight" liquor, glasses of wine). Alcohol is often consumed in combination with other beverages ("mixers"), either to make it more palatable or to disguise from others that alcohol is being consumed.

- **Duration of Single Dose Effect:** Alcohol is fully absorbed into the bloodstream within 30 minutes to 2 hours, depending upon the beverage consumed and associated food intake. The body can metabolize about one quarter of an ounce (0.25 oz.—roughly half the amount in a can of beer) of alcohol per hour.

  The effects of alcohol on behavior (including driving behavior) vary with the individual and with the concentration of alcohol in the individual's blood. The level of alcohol achieved in the blood depends in large part (although not exclusively) upon the amount of alcohol consumed and the time period over which it was consumed. One rule of thumb says that in a 150-pound person, each drink adds 0.02% to blood alcohol concentration and each hour that passes removes 0.01percent from it.

  Generally speaking, alcohol is absorbed into the blood relatively quickly and metabolized more slowly. Therefore, the potential exists for alcohol concentrations to build steadily throughout a drinking session. The table below shows some general effects of varying levels of BAC:

BAC	**Behavioral Effects**
0.02-0.09%	Loss of muscular coordination, impaired senses, changes in mood and personality.
0.10-0.19%	Marked mental impairment, further loss of coordination, prolonged reaction time.
0.20-0.29%	Nausea, vomiting, double vision.
0.30-0.39%	Hypothermia, blackouts, anesthesia.
0.40-0.70%	Coma, respiratory failure, death.

- **Detection Time:** The detection time for alcohol depends upon the maximum level of BAC achieved and varies by individual. Since under FMCSA regulations alcohol concentrations as low as 0.02 percent (under DOT testing procedures, breath alcohol concentration is used as a proxy for BAC) require employer action, and current technology can reliably detect this level, a driver who had achieved a moderate level of intoxication (i.e., 0.08 percent BAC) would be detectable approximately 8 hours after achieving that level. (Note: this is detectability after achieving this level and not after commencing or stopping drinking.)

- **Dependency Level:** The chronic use of alcohol can produce dependence in some individuals manifested by craving, withdrawal, and tolerance. Despite the fact that many individuals consume alcoholic beverages (more than 90 percent of Americans at some point during their lives), relatively few of them (only about 10 percent of drinkers) develop psychological and physical dependency on it.

Signs and Symptoms of Use

- **Evidence of Presence of Alcohol:** Bottles, cans, and other containers which alcohol-containing beverages may have been purchased and/or consumed in; bottle caps from alcohol containers; bottle or can openers; drivers drinking from paper bags; odor of alcohol on containers or on driver's breath.

- **Physical Symptoms:** Reduction of reflexes, slurred speech, loss of coordination, unsteady gait.

- **Behavioral Symptoms:** Increased talkativeness, reduced emotional control, distorted judgment, impaired driving ability, gross effects on thinking and memory.

Effects of Alcohol on the Individual

Physical Health Effects

- The liver is the primary site of alcohol metabolism and can be severely affected by heavy alcohol use. The three primary dangers are fatty liver, alcoholic hepatitis, and cirrhosis.

- Heavy alcohol use can also severely affect the gastrointestinal tract, contributing to inflammation of the esophagus, exacerbating peptic ulcers, and causing acute and chronic pancreatitis. It interferes with the absorption of nutrients from food and contributes to malnutrition.

- Heavy alcohol use affects the heart and vascular system, contributing to heart attacks, hypertension, and strokes.

- Either because of direct action or indirectly through the malnutrition, liver disease, and other effects it causes, alcohol depresses immune system functioning and increases the likelihood of infection.

- There is considerable evidence that alcohol abuse is associated with the incidence of cancer, particularly cancers of the liver, esophagus, nasopharynx, and larynx.

- Heavy alcohol consumption causes brain damage, manifested through dementia, blackouts, seizures, hallucinations, and peripheral neuropathy.

Other Health Effects

- In addition to having direct health effects through physiological changes in the drinker's body, alcohol contributes significantly to health problems indirectly. While most of the medical consequences of alcohol use listed above result from chronic use, these other effects can often result from a single episode of acute use:

  — One half of all traffic accident fatalities are alcohol-related.

  — The risk of a traffic fatality per mile driven is at least eight times higher for a drunk driver than for a sober one.

  — Falls are the most common cause of nonfatal injuries in the U.S. and the second-most common cause of fatal accidents. Estimates of the involvement of alcohol in these falls range from 20 to 80 percent. A BAC between 0.05 and 0.10 percent increases the likelihood of a fall by three times. Between 0.10 and 0.15 percent, it increases by a factor of 10, and above 0.16 percent it increases by a factor of 60.

  — Research indicates over 60 percent of those dying in nonvehicular fires (fourth leading cause of accidental death in the United States) have BACs over 0.10 percent.

  — Approximately 38 percent of those drowning (third leading cause of accidental death in the United States) have been exposed to alcohol at the time of their deaths.

  — Between 20 and 36 percent of suicide victims have a history of alcohol abuse or were drinking shortly before their suicides.

  — Alcohol also plays a significant role in crime and family violence, including spousal and child abuse.

Effects on Driver Performance

The statistics reported above make it clear that alcohol can have a devastating effect on driver performance. By affecting vision, reflexes, coordination, emotions, aggressiveness, and judgment, alcohol deprives the professional driver of most of the tools he or she relies upon to perform safely.

Hangovers also present a risk to driving behavior, as would other illnesses. The sick feeling associated with hangovers, including headaches, nausea, and other symptoms, can distract a driver's attention and lead to accidents even though alcohol may no longer be detectable in the body.

Overdose Effects

- Unconsciousness, coma, death.

Withdrawal Syndrome

Repeated use of alcohol results in tolerance, with increasing consumption necessary to attain its characteristic effects. Alcohol at a given blood level produces less impairment in heavy drinkers than it does in lighter drinkers. Alcohol is toxic by itself and, coupled with the malnutrition common in alcoholics, can lead to kidney disease, deterioration of mental faculties, and psychotic episodes (the "DTs") if the alcohol is withdrawn. The DTs are characterized by hallucinations and extreme fear, and their presence are a clear indication of alcohol dependence. Withdrawal and the associated DTs can be fatal.

References

Blum, Kenneth, "Handbook of Abusable Drugs," NY, Gardner Press, 1984.

Department of Health and Human Services, "Alcohol and Health: 7th Special Report to the U.S. Congress," Washington, DC, 1990.

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Amphetamine Fact Sheet

Amphetamines are central nervous system stimulants that speed up the mind and body. The physical sense of energy at lower doses and the mental exhilaration at higher doses are the reasons for their abuse. Although widely prescribed at one time for weight reduction and mood elevation, the legal use of amphetamines is now limited to a very narrow range of medical conditions. Most amphetamines that are abused are illegally manufactured in foreign countries and smuggled into the United States or clandestinely manufactured in crude laboratories.

Description

- **Generic/Chemical Names:** Include amphetamine and methamphetamine. Trade names include: Desoxyn, Dexapex, Fastin, Vasotilin, Dexedrine, Delcobese, Fetamine, Obetrol.

- **Common Street Names:** Uppers, speed, bennies, crystal, black beauties, Christmas trees, white crosses, mollies, bam, crank, meth, ice, LA ice.

- **Distinguishing Characteristics:** In their pure form, amphetamines are yellowish crystals. They are manufactured in a variety of forms, including pill, capsule, tablet, powder, and liquid. Amphetamine ("speed") is sold in counterfeit capsules or as white, flat, double-scored "mini bennies." Methamphetamine is often sold as a creamy white, granular powder or in lumps wrapped in aluminum foil or sealable plastic bags.

- **Paraphernalia:** Needles, syringes, and rubber tubing for tourniquets, used for the injection method.

- **Method of Intake:** The most common forms of amphetamines are pills, tablets, or capsules, which are ingested. The less frequent forms, liquid and powder, are injected or snorted.

- **Duration of Single Dose Effect:** 2 to 4 hours.

- **Detection Time:** 1 to 2 days after use.

- **Dependency Level:** Psychological dependence on amphetamines is known to be high. Physical dependence is possible.

Signs and Symptoms of Use

- **Evidence of Presence of Amphetamines:** Most frequently—pills, capsules, or tablets; envelopes, bags, vials for storing the drug; less frequently—syringes, needles, tourniquets.

- **Physical Symptoms:** Dilated pupils, sweating, increased blood pressure, palpitations, rapid heartbeat, dizziness, decreased appetite, dry mouth, headaches, blurred vision, insomnia, high fever (depending on the level of the dose).

- **Behavioral Symptoms:** Confusion, panic, talkativeness, hallucinations, restlessness, anxiety, moodiness, false sense of confidence and power; "amphetamine psychosis" which might result from extended use (see health effects).

Effects of Amphetamine Use on the Individual

Physical Health Effects

- Regular use produces strong psychological dependence and increasing tolerance to drug.

- High doses may cause toxic psychosis resembling schizophrenia.

- Intoxication may induce a heart attack or stroke due to spiking of blood pressure.

- Chronic use may cause heart and brain damage due to severe constriction of capillary blood vessels.

- The euphoric stimulation increases impulsive and risk-taking behaviors, including bizarre and violent acts.

- Long-term heavy use can lead to malnutrition, skin disorders, ulcers, and various diseases that come from vitamin deficiencies.

- Lack of sleep, weight loss, and depression also result from regular use.

- Users who inject drugs intravenously can get serious and life-threatening infections (e.g., lung or heart disease, kidney damage) from nonsterile equipment or contaminated self-prepared solutions.

Effects on Mental Performance

- Anxiety, restlessness
- Moodiness
- False sense of power.

Large doses over long periods can result in

- Hallucinations
- Delusions

- Paranoia
- Brain damage.

Effects on Driver Performance

Amphetamines cause a false sense of alertness and potential hallucinations, which can result in risky driving behavior and increased accidents. Drivers who fail to get sufficient rest may use the drug to increase alertness. However, although low doses of amphetamines will cause a short-term improvement in mental and physical functioning, greater use impairs functioning. The hangover effect of amphetamines is characterized by physical fatigue and depression, which make operation of equipment or vehicles dangerous.

Overdose Effects

- Agitation
- Increase in body temperature
- Hallucinations
- Convulsions
- Death

Withdrawal Syndrome

- Apathy
- Long-term periods of sleep
- Irritability
- Depression
- Disorientation

Workplace Issues

- Because amphetamines alleviate the sensation of fatigue, they may be abused to increase alertness due to unusual overtime demands or failure to get rest.

- Low-dose amphetamine use will cause a short-term improvement in mental and physical functioning. With greater use or increasing fatigue, the effect reverses and has an impairing effect. Hangover effect is characterized by physical fatigue and depression, which may make operation of equipment or vehicles dangerous.

Reference

Federal Motor Carrier Safety Administration, Office of Motor Carriers, "Guidelines for Implementing the FMCSA Anti-Drug Program," Publication No. FMCSA-MC-91-014, March 1992.

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Cocaine Fact Sheet

Cocaine is used medically as a local anesthetic. It is abused as a powerful physical and mental stimulant. The entire central nervous system is energized. Muscles are more tense, the heart beats faster and stronger, and the body burns more energy. The brain experiences an exhilaration caused by a large release of neurohormones associated with mood elevation.

Description

- **Generic/Chemical Names:** Cocaine hydrochloride or cocaine base.
- **Common Street Names:** Coke, crack, snow, blow, flake, "C", toot, rock, base, nose candy, snort, white horse.
- **Distinguishing Characteristics:** Cocaine is an alkaloid (organic base) derived from the coca plant. In its more common form, cocaine hydrochloride or "snorting coke" is a white to creamy granular or lumpy powder chopped fine before use. Cocaine base, rock, or crack is a crystalline rock about the size of a small pebble.
- **Paraphernalia:** Cocaine hydrochloride—single-edged razor blade, a small mirror or piece of smooth metal; a half straw or metal tube, and a small screw-cap vial or folded paper packet containing the cocaine (used for snorting), needles, tourniquets (used for injecting). Cocaine base—a "crack pipe" (small glass smoking device for vaporizing the crack crystals); a lighter, alcohol lamp, or small butane torch for heating the substance.
- **Method of Intake:** Cocaine hydrochloride is snorted into the nose, rubbed on the gums, or injected into the veins. Cocaine base is heated in a glass pipe and the vapor is inhaled.
- **Duration of Single Dose Effect:** 1 to 2 hours.
- **Detection Time:** Up to 2 to 3 days after last use.
- **Dependency Level:** Research indicates possible physical dependence. Although there is insufficient evidence for humans, animal studies indicate "reverse tolerance," in which certain behavioral effects become stronger with repeated use of cocaine. Psychological dependence on cocaine is known to be high.

Signs and Symptoms of Use

- **Evidence of Presence of Cocaine:** Small folded envelopes, plastic bags, or vials used to store cocaine; razor blades; cut-off drinking straws or rolled bills for snorting; small spoons; heating apparatus.

- **Physical Symptoms:** Dilated pupils, runny or irritated nose, profuse sweating, dry mouth, tremors, needle tracks, loss of appetite, hyperexcitability, restlessness, high blood pressure, heart palpitations, insomnia, talkativeness, formication (sensation of bugs crawling on skin).

- **Behavioral Symptoms:** Increased physical activity, depression, isolation and secretive behavior, unusual defensiveness, frequent absences wide mood swings, difficulty in concentration, paranoia, hallucinations, confusion, false sense of power and control.

Effects of Cocaine Use on the Individual

Physical Health Effects

- Research suggests that regular cocaine use may upset the chemical balance of the brain. As a result, it may speed up the aging process by causing irreparable damage to critical nerve cells. The onset of nervous system illnesses such as Parkinson's disease could also occur.

- Cocaine use causes the heart to beat faster and harder and rapidly increases blood pressure. In addition, cocaine causes spasms of blood vessels in the brain and heart. Both effects lead to ruptured vessels causing strokes or heart attacks.

- Strong psychological dependency can occur with one "hit" of crack. Usually, mental dependency occurs within days of using crack or within several months of snorting coke. Cocaine causes the strongest mental dependency of any known drug.

- Treatment success rates are lower than those of other chemical dependencies.

- Cocaine is extremely dangerous when taken with depressant drugs. Death due to overdose is rapid. The fatal effects of an overdose are not usually reversible by medical intervention. The number of cocaine overdose deaths in the United States has tripled in the last four years.

Effects on Mental Performance

- Paranoia and hallucinations
- Hyperexcitability and overreaction to stimulus
- Difficulty in concentration
- Wide mood swings
- Withdrawal leads to depression and disorientation

Effects on Driver Performance

Cocaine use results in an artificial sense of power and control, which leads to a sense of invincibility. Lapses in attention and the ignoring of warning signals brought on by cocaine use greatly increase the potential for accidents. Paranoia, hallucinations, and extreme mood swings make for erratic and unpredictable reactions while driving.

The high cost of cocaine frequently leads to workplace theft and/or dealing. Forgetfulness, absenteeism, tardiness, and missed assignments can translate into lost business.

Overdose Effects

- Agitation
- Increase in body temperature
- Hallucinations
- Convulsions
- Death

Withdrawal Syndrome

- Apathy
- Long periods of sleep
- Irritability
- Depression
- Disorientation

Reference

Federal Motor Carrier Safety Administration, Office of Motor Carriers, "Guidelines for Implementing the FMCSA Anti-Drug Program," Publication No. FMCSA-MC-91-014, March 1992.

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Cannabinoids (Marijuana) Fact Sheet

Marijuana is one of the most misunderstood and underestimated drugs of abuse. People use marijuana for the mildly tranquilizing and mood and perception-altering effects it produces.

Description

- **Generic/Chemical Name:** Dronabinal, marinol, nabilone.
- **Common Street Names:** Pot, dope, grass, hemp, weed, hooch, herb, hash, joint, Acapulco gold, reefer, sinsemilla, Thai sticks.
- **Distinguishing Characteristics:** Like tobacco, marijuana consists of dried, chopped leaves that are green to light tan in color. The seeds are oval with one slightly pointed end. Marijuana has a distinctly pungent aroma resembling a combination of sweet alfalfa and incense. Less prevalent, hashish is a compressed, sometimes tarlike substance ranging in color from pale yellow to black. It is usually sold in small chunks wrapped in aluminum foil.
- **Paraphernalia:** Cigarette papers, roach clip holders, and small pipes made of bone, brass, or glass are commonly found. Smoking "bongs" (large-bore pipes for inhaling large volumes of smoke) can easily be made from soft drink cans and toilet paper rolls.
- **Method of Intake:** Marijuana is usually inhaled in cigarette or pipe smoke. Occasionally, it is added to baking ingredients (e.g., brownies) and ingested. Tetrahydro-cannabinol (THC), the active chemical detected in urinalysis, is released by exposure to heat.
- **Duration of Single Dose Effect:** The most obvious effects are felt for 4 to 6 hours. Preliminary studies suggest that performance impairment lasts longer. The active chemical, THC, is stored in body fat and slowly metabolized over time.
- **Detection Time:** Traces of marijuana will remain in the urine of an occasional user for up to 1 week, and, in the case of a chronic user, for 3 to 4 weeks.
- **Dependency Level:** Evidence indicates moderate psychological dependence.

Signs and Symptoms of Use

- **Evidence of Presence of Marijuana:** Plastic bags (commonly used to sell marijuana); smoking papers; roach clip holders; small pipes of bone, brass, or glass; smoking bongs; distinctive odor.

- **Physical Symptoms:** Reddened eyes (often masked by eye drops); stained fingertips from holding "joints," particularly for nonsmokers; chronic fatigue; irritating cough; chronic sore throat; accelerated heartbeat; slowed speech; impaired motor coordination; altered perception; increased appetite.

- **Behavioral Symptoms:** Impaired memory, time-space distortions, feeling of euphoria, panic reactions, paranoia, "I don't care" attitude, false sense of power.

Effects of Marijuana Use on the Individual

General Health Effects

- When marijuana is smoked, it is irritating to the lungs. Chronic smoking causes emphysema-like conditions.

- One joint causes the heart to race and be overworked. People with undiagnosed heart conditions are at risk.

- Marijuana is commonly contaminated with the fungus *Aspergillus*, which can cause serious respiratory tract and sinus infections.

- Marijuana smoking lowers the body's immune system response, making users more susceptible to infection. The U.S. Government is actively researching a possible connection between marijuana smoking and the activation of AIDS in positive human immunodeficiency virus (HIV) carriers.

Pregnancy Problems and Birth Defects

- The active chemical, THC, and 60 other related chemicals in marijuana concentrate in the ovaries and testes.

- Chronic smoking of marijuana in males causes a decrease in the male sex hormone, testosterone, and an increase in estrogen, the female sex hormone. The result is a decrease in sperm count, which can lead to temporary sterility. Occasionally, the onset of female sex characteristics, including breast development, occurs in heavy users.

- Chronic smoking of marijuana in females causes a decrease in fertility and an increase in testosterone.

- Pregnant women who are chronic marijuana smokers have a higher-than-normal incidence of stillborn births, early termination of pregnancy, and higher infant mortality rate during the first few days of life.

- In test animals, THC causes birth defects, including malformations of the brain, spinal cord, forelimbs, and liver, and water on the brain and spine.

- Offspring of test animals that were exposed to marijuana have fewer chromosomes than normal, causing gross birth defects or death of the fetus. Pediatricians and surgeons are concluding that the use of marijuana by either or both parents, especially during pregnancy, leads to specific birth defects of the infant's feet and hands.

- One of the most common effects of prenatal cannabinoid exposure is underweight newborn babies.

- Fetal exposure may decrease visual functioning and cause other ophthalmic problems.

Mental Function

Regular use can cause the following effects:

- Delayed decision-making

- Diminished concentration

- Impaired short-term memory, interfering with learning

- Impaired signal detection (ability to detect a brief flash of light), a risk for users who are operating machinery

- Impaired tracking (the ability to follow a moving object with the eyes) and visual distance measurements

- Erratic cognitive function

- Distortions in time estimation

- Long-term negative effects on mental function known as "acute brain syndrome," which is characterized by disorders in memory, cognitive function, sleep patterns, and physical condition.

Effects on Driver Performance

- The mental impairments resulting from the use of marijuana produce reactions that can lead to unsafe and erratic driving behavior. Distortions in visual perceptions, impaired signal detection, and altered reality can make driving a vehicle very dangerous.

Overdose Effects

- Aggressive urges
- Anxiety
- Confusion
- Fearfulness
- Hallucinations
- Heavy sedation
- Immobility
- Mental dependency
- Panic
- Paranoic reaction
- Unpleasant distortions in body image

Withdrawal Syndrome

- Sleep disturbance
- Hyperactivity
- Decreased appetite
- Irritability
- Gastrointestinal distress
- Salivation, sweating, and tremors

Workplace Issues

- The active chemical, THC, is stored in body fat and slowly releases over time. Marijuana smoking has a long-term effect on performance.

- A 500 to 800 percent increase in THC concentration in the past several years makes smoking three to five joints a week today equivalent to 15 to 40 joints a week in 1978.

- Combining alcohol or other depressant drugs and marijuana can produce a multiplied effect, increasing the impairing effect of *both* the depressant and marijuana.

Reference

Federal Motor Carrier Safety Administration, Office of Motor Carriers, “Guidelines for Implementing the FMCSA Anti-Drug Program,” Publication No. FMCSA-MC-91-014, March 1992.

Opiates (Narcotics) Fact Sheet

Opiates (also called narcotics) are drugs that alleviate pain, depress body functions and reactions, and, when taken in large doses, cause a strong euphoric feeling.

Description

- **Generic/Chemical Names:** Natural and natural derivatives include opium, morphine, codeine, and heroin (semi-synthetic).

  Synthetics include meperidine (Demerol), oxymorphone (Numorphan), and oxycodone (Percodan).

- **Common Street Names:** Big M, micro, dots, horse, "H", junk, smack, scag, Miss Emma, dope, China white.

- **Distinguishing Characteristics:** Because of the variety of compounds and forms, opiates are more difficult to clearly describe in terms of form, color, odor, and other physical characteristics. Opium and its derivatives can range from dark brown chunks to white crystals or powders. Depending on the method of intake, they may be in powder, pill, or liquid form.

- **Paraphernalia:** Needles, syringe caps, eyedroppers, bent spoons, bottle caps, and rubber tubing (used in the preparation for and injection of the drug).

- **Method of Intake:** Opiates may be taken in pill form, smoked, or injected, depending upon the type of narcotic used.

- **Duration of Single Dose Effect:** 3 to 6 hours.

- **Detection Time:** Usually up to 2 days.

- **Dependency Level:** Both physical and psychological dependence on opiates are known to be high. Dependence on codeine is moderate.

Signs and Symptoms of Use

- **Evidence of Presence of Drug:** In addition to paraphernalia enumerated above, the following items may be present: foil, glassine envelopes, or paper "bindles" (packets for holding drugs); balloons or prophylactics used to hold heroin; bloody tissues used to wipe the injection site; a pile of burned matches used to heat the drug prior to injection.

- **Physical Symptoms:** Constricted pupils, sweating, nausea and vomiting, diarrhea, needle marks or "tracks," wearing long sleeves to cover "tracks", loss of appetite, slurred speech, slowed reflexes, depressed breathing and heartbeat, and drowsiness and fatigue.

- **Behavioral Symptoms:** Mood swings, impaired coordination, depression and apathy, stupor; euphoria.

Effects of Narcotics Use on the Individual

- IV needle users have a high risk for contracting hepatitis and AIDS due to the sharing of needles.

- Narcotics increase pain tolerance. As a result, people could more severely injure themselves or fail to seek medical attention after an accident due to the lack of pain sensitivity.

- Narcotics' effects are multiplied when used in combination with other depressant drugs and alcohol, causing increased risk for an overdose.

Effects on Mental Performance

- Depression and apathy
- Wide mood swings
- Slowed movement and reflexes

In addition, the high physical and psychological dependence level of opiates compounds the impaired functioning.

Effects on Driver Performance

The apathy caused by opiates can translate into an "I don't really care" attitude toward performance. The physical effects as well as the depression, fatigue, and slowed reflexes impede the reaction time of the driver, raising the potential for accidents. Although opiates have a legitimate medical use in alleviating pain, workplace use may cause impairment of physical and mental functions.

Social Issues

- There are more than 500,000 heroin addicts in the United States, most of whom are IV needle users.

- An even greater number of medicinal narcotic-dependent persons obtain their narcotics through prescriptions.

- Because of tolerance, there is an ever-increasing need for more narcotic to produce the same effect.

- Strong mental and physical dependency occurs.

- The combination of tolerance and dependency creates an increasing financial burden for the user. Costs for heroin can reach hundreds of dollars a day.

Workplace Issues

- Unwanted side effects such as nausea, vomiting, dizziness, mental clouding, and drowsiness place the legitimate user and abuser at higher risk for an accident.

- Narcotics have a legitimate medical use in alleviating pain. Workplace use may cause impairment of physical and mental functions.

Reference

Federal Motor Carrier Safety Administration, Office of Motor Carriers, "Guidelines for Implementing the FMCSA Anti-Drug Program," Publication No. FMCSA-MC-91-014, March 1992.

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Phencyclidine (PCP) Fact Sheet

Phencyclidine (PCP) was originally developed as an anesthetic, but the adverse side effects prevented its use except as a large animal tranquilizer. Phencyclidine acts as both a depressant and a hallucinogen, and sometimes as a stimulant. It is abused primarily for its variety of mood-altering effects. Low doses produce sedation and euphoric mood changes. The mood can change rapidly from sedation to excitation and agitation. Larger doses may produce a comalike condition with muscle rigidity and a blank stare with the eyelids half-closed. Sudden noises or physical shocks may cause a "freak-out," in which the person has abnormal strength, extremely violent behavior, and an inability to speak or comprehend communication.

Description

- **Generic/Chemical Names:** Phencyclidine.
- **Common Street Names:** Angel dust, dust, peace pills, hog, killer weed, mint, monkey dust, supergrass, Tran Q, weed.
- **Distinguishing Characteristics:** PCP is commonly sold as a creamy, granular powder. It is either brown or white and often packaged in one-inch-square aluminum foil or folded paper packets. Occasionally, it is sold in capsule, tablet, or liquid form. It is sometimes combined with procaine, a local anesthetic, and sold as imitation cocaine.
- **Paraphernalia:** Foil or paper packets; stamps (off which PCP is licked); needles, syringes, and tourniquets (for injection); leafy herbs (for smoking).
- **Method of Intake:** In pill, capsule, or tablet form, PCP may be ingested. It is commonly injected as "angel dust." It may be smoked or snorted when applied to leafy materials or combined with marijuana or tobacco.
- **Duration of Single Dose Effect:** Days.
- **Detection Time:** Up to 8 days.
- **Dependency Level:** Psychological dependence on PCP is known to be high. Physical dependence is unknown.

Signs and Symptoms of Use

- **Evidence of Presence of PCP:** Packets, stamps, injection paraphernalia, herbs.

- **Physical Symptoms:** Dilated or floating pupils, blurred vision, nystagmus (jerky eye movement), drooling, muscle rigidity, profuse sweating, decreased sensitivity to pain, dizziness, drowsiness, impaired physical coordination (e.g., drunken-like walk, staggering), severe disorientation, rapid heartbeat.

- **Behavioral Symptoms:** Anxiety, panic/fear/terror, aggressive/violent behavior, distorted perception, severe confusion and agitation, disorganization, mood swings, poor perception of time and distance, poor judgment, auditory hallucinations.

Health Effects

- The potential for accidents and overdose emergencies is high due to the extreme mental effects combined with the anesthetic effect on the body.

- PCP is potentiated by other depressant drugs, including alcohol, increasing the likelihood of an overdose reaction.

- Misdiagnosing the hallucinations as LSD-induced, and then treating with Thorazine, can cause a fatal reaction.

- Use can cause irreversible memory loss, personality changes, and thought disorders.

- There are four phases to PCP abuse. The first phase is acute toxicity. It can last up to three days and can include combativeness, catatonia, convulsions, and coma. Distortions of size, shape, and distance perception are common. The second phase, which does not always follow the first, is a toxic psychosis. Users may experience visual and auditory delusions, paranoia, and agitation. The third phase is a drug-induced schizophrenia that may last a month or longer. The fourth phase is PCP-induced depression. Suicidal tendencies and mental dysfunction can last for months.

Effects on Mental Performance

- Irreversible memory loss
- Personality changes
- Thought disorders
- Hallucinations

Effects on Driver Performance

The distortions in perception and potential visual and auditory delusions make driver performance unpredictable and dangerous. PCP use can cause drowsiness, convulsions, paranoia, agitation, or coma, all obviously dangerous to driving.

Overdose Effects

- Longer, more intense "trip" episodes
- Psychosis
- Coma
- Possible death.

Withdrawal Syndrome

- None reported

Workplace Issues

- PCP abuse is less common today than in the recent past. It is not generally used in a workplace setting because of the severe disorientation that occurs.

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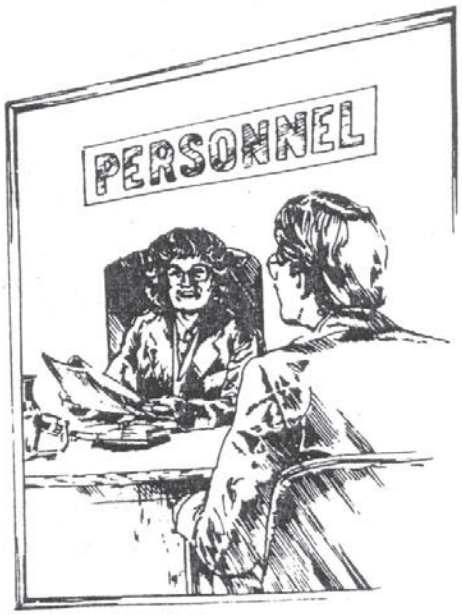


Chapter 5 - TYPES OF TESTING

The FMCSA regulations require you to implement the following types of controlled substances and alcohol tests:

- Pre-employment (controlled substances only)
- Reasonable suspicion
- Post-accident
- Random
- Return-to-duty
- Follow-up.

This chapter describes the major requirements of each of these types of tests.

Section 1. PRE-EMPLOYMENT TESTING

All applicants for employment on a permanent or temporary basis as a CMV driver, or current employees who wish to remain CDL drivers, must be given pre-employment tests for controlled substances. Prior to conducting the test, you must inform the applicant or driver in writing of the testing requirements (§382.601).

The purpose of pre-employment testing is to deter and detect controlled substances abuse by driver-applicants. Pre-employment testing identifies drivers who could bring a controlled substances problem into your organization.

A driver-applicant shall not be allowed to perform as a driver unless the employer has a verified negative controlled substances test result from the MRO for the driver-applicant.

You are required to conduct pre-employment tests each time a driver returns to work after a layoff period when the driver has not been subjected to random controlled substances testing for more than 30 days or has been employed by another entity. You must notify a driver-applicant of the results of a pre-employment controlled substances test if the driver-applicant requests the results within 60 days of being notified of the disposition of the

employment application. For examples illustrating whether or not you need to conduct pre-employment tests, please refer to table 5.1, Pre-employment Testing Examples.

Exceptions for Pre-employment Controlled Substances Testing

You may elect not to administer a pre-employment controlled substances test if

- The driver-applicant has participated in a controlled substances testing program that meets the requirements of 49 CFR part 382 and part 40 (or another DOT agency's controlled substances testing program) within the previous 30 days, and
- While participating in that program, the driver-applicant either was tested for controlled substances within the past 6 months or participated in a random testing program for the previous 12 months, and
- The employer verifies that no prior employer of the driver-applicant has records of a violation of Part 382, subpart B or the controlled substance prohibited conduct rules of another DOT agency within the previous 6 months (§382.301(c)).

Pre-employment Controlled Substances Testing Exception Recordkeeping

You must obtain enough information to show that the driver is qualified under the regulations. If you operate under either of the two exceptions mentioned above, you must contact the previous testing program to verify the following:

- Name(s) and address(es) of the program(s),
- That the driver participates or participated in the program(s),
- That the program is in compliance with 49 CFR part 40,
- That the driver has not refused to be tested for controlled substances,
- The date the driver was last tested for controlled substances, and
- The results of any tests taken within the previous 6 months.

You must obtain a release form signed by the driver-applicant authorizing the previous testing program to share this information with you and forward that release form to each of the driver's previous employers.

Table 5.1 Pre-employment Testing Examples

REQUIRED TO TEST	*NOT REQUIRED TO TEST*
The following are some examples that describe situations in which an employer MUST conduct pre-employment tests, unless the employer utilizes an exception.	The following are some examples that describe situations in which an employer may not have to conduct pre-employment tests.
• A new employer just started operating CMVs. All drivers hired to drive CMVs subject to this rule will fall under the pre-employment testing requirements.	• Employer A purchases employer B. Employer B drivers who are now Employer A drivers do not need to be tested because their employment status has not been interrupted.
• A driver usually operates CMVs that do not require a CDL, but then is required to operate a CMV that requires a CDL for the same employer. A pre-employment test is required.	• Pre-employment tests are not required when an employer's name changes.
• Any driver who is hired and has not been part of a controlled substances program that complies with the FMCSA regulations for the previous 30 days must undergo a controlled substances test.	• If a driver is transferred from one division to another within the same company, the pre-employment requirements do not apply. **However**, when a driver transfers from one wholly owned subsidiary or independently operated company to another, a pre-employment test is needed, unless the driver is subject to one of the exceptions.

Drivers Who Drive for You Sporadically, but Are Regularly Employed by Another Employer

If you use, but do not employ, a driver more than once a year, you must assure yourself once every 6 months that the driver participates in a controlled substances testing program that meets the requirements of the regulations. This means that if a driver is regularly employed by another employer subject to part 382, and you use the driver to operate your commercial motor vehicles for two or more times in a 365-day period, you need only check with the driver's regular employer once every 6 months to obtain the pre-employment exception testing information, if you do not want to preemployment test the driver each time.

For example, a motor coach tour employer regularly employs a driver to operate

motor coach tours along the Eastern seaboard. The driver has some extra days off from the employer. The driver asks you if you have any trips that will take 3 days to complete. You have a load to be delivered and have the driver go through your hiring process.

For controlled substances testing under your program, the driver states that he/she has had a negative controlled substances test in the last month. The driver provides you with a written authorization requesting that his/her regular employer release the information about his/her test results for the last 6 months to your employer. You obtain all of the records required by the exception and verify that the driver did have a controlled substances test in the last month. It was verified negative and the driver has no subsequent violations of the prohibited conduct in subpart B.

You use the driver for the trip and the driver returns to the motor coach employer after completing your trip. You use the driver again in 1 month and again after 4 months. You are not required by the regulations to check the driver's testing records at the motor coach employer when you use the driver at the one month and four month intervals. The driver, however, returns 7 months after you first used him/her and since the last time you checked the driver's testing records. Now you must again check with the motor coach employer to verify that the driver continues to participate in the motor coach employer's testing programs and the driver has not violated the prohibited conduct regulations of the FMCSA or similar DOT agencies.

Two-Year Prior Employer Checks (49 CFR 382.413/40.25)

You must also request the following information from previous employers concerning the driver-applicant's participation in a controlled substances and alcohol program within the preceding 2 years:

1. Did the employee have alcohol tests with a result of 0.04 or higher?
2. Did the employee have verified positive drug tests?
3. Did the employee refuse to be tested?
4. Did the employee have other violations of DOT agency drug and alcohol testing regulations?
5. If you answered "yes" to any of the above items, did the employee complete the return-to-duty process?
6. Did a previous employer report a drug and alcohol rule violation to you?

You must as an employer ask prospective driver-applicants if they have failed or refused a DOT drug or alcohol

pre-employment test within the past 2 years from an employer who did not hire them (§40.25(j)). With respect to any driver-applicant who violated a DOT drug and alcohol regulation, you must obtain documentation of the individual's successful completion of DOT return-to-duty requirements (including follow-up tests).

You must obtain the driver-applicant's written consent (see sample forms) to obtain the information from the driver-applicant's previous employers as a *condition of employment*. The FMCSA expects you to obtain the information as soon as possible and prior to using the driver to perform any safety-sensitive functions other than initial road testing of the driver. However, if this is not feasible, you will have up to 30 days after the driver initially performs safety-sensitive functions to obtain the information.

If you make a good-faith effort to obtain the information as soon as possible and you are unable to obtain this information within the 30-day period, you may continue to use the driver after the 30-day period, if you properly document your good-faith effort to request and obtain the information. However, if you failed to request the information from any prior employer of the driver, you must stop using the driver. See table 5.2 for an example of a good-faith effort to obtain a driver's prior employers' testing records.

Table 5.2. An Example of a Good-Faith Effort for Obtaining Prior Testing Information

A good-faith effort might begin with obtaining the driver's written consent on your release of information form. The driver should complete the document at the time the driver prepares other documents in the hiring process (e.g., §391.21, Application for Employment.) Immediately after you make your conditional offer of employment, send the written consent, along with how you would like the information transmitted to you (e.g., by secure and confidential fax, by certified mail, by telephone to a designated person) to the previous employer by certified mail.

After a reasonable period, you should contact the driver's previous employers' alcohol and drug testing program manager(s) to ask about the status of your request to obtain the driver's testing records the previous employer(s). You should not wait until a few days before the first time you will use the driver to perform safety-sensitive functions to make a follow-up contact with the previous employers.

Previous employers are required to forward their testing information immediately upon receipt of the specific written consent to you or the third-party administrator designated to receive the information.

If a driver's previous employer has gone out of business, refuses to comply with 49 CFR section 40.25 requirements to forward their testing information about the driver to you, or if for some other reason you cannot obtain the testing information from a particular employer, document the facts and any related information and retain them in your files.

The information should be provided on the release of information form sent to them. They should sign, answer the questions, and send it back. You are *required* to maintain a written, confidential record with respect to each past employer contacted for three years.

Once you have determined that you will hire the driver-applicant and the driver-applicant has provided the written consent, you must provide to each employer the written request authorizing release of the informaation to you. You may wish to fax the consent form to ensure the previous employer receives the driver's consent and request for information.

It is important to document the request for, and inability to receive, information from the driver's prior employers. In the event of an FMCSA investigation of your program, you may be asked to produce this documentation for the FMCSA investigator. (See sample forms.)

If you have not heard from the driver's previous employer(s) after a day or so, you

should contact them and determine the status of your information request. In the event that you do not get an answer from the prior employer, or they ignore your request, document the attempt and file the information.

If you receive information indicating that the driver has tested positive for controlled substances, tested at or above 0.04 alcohol concentration, or refused to be tested, you must not use that driver to perform safety-sensitive functions unless the driver has followed the requirements of 49 CFR part 40, subpart O and has been advised by a substance abuse professional that the driver may return to work. These requirements include being evaluated by a substance abuse professional, complying with any recommended treatment, passing a return-to-duty test, and having at least six follow-up tests within the first 12 months of returning to work as a driver.

If you obtain records from the driver's previous employers verifying that the driver has violated 49 CFR Part 382, subpart B within 30 days of your use of the driver, you must immediately stop using the driver and determine what, if anything, the driver has complied with in part 40, subpart O. If the driver has not had a follow-up evaluation by an SAP, after any alcohol test above 0.04, any verified positive controlled substances test, or the driver is refusing to test, you may not use the driver until you have received a follow- up letter from the SAP. The letter must follow the format shown in 49 CFR section 40.311(d).

If the driver has not had a return-to-duty test after obtaining a letter of compliance from an SAP, a return-to-duty test is necessary. A pre-employment negative controlled substances test and an alcohol test result of less than 0.02 alcohol concentration conducted by you will satisfy the requirement for a return-to-duty test in this instance. However, you will be responsible for ensuring that at least six follow-up tests are conducted within the first 12 months that the driver is employed or used at your organization.

If the driver has provided a previous employer with proper documentation for return to work and the driver has taken a return-to-duty test or a pre-employment test at the previous employer, but the previous employer did not complete all of the required follow-up tests within the first 12 months, you will be responsible for ensuring the remaining tests are conducted.

Section 2. REASONABLE SUSPICION TESTING

The FMCSA regulations require you to test a driver if a trained supervisor has reasonable suspicion that the driver has used a controlled substance or has misused alcohol as defined in the regulations (§382.307). The request to undergo a reasonable suspicion test

must be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odor of the driver. These observations may include indications of the chronic and withdrawal effects of controlled substances. The chronic and withdrawal effects of controlled substances may not be the sole indicator for reasonable suspicion, but may be used in conjunction with other indicators.

Reasonable suspicion testing is designed to provide you with a tool to identify affected drivers who, through alcohol or controlled substances misuse, may pose a danger to themselves and others in their performance of safety-sensitive functions. Drivers may be at work in a condition that raises concern regarding their safety or productivity. A supervisor must then make a decision as to whether reasonable suspicion exists that a controlled substance and/or alcohol may be causing the behavior.

Supervisory Observations

Only one qualified supervisor or company official is required to witness the conduct of the driver; however, it is a good business practice to have at least two qualified supervisors or company officials witness the conduct. Supervisors or company officials who make the determination of whether to test must be trained in the physical, behavioral, speech, and performance indicators of probable alcohol misuse and use of controlled substances (see Chapter 4, education and Training.)

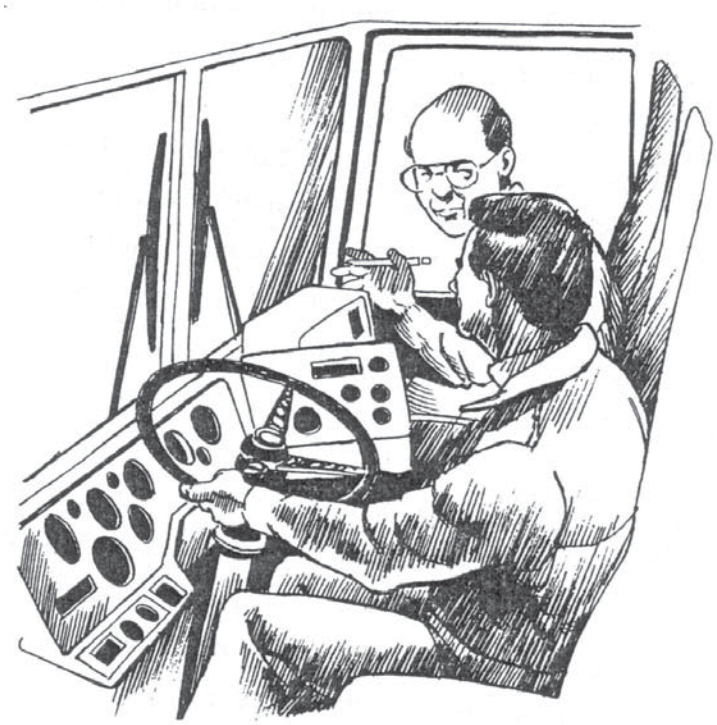
To protect yourself and your drivers, supervisors who make the determination that reasonable suspicion exists to conduct an alcohol test may not conduct the alcohol test on that driver, unless they have been trained.

Reasonable suspicion alcohol testing is permissible only if the supervisor's observations are made during, just preceding, or just after the driver is performing safety-sensitive functions or is attempting to perform safety-sensitive functions. In contrast, you may test a driver for controlled substances under reasonable suspicion based on observations at any time the driver is on duty.

Besides recognizing valid objective signs and symptoms of controlled substances use and alcohol misuse, supervisors must also know the proper procedures for confronting and referring the driver for testing. If supervisors are not trained, or are not fair and objective in requesting reasonable suspicion tests, driver complaints of harassment will result. Be careful not to expect that training alone will make your supervisors experts in detecting substance abuse.

The overt signs and symptoms of substance abuse can often be masked and may be subtle enough to avoid direct detection.

If a supervisor, trained to identify the signs and symptoms of controlled substances use and alcohol misuse, reasonably concludes that objective facts indicate controlled substances use or alcohol misuse, this is sufficient justification for testing. A final practical check is whether the supervisor would have been less responsible in not taking action than in asking the driver to submit to testing. Remember, safety is the first priority!



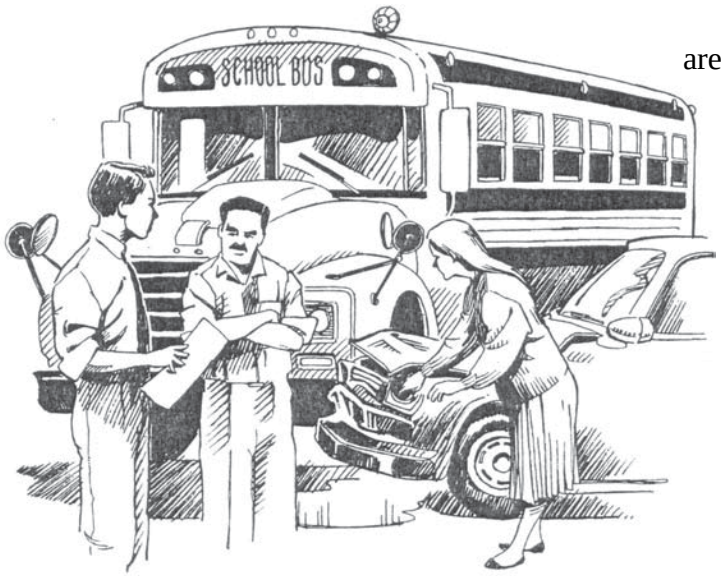
If the alcohol test is not administered within 2 hours following observations triggering the request to test, you must prepare and maintain a record stating the reasons the alcohol test was not done promptly. If the test is not conducted within 8 hours of the observations triggering the request to test, attempts to administer the test must cease, and the supervisor shall indicate in the record the reason the test was not conducted. If the alcohol test is not conducted within 8 hours, the driver shall be placed out of service for 24 hours.

For controlled substances, the driver must report for collection within a reasonable time. However, you are encouraged to collect the specimen as soon as possible following the observations triggering the request to test, because the test's ability to detect controlled substances declines with the passage of time.

Supervisors making reasonable suspicion determinations shall document those observations within 24 hours of the observed behavior or before the results of the controlled substances test are released, whichever is earlier.

Prohibited Conduct

Drivers shall not perform safety-sensitive functions if under the influence of or impaired by alcohol, as determined by their trained supervisor. Following a reasonable suspicion determination, resulting in a positive test, supervisors shall not permit the driver to perform or continue to perform safety-sensitive functions until 24 hours have elapsed. If an evidential breath test device is unavailable, the motor carrier is required to remove the driver from performing safety-sensitive functions until 24 hours have elapsed. You are prohibited from taking any additional action under FMCSA authority against a driver based solely on the driver's behavior and appearance. You may have, however, additional policies under your own authority. Flow charts detailing the reasonable suspicion testing process for alcohol and controlled substances appear in the appendix at the end of this chapter.



Section 3. POST-ACCIDENT TESTING

The FMCSA regulations require testing in specific CMV accidents (§382.303). An accident is defined as an occurrence involving a CMV operating on a public road that results in (1) a fatality; or (2) bodily injury to a person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or (3) one or more motor vehicles incurring disabling damage as a result of the accident, requiring the vehicle(s) to be transported away from the scene by a tow truck or other vehicle.

There is a significant difference between reasonable suspicion testing and post-accident testing. Reasonable suspicion requires some indication of a link between witnessed behavior and substance abuse before a test can be requested. Post-accident testing is mandatory when certain criteria are met.

Drivers subject to post-accident testing are those who

- While performing safety-sensitive functions are involved in an accident resulting in the loss of human life, or
- While performing safety-sensitive functions are involved in a nonfatal accident resulting in the driver receiving a citation under State or local law for a moving traffic violation arising from the accident.

Type of Accident Involved	Citation Issued to the CMV Driver	Test Must Be Performed by Employer
Human Fatality	Yes >>	Yes
	No >>	Yes
Bodily Injury With Immediate Medical Treatment Away From the Scene	Yes >>	Yes
	No >>	No
Disabling Damage to Any Motor Vehicle Requiring Tow Away	Yes >>	Yes
	No >>	No

Post-accident tests must be performed as soon as possible. Controlled substances tests must be performed within 32 hours following the accident. Alcohol tests must be performed within 8 hours of the accident.

If an alcohol test is not administered within 2 hours following the accident, the employer shall prepare and maintain a record stating the reasons the test was not promptly administered. If an alcohol test is not administered within 8 hours or a controlled substances test is not administered within 32 hours following the accident, the employer shall cease attempts to administer the test and shall prepare and maintain the same record. For employers **requested by FMCSA** to submit their annual calendar year summary, see Chapter 9, Section 5, Annual Calendar Year Summary-reporting Requirements for instructions on reporting required post-accident tests that were not to be administered.

Drivers subject to post-accident testing shall remain readily available for such testing or they may be deemed to have refused to submit to testing. Drivers subject to postaccident testing must refrain from using alcohol for 8 hours following the accident or until completing a post-accident alcohol test, whichever comes first. It is imperative that you provide drivers with necessary *post-accident information, procedures, and instructions* prior to their operating a CMV, so that they and you will be able to comply with the regulations. This requirement is especially important if your operations occur in remote areas.

In the rare event that Federal, State, or local law enforcement officials administer alcohol or controlled substances tests on a driver involved in an accident, *and the results are available to you*, those results may meet the requirements of the FMCSA regulations, provided such tests conform to applicable Federal, State, or local requirements and certain conditions are met.

Alcohol tests conducted by law enforcement officials using breath or blood specimens will satisfy the postaccident alcohol test requirement when you *obtain the test result*. Controlled substances tests conducted by law enforcement officials must use urine as the body fluid tested. For examples illustrating this concept, please refer to table 5.3, Postaccident Law Enforcement Tests.

Table 5.3 Post-Accident Law Enforcement Tests

The following examples describe situations where an employer may use test results from law enforcement agencies in lieu of its own test results.

- *An airport shuttle bus driver is involved in an accident on an airport access road with a non-CMV driver and the non-CMV driver is killed instantly. The shuttle bus driver must be tested under the FMCSA rules for both alcohol and controlled substances. Before the employer learns of the accident, however, an airport police officer at the scene determines that the shuttle bus driver should be tested for alcohol use under the airport police department's authority. The police officer requires the driver to submit to a blood test at the airport health clinic using procedures developed by the airport police department for alcohol testing. When the airport shuttle bus company receives the results of the alcohol test, the test results will be allowed to substitute for the FMCSA-required test. However, the airport shuttle bus company will have to require its CMV driver to also submit to a controlled substances test under this rule, since both tests are required after a fatality.*

- *A State CMV snowplow driver runs a red light, in full view of a State police officer who witnesses the snowplow impact a small automobile, injuring the automobile driver and completely destroying the automobile. During the investigation, the State police officer issues a moving traffic citation to the CMV driver. The officer, who is a drug recognition expert (DRE), determines that the CMV driver is probably under the influence of a substance, most likely amphetamines, and requests the driver to provide a urine specimen for analysis. The driver is placed under arrest and the State will not allow the poice to conduct an alcohol test on the driver while the driver is in jail.*

  The State's crime laboratory determines the urine specimen does contain amphetamines and will release the test results to you.

The requirement to test for alcohol and controlled substances following an accident should in no way delay necessary medical attention for injured people or prohibit a driver from leaving the scene of an accident to obtain assistance in responding to an accident or to obtain necessary emergency medical care. The following steps should be taken in a postaccident situation:

1. **Treat injuries first.** Accident victims' health and safety are always a higher priority than conducting an alcohol or controlled substances test.

2. **Cooperate with law enforcement officers.** Allow law enforcement officers to conduct their investigation. For purposes of their investigation, the police may require a controlled substances or alcohol test for a determination of the presence of controlled substances or alcohol.

3. **Explain the need for testing.** Tell your driver that a test is to be conducted. Point out to the driver that a negative finding will objectively put to rest any suspicion of controlled substances or alcohol as a cause of the accident.

4. **Conduct tests promptly.** The FMCSA regulations require that specimen collection be performed as soon as possible following the accident, but within 32 hours for controlled substances and within 8 hours for alcohol.

Flow charts detailing the post-accident testing processes may be found in the appendix at the end of this chapter.

Section 4. RANDOM TESTING

The FMCSA regulations require random testing for all drivers subject to the CDL requirements (§382.305). Random testing identifies drivers who use controlled substances or misuse alcohol but are unable to predict the test as they would in the case of post-accident or pre-employment testing. More importantly, it is widely believed that random testing serves as a strong deterrent against drivers beginning or continuing prohibited controlled substances use and misuse of alcohol.

Selection Techniques

You must use a scientifically valid random selection method to select drivers for testing. Drivers can be chosen from selection pools in several ways. These include semiautomatic methods (using personal computers) or manual methods (using random number tables). The computer-based methods are generally more efficient, but the manual methods can be equally fair and credible.

Commercially available computer-based random number-generating software programs enable you to match drivers to numbers and to select names from those lists for random controlled substances and alcohol tests. Some of these programs are comprehensive, including scheduling and recordkeeping functions. Alternatively, spreadsheet programs, commonly used for financial and operational analyses, often include a routine that provides random numbers. Those random numbers can be assigned to your driver list and used for selecting drivers to be tested. Because your driver pool may fluctuate, the list of driver names must be updated each time the pool

fluctuates for smaller employers and at least monthly for larger employers.

If a computer program is not available for random selection, a manual sampling technique that uses a random number table may be used. These tables are found in many statistics textbooks available in libraries and bookstores. The scientific community does not consider drawing names out of a hat or container to be a scientifically valid method for sampling. While this technique is simple and appears fair because it can be done in full view of the affected drivers, it is actually less random than using a computer or a random number table because of inconsistencies in paper size, as well as the lack of control over the names included or excluded. Also, it is very difficult to document how a selection is made and who is selected for testing.

The test dates must be spread reasonably throughout the year and should not establish a predictable pattern (e.g., the first Monday of each month). The number of tests conducted weekly, monthly, or quarterly should remain relatively constant to the extent possible; however, drivers selected for that testing cycle must be tested. Conducting all of your tests in one month, for example, does not achieve the goal of random testing. Likewise, the testing should be performed on different days of the week and at different times throughout the annual cycle. This helps to prevent drivers from coordinating their controlled substances and alcohol use to the random testing schedule.

Random Testing Rates

The current random testing rates under FMCSA regulations are 50 percent for controlled substances and 10 percent for alcohol. This means that the number of tests to be administered each year is equal to at least 50 percent and 10 percent, respectively, of the average number of driver positions subject to these regulations. Remember, a driver is anyone who operates a CMV for you. The driver positions will include other employees in your organization who occasionally drive or drive in rare circumstances.

A slightly higher percentage may have to be selected for testing to compensate for cancelled tests or drivers unavailable for

testing. If you join a consortium, the annual rate may be applied to each consortium-member employer or to all the DOT-covered safety-sensitive drivers within the consortium.

Because the random rates for controlled substances and alcohol are different and may vary on a yearly basis, you may wish to conduct separate selections for your alcohol and controlled substances random tests; however, you are not required to do so. You may select for alcohol testing the first 20 percent of those drivers selected for controlled substances testing. Other combinations for selecting drivers for alcohol and controlled substances testing may be used, provided you can prove that the method is scientifically valid and impartial toward the drivers (e.g., two-stage selections).

The FMCSA's random testing rates may be adjusted based on analysis of positive random test results within the entire CMV industry. If this occurs, the change will be published in the Federal Register. If the minimum annual percentage rate changes, the change will take effect starting January 1 of the year following publication in the Federal Register.

Only drivers performing safety-sensitive functions are permitted in the random pools. If you decide to randomly test drivers who do not drive CMVs, those drivers must be placed in a separate pool and tested under separate authority, not the DOT's or the FMCSA's. The pool may, however, contain drivers subject to other DOT agency regulations.

How to Compute the Average Number of Driver Positions for Random Testing

There will be fluctuations in your driver work force, which will make an accurate computation of a testing rate important. Your random testing program plan should take into account these fluctuations by estimating the number of random tests needed to be performed over the course of a calendar year. If your driver work force is expected to be relatively constant (i.e., the total number of driver positions is approximately the same or changes at a relatively constant rate), then the number of tests to be performed in any given year could be determined by multiplying the average number of driver positions by the testing rate.

If there is a large fluctuation of driver positions throughout the year, you must base driver positions on the number of drivers eligible to be tested at the time of each selection period. The total random tests taken for the year, however, must equal or exceed the average number of driver positions.

For example, if you decided to perform random selections four times a year, the number of controlled substances tests, to be performed

during each of the four testing periods must equal or exceed 50 percent of the number of driver positions eligible to be tested (D), divided by the number of test periods per year (P). As a formula, this may be expressed as:

T = 50% x D/P
T = Total random tests (must equal or exceed)
D = Driver positions eligible to be tested
P = Number of test periods per year
Note: 10 percent for alcohol

At the time of selecting the individuals to be tested, you determined that there were an average of 60 drivers eligible for testing during the period covered by the February selection, 80 drivers in May, 100 drivers in August, and 70 drivers in November. Using the formula given above, you would have to perform 8 controlled substances tests in February (50% times 60 divided by 4 equals 7.5, rounded up to the nearest whole number), 10 tests in May, 13 tests in August, and 9 tests in November, for a total of 40 controlled substance tests.

However, throughout the year you needed to perform only 39 controlled substances tests in order to assure testing at the 50 percent rate. This figure was computed using the same formula with D equal to the summation of the number of drivers eligible for testing in each of the selection periods (D = 60 + 80 + 100 + 70 = 310 drivers), and by completing the formula, T = 50% times 310 divided by 4 = 38.75) and rounding up to the nearest whole number, 39. In this example, you could perform one less controlled substances test in the last testing period.

Since driver populations may vary during any given period in a year, conducting random testing only during low-driver periods would not enable you to meet the 50 percent random testing ratio.

Your random testing policy or plan must be documented. The FMCSA emphasizes that each selection for random testing must include *all* your drivers to whom the rule applies, regardless of whether or not your drivers have been tested in the past. This would include individuals who do not regularly drive (such as clerks, mechanics, supervisors, officials), but whom you expect to be immediately available to perform the safety-sensitive function of driving a CMV. It is quite likely with a large driver turnover that, over the course of the year, you will be employing/using more drivers than there are driver positions. In determining the number of tests, you should use the number of driver positions, not the number of CMV drivers used/employed during the testing period.

To illustrate using the previous example, in the February selection (which represents the quarter January 1 through March 31), the employer determined that there were

an average of 60 CMV driver positions.

However, during the same quarter (at least up to the date the employer performed the random selection of drivers to be tested, say February 12) the employer used/employed a total of 75 individuals as drivers or persons expected to be drivers. Of these 75 individuals, 15 were no longer used by the employer at the time the selection was made (February 12). As noted earlier, eight individuals will be selected for controlled substances testing and two individuals will be selected for alcohol testing.

Random Testing Pools

To ensure that each of your drivers has an equal chance of being selected and tested, random testing pools must be established and maintained. A random testing pool may include any persons who are subject to random testing under any DOT rule, as decided by the employer. Likewise, a person who is subject to more than one rule may be included in more than one pool. For example, a person who works for a railroad company subject to both FRA and FMCSA rules may be included in two separate pools or in one pool, at the discretion of the railroad company.

A single pool may be established for alcohol and controlled substances, provided all drivers have an equal chance of being selected and tested using the applicable random testing rate (currently 10 percent for alcohol testing and 50 percent for controlled substances testing). As stated above, you may select for alcohol testing the first 20 percent of the drivers selected for controlled substance testing. Other combinations for selecting drivers for alcohol and drug testing may be used, provided that you can prove that the method is scientifically valid and impartial toward the drivers (e.g., two-stage selections). Examples of a variety of random testing pools may be found in the appendix at the end of this chapter.

Sampling With Replacement

To ensure that the process is in fact random, all drivers, whether or not they have been chosen for testing in the past, will remain in the pool for each subsequent selection period. This procedure ensures that the probability of any driver being selected each period is always the same, whether or not the driver was selected in a previous period. This requirement is expected to serve as a deterrent for those drivers who, believing that they are in the clear, might otherwise consider using controlled substances or misusing alcohol following a recent negative test.

Driver Notification

After a list of drivers for random testing has been generated, you should test those drivers as soon as possible.

Drivers should be notified in person, although this is not required by the regulations. The notification should be both oral and in writing, with a written acknowledgment of the notification. Random testing is nonpresumptive: that is, the driver is not being accused of using controlled substances or alcohol just because he/she is selected for the test. If possible, the notification should be conducted away from other drivers, preferably in a private office or outside of a vehicle.

You are responsible for ensuring that a selected driver, once notified, proceeds immediately to a collection site. Immediately, in this context, means that all the driver's actions, after notification, lead to an immediate specimen collection. This ensures that a driver selected for testing will not have an opportunity to do anything that may affect the outcome of the test. Any activity that does not directly lead to submitting a specimen should not be performed until after the specimen has been collected. You should clearly indicate, in your random testing procedures, what these activities are so that there will be no misunderstandings among your drivers.

If you choose to notify your drivers while they are "on the road," you should establish procedures that will allow them to report to a nearby collection facility before continuing their current trip. This may require a driver to detour from a planned route. Notifying drivers at terminals and while they are in heavily populated areas with testing facilities should minimize any negative effect these procedures may have on your operations.

Testing Time Frames

A driver shall be subject to random testing for alcohol only while the driver is performing safety-sensitive functions, just before the driver is to perform, or just after the driver has ceased performing such functions. Performing a safety-sensitive function includes being immediately available to perform such functions.

Obviously, the best time to test for alcohol is before the driver begins to perform the safety-sensitive function. However, if the driver understands that a random test will only be administered before he/she begins work and there is an opportunity to drink during work, deterrence is limited.

Controlled substances testing may be performed at any time the driver is at work. The driver may be performing clerical or mechanical repair duties at the time of notification by the employer. The driver should not be required to report for a test in the middle of vacation time, while sick, or on other types of excused leave.

Availability of Drivers

When drivers are off work due to long-

term layoffs, illnesses, injuries, or vacations, will not return before the next selection, and are selected for random testing, you have the following two options:

- The driver's name could be skipped if the driver selected is going to be gone throughout the entire testing period. You then may select an alternate by using a scientifically valid method, selecting one of the other available drivers in the pool, then testing that driver.

- The name could be set aside until the driver comes back from the extended leave, and you would conduct the test at that time, as long as the driver returns before the next selection.

You may not require a driver to submit to a test while on an extended leave. If you experience seasonal fluctuations in the number of drivers available for testing, you should adjust each random selection episode to reflect the fluctuation, thereby ensuring an equal chance of all drivers being selected.

If a driver leaves your employment or is reassigned to nondriving duties, and at some later point is rehired or reassigned to driving duties, the pre-employment testing provisions of this regulation apply. If a driver primarily does other nondriving work for you and is on call to drive at any time you need the driver, the driver must be in the random testing selection pool(s) at all times.

Flow charts detailing the random selection process may be found at the end of this chapter.

Section 5. RETURN-TO-DUTY TESTING

Before you allow a driver to return to duty to perform a safety-sensitive function following certain prohibited conduct–a verified positive controlled substances test result, an alcohol result of 0.04 or greater, a refusal to submit to a test, or any other activity that violates provisions of subpart B–that driver must first be evaluated by a SAP, participate in any treatment program prescribed, and pass a controlled substances and/or alcohol return-to-duty test (Section 40.305). In pre-employment testing situations, a verified positive controlled substances test or an alcohol result of 0.04 or greater does require a visit to the SAP if you hire the person to perform safety sensitive functions.

The purpose of the return-to-duty test and the evaluation of an individual's return-to-duty status by the SAP is to ensure that the driver receives proper care, if needed. It is also to provide some degree of assurance to the

employer that the individual is free of alcohol and/or controlled substances and is able to return to work without undue concern about continued substance abuse.

The driver must have a verified negative controlled substances test result or an alcohol test result of less than 0.02 to return to a safety-sensitive function. As in any DOT test, if a controlled substances test is cancelled, you shall require your driver to submit to and pass another controlled substances test.

Flow charts detailing the return-to-duty process can be found at the end of this chapter.

Section 6. FOLLOW-UP TESTING

Once allowed to return to duty, a driver for whom treatment was recommended must be subject to unannounced follow-up testing for at least 12, but not more than 60, months. The frequency and duration of the follow-up testing will be recommended by the SAP as long as a minimum of six tests are performed during the first 12 months after the driver has returned to duty (§40.307).

It is important to remember that follow-up testing is separate from and in addition to the regular random testing program. Drivers subject to follow-up testing must remain in the standard random pool and must be tested whenever their names come up for random testing, even if this means being tested twice in the same day, week, or month.

If the driver is subject to controlled substances follow-up tests, the SAP may also require the driver to take one or more follow-up alcohol tests. If the driver is subject to alcohol follow-up tests, the SAP may require the driver to take one or more follow-up controlled substances tests.

Flow charts detailing the follow-up testing process may be found at the end of this chapter.

Section 7. PROFICIENCY TESTING

In addition to the six major driver testing categories described above, you are required to perform proficiency testing as a quality assurance measure for the testing laboratory that conducts your controlled substances testing.

As an employer or C/TPA with an aggregate of 2,000 or more DOT-covered drivers, you must send blind specimens to laboratories you use. If you have an aggregate of fewer than 2,000 DOT-covered drivers, you are not required to provide blind specimens. To each laboratory to which you send at least 100 specimens in a year, you must transmit a

number of blind specimens equivalent to 1 percent of the specimens you send to that laboratory up to a maximum of 50 per quarter. These specimens are called blind performance tests because the testing laboratory does not know they are quality control specimens rather than actual driver specimens.

The blind quality control specimens must not be distinguishable from driver specimens. Approximately 75 percent of the specimens you submit must be blank (negative) and approximately 15 percent must be positive for one or more of the five controlled substances, and approximately 10 percent must be adulterated with a substance cited in HHS guidance or substituted. If a laboratory reports a positive on a quality control specimen that was a blank (negative), you must notify the DOT immediately by phone or e-mail:

Office of Drug and Alcohol Program Compliance
U.S. Department of Transportation
(202) 366-3784 or
e-mail: www.dot.gov./ost/dapc

If a laboratory reports a negative on a quality control specimen that was a spike (positive), you should notify the laboratory and attempt to discover the cause of the error. Repeated false negative errors should be reported to the DOT at the above address. If the laboratory reports conflicting results on the two parts of a non-safety-sensitive split sample, you must report this to the DOT.

If your laboratory repeatedly reports inaccurate or conflicting results, you should consider changing laboratories.

DOT and FMCSA regulations do not specify where to obtain blind performance specimens. However, you are encouraged to obtain blind specimens from specimen vendors. A list of vendors is available from the Department of Health and Human Services (DHHS).

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Chapter 5 Appendix

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Terms and Definitions Used in Chapter 5

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Terms and Definitions

Accident

An accident is defined as an occurrence involving a CMV operating on a public road which results in, (1) a fatality; or (2) a bodily injury to a person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or (3) one or more motor vehicles incurring *disabling damage* as a result of the accident, requiring the vehicle to be transported away from the scene by a tow truck or other vehicle.

Unless an occurrence involving a CMV meets this definition of an accident, the accident is not considered to be an accident for purposes of Federal post-accident alcohol and controlled substances testing by employers of CMV drivers.

Alcohol Concentration

The alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath, as indicated by an evidential breath test. In law enforcement, this is referred to as blood alcohol concentration (BAC).

Blind Sample, Blind Performance, or Proficiency Test Specimen

A test submitted to a laboratory for quality control testing purposes, with a fictitious identifier, so that the laboratory cannot distinguish it from driver specimens, and which is spiked with known quantities of specific controlled substances or is blank, containing no controlled substances.

Disabling Damage

Damage that precludes departure of a motor vehicle from the scene of the accident in its usual manner in daylight after simple repairs.

(1) *Inclusions.* Damage to motor vehicles that could have been driven, but would have been further damaged if so driven.

(2) *Exclusions.* (i) Damage which can be remedied temporarily at the scene of the accident without special tools or parts. (ii) Tire disablement without other damage, even if no spare tire is available. (iii) Headlamp or taillamp damage. (iv) Damage to turn signals, horn, or windshield wipers that makes them inoperative.

Follow-Up Test

Unannounced alcohol and/or controlled substances testing given to drivers who previously tested positive for a controlled substances or alcohol and are returning to duty.

Postaccident Test

A test administered to a driver in certain CMV accidents. Drivers subject to postaccident testing are those who

- While performing safety-sensitive functions are involved in an *accident* resulting in the loss of human life, **or**
- While performing safety-sensitive functions are involved in a nonfatal *accident* resulting in the CMV receiving a citation under State or local law for a moving traffic violation arising from the accident, **and**

(1) There is bodily injury to a person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; **or**

(2) One or more motor vehicles incurs *disabling damage* as a result of the accident, requiring the vehicle to be transported away from the scene by a tow truck or other vehicle.

Pre-employment Test

A test given to an applicant or driver who is being considered for a safety-sensitive position.

Random Test

A test administered to a predetermined percentage of drivers who perform safety-sensitive functions and who are selected on a scientifically defensible random and unannounced basis.

Reasonable Suspicion Test

A test given to a driver who performs a safety-sensitive function and who is reasonably suspected by a trained supervisor of using a controlled substance or misusing alcohol.

Return-to-Duty Test

A controlled substances and/or alcohol test prior to return to duty.

Flow Charts

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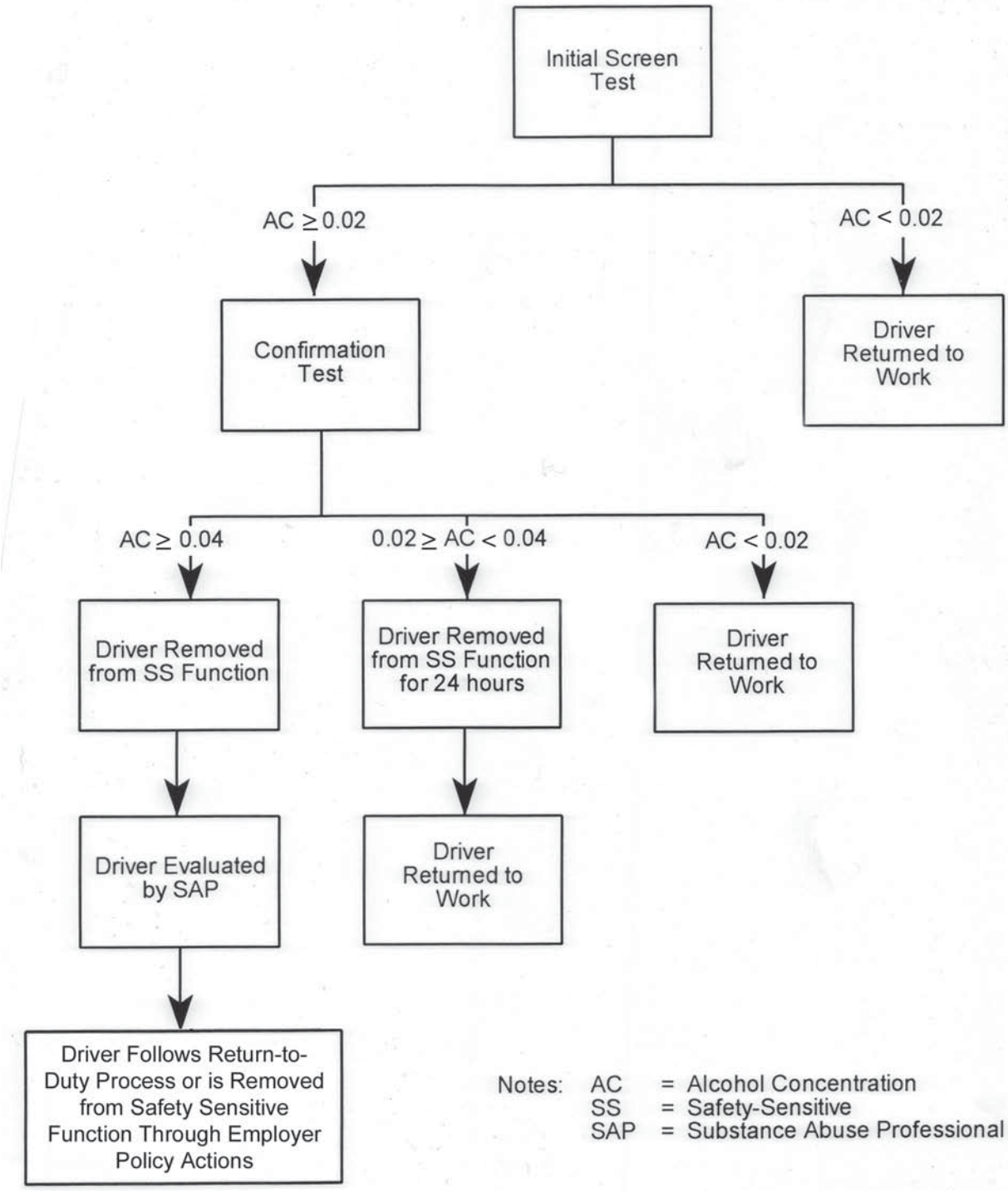
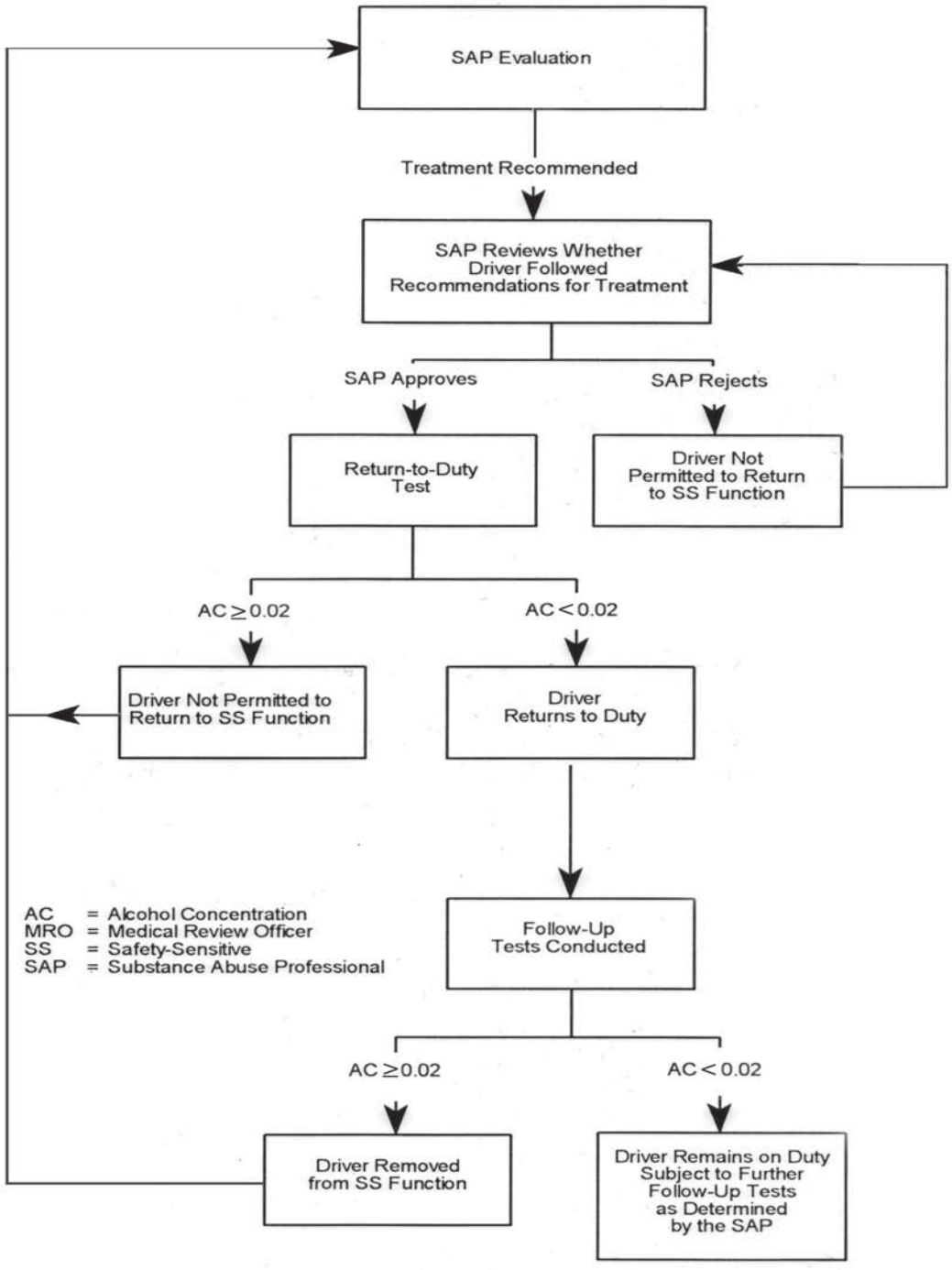
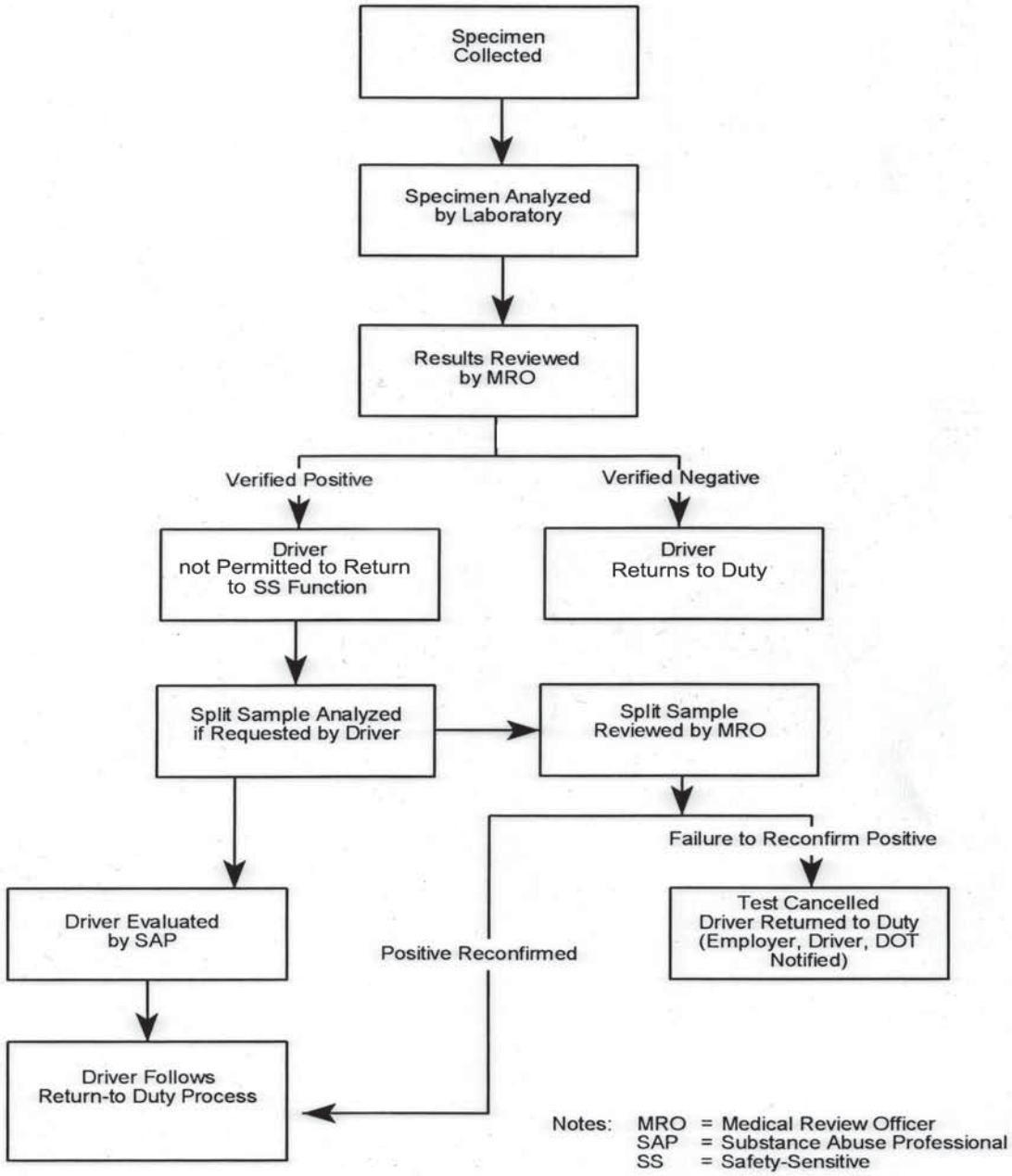
Alcohol Testing Process for Random, Reasonable Suspicion, Post-Accident



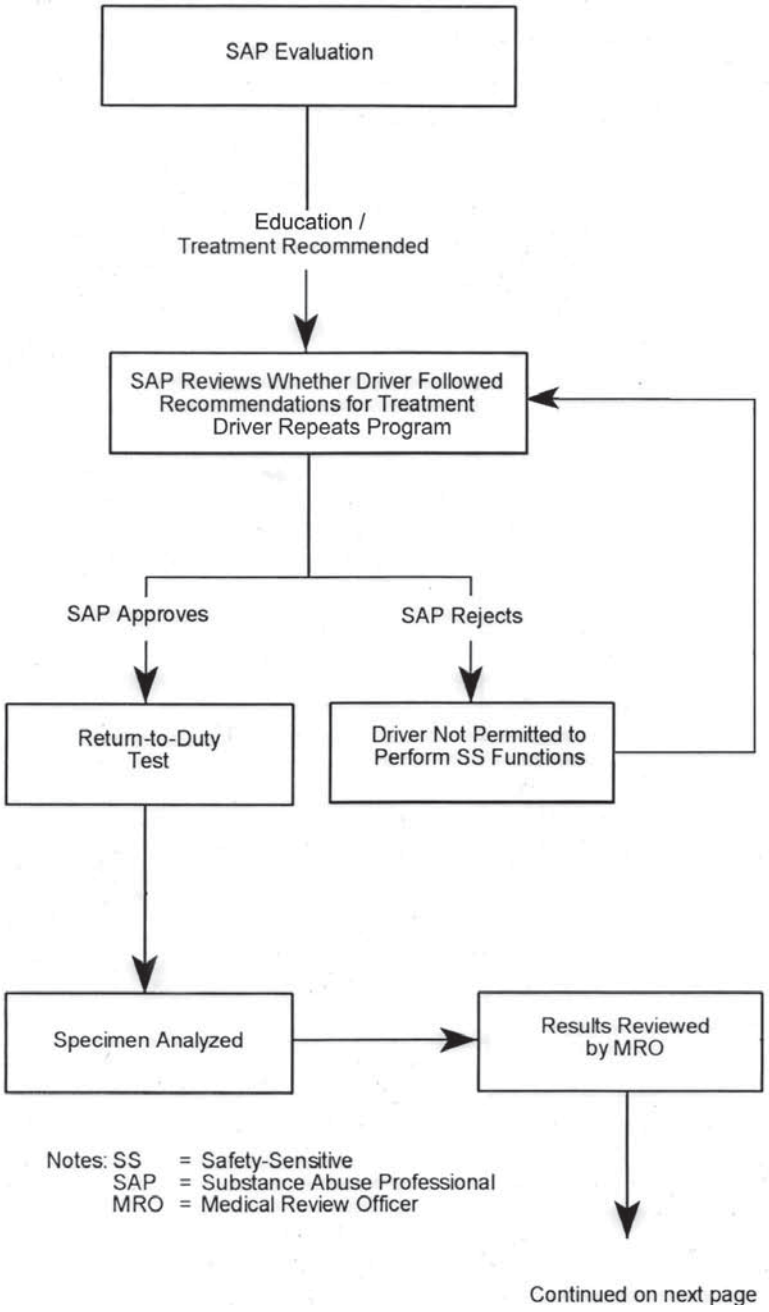
Alcohol Testing Process for Return-to-Duty, Follow-Up



Controlled Substances Testing Process for Random, Reasonable Suspicion, Post-Accident



Controlled Substances Testing Process for Return-to-Duty, Follow-Up



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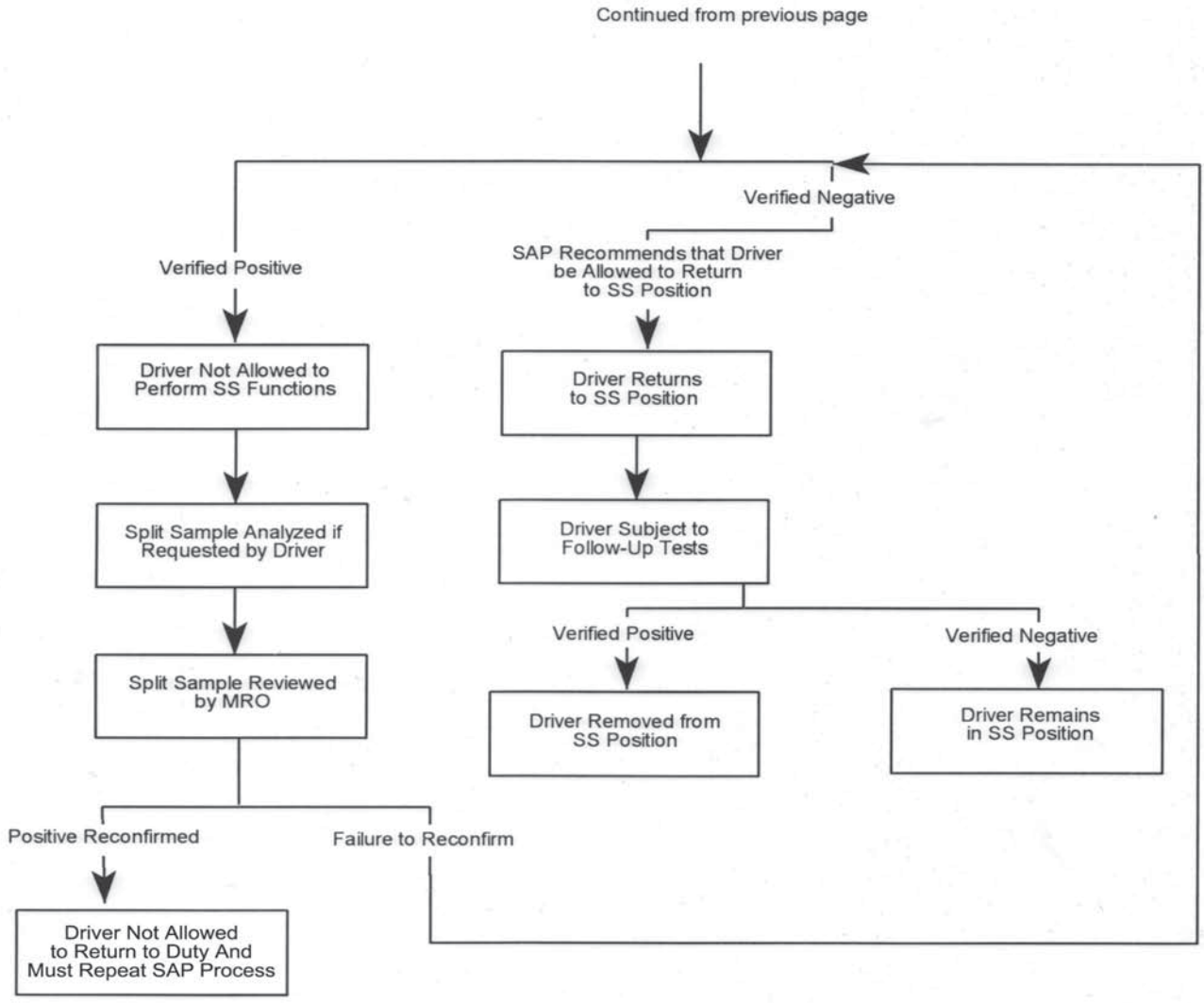
Controlled Substances Testing Process for Return-to-Duty, Follow-Up



Notes: SS = Safety-Sensitive
SAP = Substance Abuse Professional
MRO = Medical Review Officer

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Random Testing Pools

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Random Testing Pools

There are many ways to establish a random testing pool. The rules allow for a variety of pool types to account for the variety of employer arrangements among employers regulated by the FMCSA. The physical form of the pool is not specified. However, there must be some method of identifying all the individuals in the pool for each selection (e.g., a hard copy or electronic list of each person's name, social security number, driver identification number, or other unique identifier). The following examples illustrate several possible pool arrangements. They **are not** the only acceptable arrangements.

Example 1: Company-Based Pool for Random Drug and Alcohol Testing

This pool consists of all drivers subject to random testing. Drivers are selected using one of the following methods:

1. Names are drawn for controlled substances testing and the first 20% of the selected group of names are selected for alcohol testing. It is imperative that after the first draw for the controlled substances testing, the names are not alphabetized before selection for the alcohol testing.

2. Names are drawn for controlled substances tests and then the names are returned to the pool for a second selection of names for alcohol testing.

Example 2: Company-Based Program With Separate Pools for Random Controlled Substances and Alcohol Testing

These pools are maintained separately for random controlled substances and random alcohol testing. This situation would be necessary when some persons are not subject to random alcohol testing but are subject to random controlled substances testing (as is the case with a person who is subject to both FMCSA and RSPA rules, or FMCSA and USCG rules).

Example 3: Company-Based Pool for "Full-Time" Drivers and a Variety of Pools for "Part-Time" Drivers

This arrangement would be applicable for employer operations that use "trip-lease" drivers.

Example 4: Consortia-Based Pool

These pools are maintained by a consortium. Part of the services provided by a consortium may involve maintaining the random testing pool(s) by using payroll information from each member system to update the pool membership. Because drivers of all employers are pooled together, the pool is large enough that the likelihood of any one driver being repeatedly selected is lessened. Likewise, since no employer representative is involved in the selection process (all selection is done by the consortium), no driver need fear that he or she has been unfairly singled out for testing.

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Manual Random Sampling Technique

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Manual Random Sampling Technique

The following manual procedure can be used for randomly selecting drivers for testing. However, it is recommended that a software program be used for random number generation.

Make a copy of table 5.4 and Worksheets 1 and 2, which follow these instructions.

Worksheet 1

1. Enter the current date on Line A.

2. On Line B, enter the total number of drivers who are subject to random selection for testing.

3. Below Line B, list the badge numbers, identification (ID) numbers, or Social Security numbers of all drivers who must be randomly tested in numerical order from the smallest to the largest. Assign numbers in sequence to these badge, ID, or Social Security numbers. (For example, assign the number "1" to the driver with the smallest ID number, the number "2" to the driver with the next highest number, etc.) Use continuation pages of Worksheet 1 if necessary. Alternatively, you can write the numbers in sequence next to the driver badge, ID, or Social Security number on a computer printout.

Worksheet 2

1. Complete Lines A through D. (The total number of drivers on Line C should be the same as the number on Line B of Worksheet 1.)

2. Select any number on any one of the four pages of table 5.4. This can be done by placing your finger, with your eyes closed, on one of the four pages. Write the number selected in this way on Line E.

3. Write the first two digits of the number you selected on Line F. This is your "row number" key.

4. Write the next two digits on Line G. This is your "column number" key.

5. Pick the range of column headings on table 5.4 that contains the number on Line G and enter it on Line H.

6. Find the page of table 5.4 on which your row and column numbers (from Lines F and G) appear and enter the page number (1, 2, 3, or 4) on Line I.

7. On the page recorded on Line I, find the five-digit number across from the row number (recorded on Line F) and the column number (recorded on Line H) and enter it on Line J. This is your "starting location." Place an asterisk beside it.

8. On Line K, enter the fifth digit of the number on Line E. This number gives you the direction in which to move from your starting location (marked with an asterisk) on table 5.4. If the number is 1, 2, or 3, you move up; if the number is 4 or 5, you move to the right; if the number is 6, 7, or 8, you move down; and if the number is 9 or 0, you move to the left. Circle the direction on Worksheet 2.

9. Count the number of digits in the number of drivers from which you are selecting a group to be tested (on Line C). Enter a "1" on Line L if the total number of drivers is between 1 and 9; enter a "2" if the total number is between 10 and 99; enter a "3" if the number is between 100 and 999, etc. This is your "scanning size."

10. Move from your starting location (marked with an asterisk) in the direction indicated by the number on Line K. In each five-digit entry that you come to, scan the number of digits that correspond to the number entered on Line L until you come to a number that is less than your total number of affected drivers. Record those digits at the bottom of Worksheet 2 until you have selected as many numbers as drivers to be tested (that is, as many numbers as are listed on Line D).

    Do not select the same number twice. Continue until you have chosen enough different random numbers for all your drivers. You may have to skip many numbers because they are larger than the number of your drivers.

    If the scanning direction is to the **right**, continue on the next row **down**. If the scanning direction is to the **left**, continue on the next row **up**. If the scanning direction is **down**, continue on the next column to the **right**. If the scanning direction is **up**, continue on the next column to the **left**. If you run out of numbers on the page, continue to the **following page** if you are scanning to the **right or down**. Continue on the **preceding page** if you are scanning to the **left or up**.

11. The list of numbers you select in this random manner corresponds to the numbers you earlier assigned in sequence to your drivers. The drivers whose sequence numbers were selected by this method are the drivers to be tested on the proposed date.

    Add the ID number of new drivers to Worksheet 1. If a driver leaves the random number pool, remove the ID number.

Table 5.4

Row Number	Column Heading											
	00-04	05-09	10-14	15-19	20-24	25-29	30-34	25-29	30-34	35-39	40-44	45-49
00	35944	66132	45677	87728	79084	19868	66940	24287	23963	40769	76876	45105
01	19146	91425	05248	56715	81013	22544	64615	94653	51125	09601	61137	94067
02	89393	93297	16988	16323	90882	02224	84973	49253	63855	67913	32283	91568
03	39952	53053	31339	42811	64354	91551	53919	02770	19347	16836	96066	84251
04	85439	70582	20047	26806	04678	03530	32685	66702	75759	77382	94645	21023
05	85996	80397	37340	29043	32193	44715	52908	64160	91429	75102	08903	45392
06	38184	40546	73595	34493	72417	40332	36428	52487	58802	43803	48769	03970
07	62504	70916	17714	31543	20743	65848	50144	64556	98032	06130	72019	25022
08	16027	92981	20849	47517	31371	10090	75479	96698	36008	30154	37210	58547
09	81426	34245	12239	25280	53111	99077	90345	06568	90271	04556	90896	13825
10	26846	58222	08497	86110	47089	89304	39908	95065	95770	79059	91363	69475
11	11494	47828	22460	60243	34377	42492	35697	61635	15514	54149	50300	74346
12	84927	52241	87675	12204	74444	63284	60505	00247	47009	96303	93487	40599
13	84472	23603	67569	13653	89986	14992	15133	56994	96152	65552	40549	60214
14	34505	10993	39749	66564	07067	77597	55816	11862	33280	46778	07401	21387
15	42338	66021	77761	54041	78466	83304	12985	80336	40428	01360	95841	58037
16	86303	17774	43968	72562	80850	94424	48253	18331	87929	66164	15136	38872
17	99028	31125	75968	59317	48962	85669	93747	96792	34754	27399	93407	36587
18	68763	25467	00293	41013	15812	42585	08212	97320	24747	95643	02135	34249
19	13015	28239	39739	08504	64800	29894	27138	60809	27671	72333	96176	28072
20	58928	25119	05898	27389	02104	39275	09120	23639	80967	07567	36195	22587
21	13346	85837	39909	41109	73947	99425	85988	16271	15803	79117	42530	29742
22	08848	76887	60895	19245	27360	47131	12143	74941	11582	22504	10005	76031
23	23436	50487	72721	53798	41756	38550	99041	48863	60518	27368	69116	58587
24	91021	44376	37589	94667	08518	21163	94556	52623	37433	85386	41110	76759
25	04272	35671	71646	73571	62942	01048	04511	37904	41997	90006	40710	90973
26	01578	30072	63659	12546	73380	23361	23595	59479	50996	31815	22490	98723
27	29136	26169	31145	75325	99308	44268	61382	75761	00735	20601	93384	45889
28	92614	25427	63297	02512	84414	24160	50201	28970	61081	43649	13288	62336
29	76787	64760	48941	20493	50041	64784	39753	06111	03045	23401	33248	81161
30	64252	22283	57775	28962	53889	29280	37608	10081	77712	12838	14686	76958
31	91309	20209	39837	80079	28474	19267	87126	43096	14651	79173	31780	42601
32	37614	57818	47627	91310	70368	28070	38746	14879	53170	76114	42752	06574
33	90708	61212	77036	52790	90227	81618	06122	77299	35690	54395	35215	89469
34	41372	01251	58166	42479	52990	55728	04250	74424	53700	20353	62284	09896
35	42561	33036	06380	60091	06039	33290	43004	57397	45246	82250	22458	38325
36	38746	41586	34937	65167	10454	16876	80680	77222	61105	82071	56073	32481
37	17391	41294	99307	74420	04621	46824	03612	74694	06365	77826	31134	10110
38	05511	28643	61054	79254	79972	83425	16478	84843	80317	32548	81019	31729
39	39108	14491	36051	25022	93348	29566	47226	72441	01523	37920	94394	84605
40	91005	51283	23124	57794	05720	24869	35332	26230	99743	26844	83140	66667
41	35157	16089	49560	46736	49525	81510	36773	56789	96119	82834	40669	74356
42	95810	10606	66718	04682	69039	50789	56954	67096	86929	93547	38838	06928
43	86769	56447	40848	06338	55119	20283	29312	93884	18976	57782	51899	40749
44	32638	20331	34219	35114	95898	01777	59372	18054	35992	57722	74941	72376
45	55668	11116	30632	74444	58413	69180	69214	37471	27695	48715	43465	28236
46	21255	28620	46542	90990	51092	11385	84947	90370	76670	57762	17856	68032
47	33954	17842	33266	83365	11396	48929	14117	59594	05833	21643	21353	22903
48	67006	84642	02971	22629	32651	63753	79835	96971	43353	66170	82618	40546
49	76216	82754	39361	25662	73868	99685	87388	93666	48783	29577	72921	64695

Table 5.4 (Continued)

Row Number	Column Heading											
	00-04	05-09	10-14	15-19	20-24	25-29	30-34	25-29	30-34	35-39	40-44	45-49
50	65329	63270	40355	02999	07942	11645	38129	44998	08787	13543	90923	33593
51	93526	80088	58689	08276	85897	27481	48514	85816	84145	28738	54734	03574
52	95143	49809	96751	00624	78549	78860	85900	11768	40905	06094	29200	77232
53	75386	42921	05982	00447	80071	11088	22841	96979	04479	28338	64435	51151
54	22748	85904	49216	27675	69340	56561	05030	42643	91149	87953	63719	01584
55	28710	96698	80867	48458	02130	31998	42100	06256	56271	27764	37566	27838
56	32037	13983	32058	45073	11336	91786	86687	59805	57801	39470	81011	81429
57	60896	13965	00685	49638	27110	57937	54239	54624	62248	80091	57501	93308
58	89058	22117	20514	75796	54156	61471	04730	81174	10359	01856	29380	30391
59	09568	25382	94676	08981	04980	50222	98457	96442	11970	08674	96858	85324
60	22196	00675	30458	58436	12432	87919	71959	14639	90006	87978	97650	41393
61	49945	53796	19047	44949	57842	67113	22511	53350	45931	57670	13596	93886
62	29476	50406	39614	58507	62957	72171	58818	65498	75309	75942	16021	43748
63	18703	74764	03056	41567	25299	86109	54614	40856	28969	58242	76673	89184
64	49873	62207	72534	20702	16556	49276	10316	73538	90644	82928	59321	18203
65	19985	25369	84812	46227	61888	88301	81836	61107	65104	79408	12059	53842
66	03154	90677	36455	53677	55678	83915	19290	28003	15858	25563	82237	25088
67	25578	18710	13424	65929	85388	60134	16455	55994	30488	41961	61383	58570
68	99273	72840	28541	71743	18139	87311	70662	99117	22685	54271	75276	97177
69	87901	28559	96271	85456	70702	45054	20963	75628	67280	49463	73672	66568
70	63443	98416	42737	67833	95052	35696	37817	90977	87826	31048	21500	09798
71	00761	90586	85762	84934	53279	47885	97586	65287	04768	40276	56284	87226
72	95124	84830	05748	92443	61790	10450	40238	87931	49136	26589	71698	18313
73	57237	52741	11781	03523	05425	42234	81913	61161	44743	83906	29459	02148
74	93276	23749	16958	22242	90455	39647	26914	46398	95636	17589	30496	02133
75	92318	55306	27869	31793	91112	61083	44868	15589	55596	23807	57671	58321
76	91390	32323	07289	49282	21185	22059	03410	12377	03072	27518	78435	01068
77	93205	58549	22523	85906	60906	48768	18085	25739	45691	11518	66181	55147
78	01071	39567	56473	31132	57168	57782	61630	01772	43001	91806	18784	65182
79	03579	10414	54608	40789	28104	43665	23271	93758	24532	97310	05340	27265
80	60477	35811	98288	50701	48956	93693	17079	94874	12059	95117	65205	57421
81	39681	86748	36782	45102	08913	15043	55716	56000	77215	37127	02358	90606
82	22033	84934	09148	41396	16459	40141	26964	98296	53585	95995	42686	21741
83	14101	00047	52602	55407	40129	62935	86167	75095	03341	92998	35762	04599
84	06873	92484	87149	35994	63525	56983	23715	23862	57883	33680	54883	97219
85	30797	92813	17274	51500	66217	16708	89997	63219	44764	67689	33433	72050
86	15747	10396	36476	75160	22022	19820	86886	27470	50174	56334	10351	49636
87	61998	32653	60143	30542	35514	21819	03840	99554	83167	14558	69962	35498
88	09684	04756	23555	19460	85547	26428	44293	14592	01970	91553	63148	20910
89	61404	34976	94332	66889	99632	79871	40258	60827	25993	45670	38481	46632
90	25245	57862	39826	16944	15981	04018	29136	28150	65239	83628	60395	55419
91	09484	87160	66976	79755	06238	42612	92961	27993	85152	46068	74000	40002
92	98011	99251	82349	43715	45699	85124	03911	93499	56695	75753	20000	20716
93	76638	13665	49438	20357	64420	79414	37568	45791	88321	88727	49952	87973
94	64423	68413	06440	46531	14931	14156	09510	20126	20417	41024	51343	71800
95	61707	18827	41733	54540	48588	36569	39203	67613	58873	91631	33064	56484
96	10486	38306	17680	66579	21226	30958	90600	85520	93744	53787	07026	32207
97	47555	13139	63109	09541	57782	23091	25448	47825	66126	98921	98785	19546
98	72026	34279	76997	68348	58053	02899	16268	97317	95836	81952	81638	10556
99	48001	41086	99695	26225	12763	36369	31577	17714	17060	67833	04756	27266

Table 5.4 (Continued)

Row Number	Column Heading									
	50-54	55-59	60-64	65-69	70-74	75-79	80-84	85-89	90-94	95-99
00	73137	45987	77079	42671	57474	40782	42681	34880	29982	44007
01	18484	12788	71464	88004	80105	34482	46110	33828	20194	34524
02	77228	43460	99853	89432	30668	48410	76366	56971	16466	52707
03	74064	47482	30684	86869	47448	29043	98906	25613	46286	54060
04	93832	33562	09926	14854	65178	38543	27224	87954	42083	88169
05	42096	79561	26902	64081	52927	02348	67981	57788	96808	65315
06	15225	90935	41981	15978	58895	73271	63773	57887	52412	56796
07	95849	47924	83559	56475	49014	76723	37698	08789	90322	79588
08	48093	73731	83515	75826	79328	93155	97177	21357	47951	52282
09	09967	04011	44935	23539	68271	71622	65741	63627	12806	11152
10	27591	12901	31792	33932	35284	57792	19408	81105	37001	45143
11	28077	30438	28612	01385	23467	26144	95304	34932	82686	20257
12	99131	79046	94608	91136	21009	02454	84859	04655	20139	69458
13	08771	30330	77476	29295	06517	57614	41927	43044	86599	92762
14	22763	65483	45791	64638	33907	34887	80043	45285	78601	55673
15	94472	88988	12427	74496	90499	57289	90409	08428	62542	11887
16	00171	24440	73891	68558	30951	65579	12954	62591	57333	94155
17	77503	70628	96565	62934	98758	99571	21447	74319	11400	78879
18	09183	49458	73690	45164	40982	93785	61612	83259	11476	28203
19	46479	40760	14186	81494	87979	60959	29446	44333	83009	23045
20	84974	54583	27562	80223	67484	39051	07053	19900	38065	28487
21	58091	85789	46174	14255	11174	37610	40665	70658	72431	90617
22	42327	66659	51903	94623	11756	12266	70926	59140	50334	00353
23	90545	48354	39981	29604	84328	64429	59050	81367	71308	46846
24	96948	01154	61945	61943	16247	61538	60879	44465	88601	46322
25	15081	97304	24765	89003	78487	80204	98675	25251	23899	39496
26	80726	88712	41544	79621	31206	97924	36707	93675	80946	10251
27	65126	88820	38191	99672	82740	21379	46805	02613	73551	00152
28	74802	12716	89447	87669	19226	20328	62370	25331	72030	68437
29	00681	23400	45797	65906	42471	65721	60113	47352	10855	29314
30	51818	90150	24191	90189	13531	83141	32221	51986	46109	90064
31	21741	64279	86121	15747	22778	55853	44068	42037	57768	07804
32	04743	51845	42808	70484	31354	22147	66622	25310	12507	66779
33	17515	73527	81034	36107	67558	26224	32749	91331	06737	56475
34	75188	81409	43443	64255	59351	56197	28121	11157	31807	79833
35	88798	41465	52327	39584	18591	11905	44991	31491	95710	57733
36	38415	04433	62111	88999	65731	98678	78365	76674	03088	28296
37	49759	16898	11606	15457	44562	87908	90013	62978	00351	84388
38	12253	20197	64374	87115	62194	80169	64829	79667	11628	14685
39	46530	56684	50377	57435	08598	07948	97387	76604	39429	14502
40	39056	92672	87833	22799	22790	95141	85024	88590	91106	46777
41	19066	46713	15104	97993	40299	48765	03448	37406	30523	85345
42	44411	08105	55720	78858	10811	96961	64975	93300	00861	00388
43	29062	36691	93014	75198	08001	37206	43816	05449	73994	32228
44	46246	77789	99330	63726	76353	33614	32298	89766	33246	59878
45	68334	00824	54832	52672	72328	53138	35463	06908	66724	70735
46	03240	62813	67785	59876	29335	99386	38278	11450	41907	51384
47	57040	05371	75986	47217	40540	87306	42301	41017	42216	11719
48	76415	82540	09893	80330	67264	63861	68330	80941	35476	61634
49	14783	60615	77332	17725	06514	23220	22661	88541	58100	83133

Table 5.4 (Continued)

Row Number	Column Heading									
	50-54	55-59	60-64	65-69	70-74	75-79	80-84	85-89	90-94	95-99
50	73332	63452	19036	17987	97357	71591	70281	21729	96772	23313
51	07125	43322	51153	17584	95875	36386	15139	01406	57256	29704
52	55805	21704	33656	50958	78536	55083	44755	34241	12376	50093
53	30450	85984	69694	60633	56777	91361	08410	93312	16785	16213
54	79266	34754	52040	61618	64706	06121	47134	99721	09389	98740
55	35257	13931	41548	30513	26683	75826	93846	12820	05709	24857
56	65320	42448	10530	46587	64422	24065	75098	71139	53258	87333
57	43583	34411	80069	01115	45060	73271	79331	46079	17004	06189
58	02121	61321	30230	41134	29611	78063	24139	62321	87091	23315
59	59700	27260	81495	55324	75035	12425	04631	39136	51349	70949
60	82465	58923	00420	34123	23195	31253	36499	62936	34740	41082
61	01038	21773	60671	18735	52087	78695	49111	76936	80201	80700
62	58674	50958	09717	92001	39943	35895	12164	72299	45328	39070
63	47207	63363	22134	76801	27527	88267	52163	35589	34827	54922
64	23607	55153	21076	06020	48044	11653	13788	50331	50321	80349
65	73518	61210	35079	90891	89598	56527	38846	16500	53375	26612
66	21410	69618	82958	19425	78792	52834	88222	16317	74198	72487
67	48693	83604	77960	81259	71478	85003	52750	44267	62537	95078
68	87029	35995	79974	20486	41923	55126	79209	08207	63508	79175
69	02926	69190	34393	20266	07625	17868	69314	51310	83781	98299
70	93179	90023	55650	17508	58102	22226	74201	78952	12631	11409
71	64558	25251	21637	66793	21347	57796	01309	52703	01767	59199
72	36060	06353	59656	90432	85911	90241	14864	88610	11316	71914
73	75873	80676	52896	04703	13088	96939	28108	77108	02121	64082
74	12033	30392	27350	45432	78199	65203	11250	64687	60657	39536
75	42473	14701	83902	86015	98514	79468	83938	03338	69537	85217
76	53067	81634	57100	61799	37554	20963	57021	07012	11569	47846
77	12222	34023	81396	71121	73353	41315	65854	62294	51585	60436
78	22760	32884	29544	42737	52215	94978	24351	91140	04641	63316
79	30430	84286	50513	89190	77806	95817	71861	03175	02316	68536
80	39604	03405	87105	32453	87042	98522	73645	68204	27074	95431
81	34712	40513	83655	42473	31263	73869	59228	13177	46565	12092
82	21018	11689	91983	51581	47609	19624	45289	79938	26643	46819
83	65452	65559	59616	33196	76515	32353	87737	32379	99970	00113
84	63848	60431	82004	33309	91254	70613	00767	97987	05231	09811
85	96701	79966	45075	32770	19855	07123	00851	77967	17801	06214
86	60235	91092	84473	67106	11982	30995	14371	95264	91620	50856
87	75986	98749	50491	54363	83264	42508	41134	04397	64230	43547
88	98450	88188	08270	87246	34841	34834	42815	02091	14231	99744
89	55931	75741	10173	49042	88651	68473	97277	50865	94366	11837
90	48495	84779	91922	65460	68407	39901	34749	00554	24043	54269
91	58795	84649	45846	98520	18591	21066	31496	18774	94556	01144
92	74678	96980	37154	33190	68084	65983	54926	36887	03956	43052
93	29467	44134	47557	38817	97975	90661	43553	72160	97565	84138
94	68106	64205	94530	98131	72715	44929	99481	04524	88964	12404
95	73446	02619	71757	90688	24693	31089	89948	48977	31907	85536
96	11255	27475	33676	96130	25898	18738	61813	60297	66556	07364
97	65586	73333	94015	68728	81326	45366	00831	21149	13402	79755
98	11842	08167	12212	23410	57127	80363	68895	54522	51663	52529
99	42818	76639	48297	67582	42621	76470	34321	61958	07237	71368

Worksheet 1

(A) Current Date: _____

(B) Total No. of Safety-Sensitive Functions:

SEQUENCE NUMBER	DRIVER ID NUMBER
1.	
2.	
3.	
4.	
5.	
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40.	

Worksheet 2

(A) Current Date:

(B) Proposed Testing Date:

(C) Total No. of Drivers in Selection Pool:

(D) No. of Tests Needed on Proposed Test Date:

(E) Key to Starting Location:

(F) Row Number of Starting Location:

(Digits 1-2 of entry E)

(G) Column Number Key:

(Digits 3-4 of entry E)

(H) Column Heading of Starting Location using (G): (-)

(I) Page of Table 5-4 which contains row from entry (F) and column heading from Entry (H): (Page 1,2,3, or 4)

(J) Starting Location Number found on page (I), row number (F), and column heading (H):

(K) Code for Direction from Starting Location (Digit 5 from entry E): (1,2,3 = up 4,5 = right 6,7,8 = down 9,0 = left)

(L) Scanning Size: Total no. of digits used to write entry (C) = 1,2,3, or 4:

ORDER OF SELECTION	SELECTED NUMBERS	ORDER OF SELECTION	SELECTED NUMBERS	ORDER OF SELECTION	SELECTED NUMBERS
1.	_____	21.	_____	41.	_____
2.	_____	22.	_____	42.	_____
3.	_____	23.	_____	43.	_____
4.	_____	24.	_____	44.	_____
5.	_____	25.	_____	45.	_____
6.	_____	26.	_____	46.	_____
7.	_____	27.	_____	47.	_____
8.	_____	28.	_____	48.	_____
9.	_____	29.	_____	49.	_____
10.	_____	30.	_____	50.	_____
11.	_____	31.	_____	51.	_____
12.	_____	32.	_____	52.	_____
13.	_____	33.	_____	53.	_____
14.	_____	34.	_____	54.	_____
15.	_____	35.	_____	55.	_____
16.	_____	36.	_____	56.	_____
17.	_____	37.	_____	57.	_____
18.	_____	38.	_____	58.	_____
19.	_____	39.	_____	59.	_____
20.	_____	40.	_____	60.	_____

Sample Forms

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Release of Information Form

I. To be completed by the new employer, signed by the employee, and transmitted to the previous employer:

Employee Printed Name: _____

Employee SS or ID Number: _____

I hereby authorize release of information from my Department of Transportation regulated drug and alcohol testing records by my previous employer listed in *Section I-A.* to the employer listed in *Section I- B.* This release is in accordance with DOT Regulation 49 CFR Part 40, Section 40.25. I understand that information to be released in *Section II-A* by my previous employer, is limited to the following items for the past two years:

1. Alcohol tests with a result of 0.04 or higher;
2. Verified positive drug tests;
3. Refusals to be tested;
4. Other violations of DOT agency drug and alcohol testing regulations;
5. Documentation, if any, of completion of the return-to-duty process following a rule violation;
6. Information obtained from previous employers of a drug and alcohol rule violation.

Employee Signature: _____ Date: _____

A.

Previous Employer Name: _____

Address: _____

_____

Phone #: _____ Fax #: _____

B.

New Employer Name: _____

Address: _____

_____

Phone #: _____ Fax #: _____

Designated Employer Representative: _____

Section II. To be completed by the previous employer and transmitted to the new employer:

A. In the previous two years, for DOT-regulated testing ~

1. Did the employee have alcohol tests with a result of 0.04 or higher? YES ____ NO ____
2. Did the employee have verified positive drug tests? YES ____ NO ____
3. Did the employee refuse to be tested? YES ____ NO ____
4. Did the employee have other violations of DOT agency drug and alcohol testing regulations? YES ____ NO ____
5. If you answered "yes" to any of the above items, did the employee complete the return-to-duty process? N/A ____ YES ____ NO ____
6. Did a previous employer report a drug and alcohol rule violation to you? YES ____ NO ____

[NOTE: Previous employer, if you answered "yes" to any item in Section II-A, you must also transmit a copy / copies of the appropriate documentation (e.g., CCFs, MRO results reports, BATFs, SAP reports, follow-up testing record) to the new employer.]

B.

Name of person providing information in *Section II-A*: _____

Title: _____

Phone #: _____

Date: _____

Company	
Add	PHO:
City, ST, ZIP	FAX:

Prior employer Check 49 CFR 382.413/40.25. Good Faith Effort

1. Call the prior employer and record who was contacted. Fax the required release. Go to step 2.
2. Call the prior employer and record who was contacted. Ask if they received the fax. If they say YES the fax was received, ask for the information that is required.
If the prior employer refuses to release the information record it below and file with the drivers original release of information.

Prior Employer	
Address	PHO:
City, St, Zip	FAX:

DRIVER NAME:	Social Security Number

Date of contact:	By Telephone/Fax?	Name of contact at prior employer.
1. NOTES		

Date of contact:	By Telephone/Fax?	Name of contact at prior employer.
2. NOTES		

Conducted By:

RELEASE & DOCUMENTATION OF PRE-EMPLOYMENT TESTING INFORMATION BY APPLICANT/DRIVER REQUIRED BY PART 40.25(j).

PART 40.25(j) requires Employers to ask Applicant/Driver whether he/she has tested positive or refused to test on any Pre-employment alcohol or drug test administered by an Employer to which the Applicant/Driver applied but did not obtain safety sensitive transportation work covered by DOT agency alcohol and drug testing rules during the past two (2) years.

NAME_____ DATE _____

SOCIAL SECURITY # _____

Applicant/Driver to answer items listed below.

During the past two (2) years have you **tested positive** on a Pre-employment alcohol or drug test administered by Employer to which you applied for but did not obtain a safety sensitive transportation work covered by Department of Transportation (DOT) drug and alcohol testing rules?

YES _____ **NO** _____

During the past two (2) years have you **refused to test** on a Pre-employment alcohol or drug test administered by an Employer to which you applied for but did not obtain a safety sensitive transportation work covered by the Department of Transportation (DOT) drug and alcohol testing rules?

YES _____ **NO** _____

If you answered YES to either of the questions above, please provide documentation of your successful completion of the return –to-duty process required by Part 40 Subpart O.

_____

_____

_____

_____

_____

Date _____ Name (printed) _____

Signature of Applicant/Driver_____

Witness_____

Record keeping requirements: If "Yes" to either question –5 year retention.
If "No" to either question-discard after employment terminates.

CONTROLLED SUBSTANCES TEST RESULTS NOTIFICATION FORM

Purpose of Form

The alcohol and controlled substances testing regulations require the employer to notify a driver of a verified positive controlled substance test result following a random, reasonable suspicion, post-accident, return-to-duty, or follow-up test. In the case of a pre-employment controlled substance test, a driver-applicant requesting results within 60 days of notification of the disposition of his or her employment application must be notified of the results by the employer (49 CFR 382.411a).

Employer - Complete the following:

_____ _____/_____/_____

Name of Driver ***(Print)*** ***(Month) (Day) (Year)***

Type of Test: ☐ **Pre-employment** ☐ **Reasonable Suspicion** ☐ **Random**
☐ **Post-accident** ☐ **Return-to-Duty** ☐ **Follow-up**

Test Results: ☐ **Negative** ☐ **Positive**

If the driver is an employee who has tested positive, indicate the drug identified:

☐ **Marijuana** ☐ **Cocaine** ☐ **Opiates**
☐ **Amphetamines** ☐ **Phencyclidine (PCP)**

I have received the above results.

_____ _____/_____/_____

(Driver Signature) ***(Month) (Day) (Year)***

Witnessed by:

_____ _____/_____/_____

(Signature of Employer Representative) ***(Month) (Day) (Year)***

_____

(Title)

PRE-EMPLOYMENT URINALYSIS AND BREATH ANALYSIS CONSENT FORM

I understand that as required by the Federal Highway Administration Regulations, Title 49 Code of Federal Regulations, Section 382.301, all driver-applicants of this employer must be tested for controlled substances and alcohol as a pre-condition for employment.

I consent to the urine sample collection and testing for controlled substances, and the breath sample collection and testing for alcohol.

I understand that a verified positive test result for controlled substances and/or an alcohol concentration of 0.04 or higher will render me unqualified to operate a commercial motor vehicle.

The medical review officer will maintain the results of my controlled substance test. Negative and positive results will be reported to the employer. If the results are positive, the controlled substance will be identified.

Alcohol test results will be maintained by the employer.

The results will not be released to any other parties without my written authorization.

I understand the above conditions and hereby agree to comply with them.

_____ _____/_____/_____

(Applicant's Name - print) *(Month) (Day) (Year)*

_____

(Applicant's Signature)

PRE-EMPLOYMENT VERIFICATION 382.301(c)(1)

Company: _____ PHO: _____
Address: _____ FAX: _____
City, State:

I hereby authorize release of information from the testing program listed below to release information listed in 382.301(c)(1).

DRIVER NAME:

Social Security Number:

Driver Signature

CONTROLLED SUBSTANCES TESTING PROGRAM

Company: _____ PHO: _____
Address: _____ FAX: _____
City, State:

This is to verify that the above driver has participated in our controlled substances testing program for the past _____ Months.

The testing program conformed to 49 CFR Part 40 and Part 382. The driver was properly qualified under part 382 and did not refuse to take a test.

The last date the driver was tested for controlled substances was:	

The MRO verified results:

SIGNED:	DATE:

This form was developed to assist the employer's controlled substances deterrence program administration.

ALCOHOL AND CONTROLLED SUBSTANCES ACCIDENT TESTING REPORT

Company	
Add	PHO:
City, ST, ZIP	FAX:

Driver Name:

Type Of Accident: [ ] Fatal [ ] Injury [ ] Towed Vehicle [ ] Non DOT

Citation Issued?: [ ] Yes [ ] No (Injury & Tower Vehicle)

Is Controlled substances and Alcohol testing required? [ ] Yes [ ] No

Name of Collector:	Telephone No.:
Address:	
City, ST:	

Reason Alcohol Test Not Completed within: [ ] 2 Hours. [ ] 8 Hours.

Reason Controlled Substances Test not completed within 32 hours:

This form was developed to assist the employer's controlled substances deterrence program administration.

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Random Testing Documentation Form

Employer Name	
Address	PHO:
City, St Zip	FAX:

Calendar Year (CY):	CY Average No. of Driver Positions =
Selection Periods Per Year =	Selection period this report =

TOTAL TESTS REQUIRED =	Controlled Substances Test:	Alcohol Test:
TOTAL TESTS COMPLETED =	Controlled Substances Test:	Alcohol Test:

Name of Selected Employee	CST Date and results	Alcohol test date & results

Verified by _____ Date_____

This form was developed to assist the employer's controlled substances deterrence program administration. It documents the random selection process, including checking that the appropriate number of tests are performed each testing period in order to meet the annualized rate requirement.

Company	
Add	PHO:
City, ST, ZIP	FAX:

No	Driver Name	Hire Date	ID Number Used	Date In Random Pool	Date Dropped from Random Pool
1					
2					
3					
4					
5					
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30					

This form was developed to assist the employer's controlled substances deterrence program administration. It documents the random selection process, including checking that the appropriate number of tests are performed each testing period in order to meet the annualized rate requirement.

Company	
Add	PHO:
City, ST, ZIP	FAX:

No	Name	Hire Date	ID No. Used on CCF	Selected for
1				
2				
3				
4				
5				
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18				
19				
20				
21				
22				
23				
24				
25				

Selection Period =	Selection date :

Verified By _____ DATE_____

This form was developed to assist the employer's controlled substances deterrence program administration. It documents the random selection process, including checking that the appropriate number of tests are performed each testing period in order to meet the annualized rate requirement.

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OBSERVED BEHAVIOR–REASONABLE SUSPICION RECORD

Employee: Name: _____

Identification Number: _____

Observation: Date: _____ Time: (from _____ am/pm: to _____ am/pm)

Location: _____
(Street) *(City)* *(State)* *(Zip)*

CAUSE FOR SUSPICION

1. Presence of Drugs, Alcohol, and/or Paraphernalia *(specify)*: _____

2. Appearance:
☐ Normal ☐ Flushed ☐ Puncture Marks
☐ Disheveled ☐ Bloodshot Eyes ☐ Inappropriate wearing of sunglasses
☐ Dilated/Constricted Pupils ☐ Profuse Sweating ☐ Tremors
☐ Dry-mouth Symptoms ☐ Runny Nose/Sores ☐ Body Odor
☐ Other _____

3. Behavior

Speech:
☐ Normal ☐ Incoherent ☐ Slurred ☐ Silent
☐ Confused ☐ Slowed ☐ Whispering
☐ Other _____

Awareness:
☐ Normal ☐ Confused ☐ Mood Swings ☐ Euphoria
☐ Lethargic ☐ Lack of Coordination ☐ Paranoid ☐ Disoriented
☐ Other _____

4. Motor Skills

Balance:
☐ Normal ☐ Swaying ☐ Falling ☐ Staggering
☐ Other _____

Walking & Turning:
☐ Normal ☐ Swaying ☐ Arms Raised for Balance
☐ Stumbling ☐ Falling ☐ Reaching for Support
☐ Other _____

5. Other Observed Action or Behavior *(specify)*: _____

Witnessed by: *(must be a supervisor or company official trained in physical, behavioral, speech, and performance indicators of probable alcohol misuse and use of controlled substances)*

_____ _____ _____ _____ am/pm
(Signature) *(Title)* *(Date)* *(Time)*

_____ _____ _____ _____ am/pm
(Optional 2nd Signature) *(Title)* *(Date)* *(Time)*

This document must be prepared and signed by the witnesses within 24 hours of the observed behavior or before the results of the test are released, whichever is earlier (49 CFR 382.307(f)).

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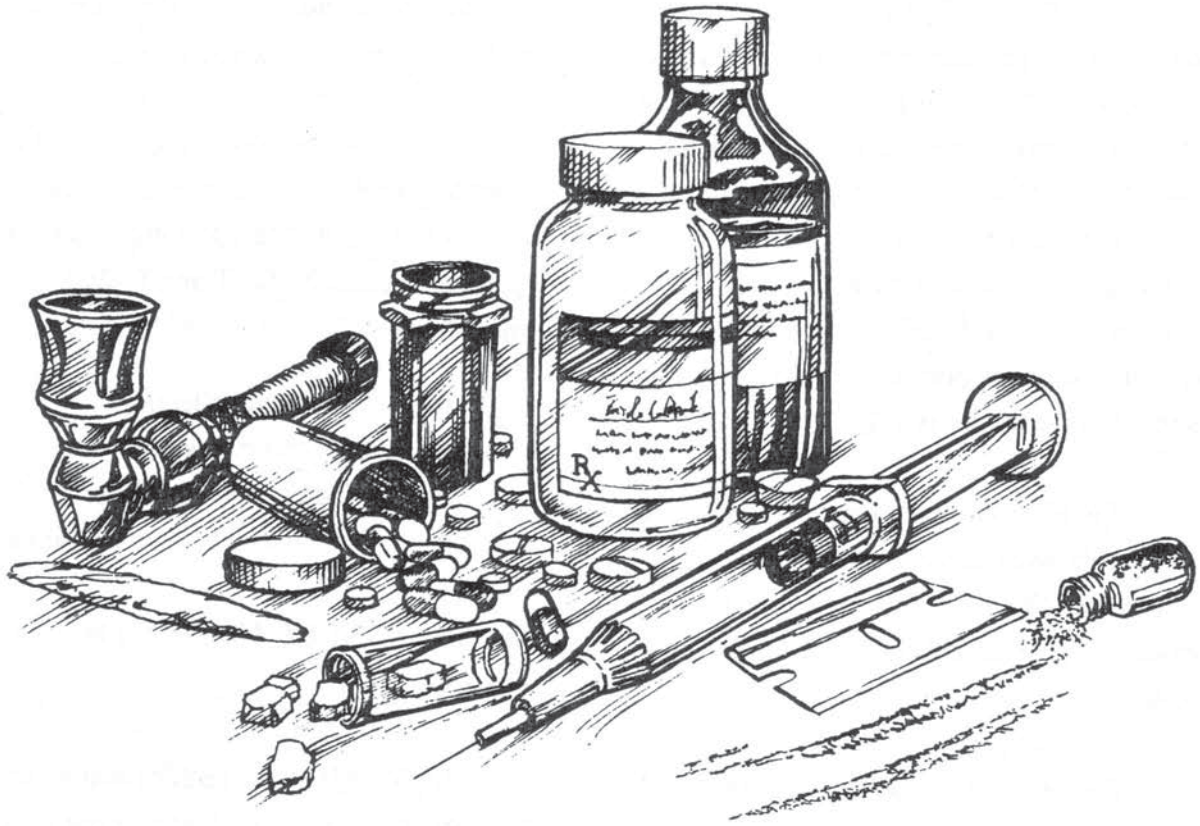


Chapter 6.
CONTROLLED SUBSTANCES TESTING PROCEDURES

DOT's final rule, 49 CFR part 40, "Procedures for Transportation Workplace Drug and Alcohol Testing Programs," took effect August 1, 2000. The rule modified and expanded the procedural requirements for controlled substances testing, including specimen collection procedures, laboratory testing procedures, medical review officer (MRO) procedures, and substance abuse professional (SAP) procedures, and service agents (SA) procedures.

The remainder of this chapter discusses the interaction of DOT and FMCSA regulations in defining your controlled substances testing program. At the end of this chapter you will find a section titled "Regulatory Revisions," which discusses the old DOT and FMCSA regulations and the revised DOT and FMCSA regulations.

Under the FMCSA controlled substances regulation, you are required to conduct

laboratory testing of urine specimens for five types of controlled substances. Identification of either a controlled substance or its metabolite in the urine indicates use of the controlled substance in the recent past. A metabolite is a modified form of a controlled substance that has been chemically altered by the body's metabolic system.

The FMCSA regulation requires testing for the following controlled substances (or their metabolites): marijuana, cocaine, opiates, phencyclidine (PCP), and amphetamines. The regulatory requirement is found in 49 CFR, section 40.85.

You may test for additional controlled substances under your own authority provided that

1. A separate void (act of urination) is used to collect the specimen under company authority.

2. The specimen is not poured off from the DOT-mandated specimen.

3. Your drivers are informed that testing for additional controlled substances is not required under the DOT regulations.

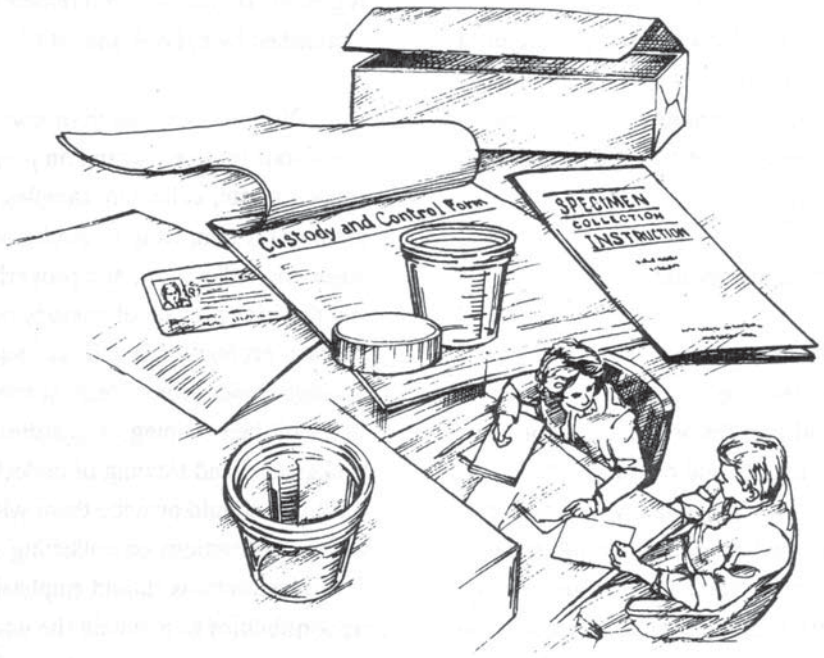
4. The non-DOT specimen is collected after the DOT specimen.

It is also important to establish the exact purpose of each testing process so that your drivers are not confused or unclear about what is required of them by the DOT controlled substances testing regulations and procedures, versus additional requirements imposed by your company's policy.

You will need certain specialized services to establish an effective controlled substances testing program and implement the requirements of the DOT and FMCSA regulations. These services include specimen collection, laboratory testing, MRO and SAP.

Section 1. SPECIMEN COLLECTION

DOT regulations require that all urine specimens be collected at an appropriate collection site. A collection site is defined as "a place designated by the employer where individuals present themselves for the purpose of providing a specimen of their urine to be analyzed for the presence of controlled substances." You are required to designate such a site or sites, depending on your needs. Typically, collection sites are at physicians' offices, commercial collection sites, or a local hospital or clinic. You may also wish to establish collection sites on your premises.



In all cases, the person who performs the collection must be properly qualified (see 49 CFR subpart C).

Regardless of where the collection site is located, it must meet the DOT guidelines established in "Procedures for Transportation Workplace Drug and Alcohol Testing Programs" (49 CFR part 40). That regulation requires, in part, that the site provide a privacy enclosure for urination, a toilet, a suitable clean writing surface, and a water source for hand washing, which, if practicable, should be outside the privacy enclosure. The collection site must be secured when not in use or, if this is not possible (e.g., when a public restroom is used), the site must be visually inspected prior to specimen collection to ensure that unauthorized persons are not present and that there are no unobserved entrance points. Access to the site must be restricted during specimen collection. To assist the specimen collector in determining if your driver has attempted to dilute his/her specimen, a bluing agent must be added to the toilet water, and other sources of water (such as a sink or shower) should be turned off or taped to prevent use (if they are located within the privacy enclosure where urination occurs). At a minimum, other sources of water must be monitored to ensure that they are not used to adulterate the sample.

If you use an off-site collection site staffed by medical/technical personnel, it must meet DOT requirements. You should provide a

complete copy of 49 CFR part 40 to the contract facility representative and require compliance with all applicable DOT requirements as part of the contract. The site personnel should acknowledge receipt of the regulations and maintain a copy in their files. In addition, the minimum collection site facility specifications should be included in the contract.

Collection Site Personnel

The collection site personnel are responsible for the integrity of the specimen collection and transfer process and for ensuring the dignity and privacy of the donor. They should avoid any remarks that may be construed as accusatory, offensive, or inappropriate. You should ensure that all collection site staff are trained to prepare the collection site, collect specimens, examine specimens for tampering or sample adulteration, observe collections, split the specimens, and properly label and preserve the chain of custody of specimens.

You may choose to contract for collection site services or you may establish your own site with trained staff. Contracting for this service eliminates the need to establish a secure collection site and to train staff in collection procedures. Further, it removes your staff from direct involvement in the collection and testing process and turns these functions over to impartial outside technical persons who have no direct relationship with your drivers. Contracting for collection services, however, does not relieve you from responsibility for ensuring that the complete collection process meets all applicable regulatory requirements established by the FMCSA and the DOT.

You may operate your own collection site if staff receive proper training on preparing the collection site, collecting samples, examining samples for tampering or adulteration, observing collections, and properly labeling and preserving the chain of custody of samples, and have met the qualification requirements found in 49 CFR, section 40.33. Medical professionals and technicians are obvious choices for collection site staff by virtue of their training; however, they are also required to meet the same qualifications for collectors. Regardless of the background and training of collection site staff, you should provide them with clear written instructions on collecting specimens. These instructions should emphasize their responsibilities to maintain the integrity of the specimen collection and transfer process and to protect the dignity and privacy of the driver providing the sample.

The direct supervisor of the driver should not serve as the collection site person for a urine test, unless there is no other way to collect the specimen.

Chain-of-custody procedures ensure that each specimen is monitored throughout the collection and analysis process. This ensures that the results you receive are from tests conducted on your drivers' specimens. The requirements for the proper way to fill out the Custody and Control Form (CCF) are found at 49 CFR, section 40.45.

Supplies

The following supplies, equipment, and documents will be needed at each collection site you use.

- Single-Use Collection Cups: the cups must be individually and securely wrapped and shall be unwrapped in the presence of the driver at the time of specimen collection.
- Single-Use Specimen Bottles— The specimen bottles should be constructed of high-density plastic or similar synthetic material with a leakproof cap. The bottles must be capable of being shipped in appropriate packing material without leaking or breaking, and must meet the technical specifications of the carrier selected for specimen transfer. Each bottle shall be individually and securely wrapped and shall be unwrapped in front of the driver at the time of specimen collection. One bottle must be capable of holding at least 60 ml of urine.
- Single-Use Temperature Measurement Device: the device shall be capable of measuring temperatures within the range of 32° to 38° Centigrade.
- Urine CCF: this form is used by the collector to document the exchanges of the specimen from the time of production by the donor until the test is completed. It documents the chain of custody and is legal evidence that the reported test results apply to the donor. A sample form is included in the appendix at the end of this chapter.
- Tamper-Evident Sealing System: Preprinted labels and seals should be provided that reveal whether the specimen bottle has been opened. The bottle must be identified with a unique identifying number identical to that appearing on the urine CCF.
- Shipping Containers: the containers should be acceptable to the carrier you will be using and should be sealable to prevent undetected tampering.

- Writing Instruments: a pen or other instrument suitable for making permanent markings on labels and seals and for legibly completing the urine CCF should be provided.

- Written Instructions: written instructions should be provided for collection site personnel. The instructions should describe in detail the procedures for collecting and transporting specimens and completing the CCF. These instructions should be available at all times for reference and may be provided in a checklist format to allow the collection site personnel to indicate when each step in the collection process has been accomplished.

Drivers subject to testing must be provided written instructions explaining their responsibilities. Examples written instructions for drivers and collection site personnel are provided in the appendix at the end of this chapter.

Collection Process

Specimen collection is the most critical aspect of the controlled substances testing program. There is a greater opportunity for human error or compromising a driver's privacy and dignity in the collection process than anywhere else in the controlled substances testing process. However, strict maintenance of the chain of custody of the specimen and personnel training can minimize the problems and number of test cancellations resulting from flawed specimen collections. Driver confidence in, and acceptance of, the testing process is enhanced when your collection is conducted with efficiency and professionalism. You should, therefore, ensure that the collection site personnel rigorously follow your guidelines for specimen collection.

An overview of key steps and criteria for the collection process follows. The collection site personnel must follow these steps during the collection process. For specific requirements, refer to 49 CFR subpart E.

1. **Make sure that only approved DOT urine CCFs are used.** Some collection sites do testing for a number of clients who may require different forms, including non-DOT collections.

2. **Inspect the collection room before and after each specimen collection.** Remove any unauthorized persons and materials that could be used to adulterate the specimen. Secure any other doors or windows opening into the collection room. Restrict access to the room while the collection is taking place.

3. **Verify the identity of the driver through the use of an official photo identification card (CDL). If the driver cannot produce the CDL have the designated driver representative (DDR verify the driver.** If identity cannot be verified, the collection should not proceed. The employer must be notified if the driver fails to report or arrives more than 30 minutes late for the appointment.

4. **Request that drivers check their belongings and remove any unnecessary outer garments, including purses, briefcases, and bulky outerwear (sweaters, jackets, vests, etc.).** The collector must request that the driver empty his/ her pockets, display any personal items, and the collector must determine whether or not the items could be used to adulterate the specimen. The collector must allow the driver to retain his/her wallet.

5. **Have the driver wash and dry his/her hands.**

6. **Select or allow the driver to select an individually wrapped or sealed collection container from collection kit materials.** Unwrap the collection cup or specimen bottle in front of the driver and direct the driver to the privacy enclosure. Do not enter the enclosure. Do not observe the specimen collection. Instruct the driver that at least 45 ml of urine are required and that the temperature will be taken to ensure the integrity of the sample. The donor must urinate into a collection cup or specimen bottle. Only one specimen should be collected at a time. If you test for controlled substances other than those specified by the FMCSA regulation, a completely separate urine collection with its own non-DOT custody-and-control form is required.

7. **If the driver is unable to provide at least 45 ml, the collection site technician shall discard the insufficient specimen and instruct the driver to drink not more than 48 ounces of fluids during a period of up to 3 hours.** The driver will then attempt to provide a complete sample using a fresh collection container. If the driver is still unable to provide an adequate specimen, testing shall be discontinued and the employer notified. The MRO shall refer the driver for a medical evaluation to determine whether the driver's inability

to provide a specimen is genuine or constitutes a refusal to submit to a controlled substances test.

8. **If a collection container is used, the collection site person pours the urine into two specimen bottles in the presence of the donor.** Thirty (30) ml shall be poured into one bottle, to be used as the primary specimen. At least 15 ml shall be poured into the other bottle, to be used as the split specimen. If a specimen bottle is used as a collection container, the collection site person shall pour 15 ml of urine from the specimen bottle into a second specimen bottle (to be used as the split specimen) and retain the remainder (at least 30 ml) in the collection bottle (to be used as the primary specimen).

9. **Within 4 minutes of receiving the specimen, record the temperature. The temperature must be between 32° and 38° Centigrade (90° and 100° Fahrenheit).** Any specimen temperature that is out of range requires the specimen temperature box to be checked "No." and Enter in the "remarks" line the findings concerning the temperature. If the specimen temperature is out of range, the collector must immediately collect a new specimen using direct observation procedures (see §40.67). The collector will then send both specimens to the laboratory.

10. **The collector must inspect the specimen for unusual color, presence of foreign material, or other signs of tampering.** The collector must immediately collect a new specimen using direct observation procedures (see §40.67). The collector will then send both specimens to the laboratory.

11. **If the driver refuses to cooperate with the collection process, inform the DER and document the noncooperation on the urine CCF.** Discard any specimen the driver has provided during the collection process.

12. **Seal and label both bottles in the presence of the donor.** The label(s) must be printed with the same specimen identification number as the CCF and

be attached to the specimen bottles. The donor initials the labels, verifying that the specimen is his/hers.

13. **Complete the CCF.** The collection site technician and the donor must sign the appropriate certification statements on the form regarding authenticity of the specimen information provided and the integrity of the collection process. Each transfer of custody must be noted on the chain-of-custody portion of the urine CCF. Every effort should be made to minimize the number of persons handling the specimen.

14. **Seal both the primary specimen and the split specimen in a single shipping container, together with the appropriate pages of the CCF.** The tape seal on the container shall bear the initials of the collection site person and the date of closure.

15. **Place the specimen in secure storage until dispatched to the laboratory.**

Split Sample

The urine specimen must be split and poured, except as noted in item 10 above, into two specimen bottles. This provides the driver with the option of having an analysis of the split sample. This analysis must be performed at a separate DHHS laboratory should the primary specimen test result be verified positive. The driver has 72 hours after being informed of a verified positive test by the MRO to request a test of the split sample. The request must be made to the MRO, and the employer must ensure the test is conducted.

Direct Observation Collections

Procedures for collecting urine specimens shall allow individual privacy unless there is a reason to believe that a particular individual may alter or substitute the specimen to be provided. As an employer you must direct an immediate collection under direct observation with no advance notice to the driver if

1. The laboratory reported to the MRO that a specimen is invalid and the MRO reported to you that there was not an adequate medical explanation for the result; or

2. The MRO reported to you that the original positive, adulterated, or

substituted test result had to be cancelled because the test of the split specimen could not be performed.

3. As an employer, you may direct a collection under direct observation of a driver if the drug test is a return-to-duty test or a follow-up test.

As a collector, you must immediately conduct a collection under direct observation if you are directed by the DER to do so.

Specimen Cancellations

The DOT has issued the following guidance identifying certain errors and omissions as "fatal flaws" that occur at a collection site and can result in a specimen being rejected by the testing laboratory:

1. No printed collector name and no collector signature.
2. The specimen identification number on specimen bottle does not match the number on the CCF.
3. The specimen bottle seal is broken or shows evidence of tampering.
4. Because of leakage or other causes, there is an insufficient amount of urine in the primary specimen bottle for analysis.

Correctable Flaws

Under the new collection rules, laboratories must attempt to correct any of the following flaws:

1. The collector's signature is omitted on the certification statement on the CCF.
2. The driver's signature is omitted from the certification statement, unless the driver's failure or refusal to sign is noted on the "Remarks" line of the CCF.
3. The certifying scientist's signature is omitted on the laboratory copy of the CCF for a positive, adulterated, substituted, or invalid test result.
4. The collector uses a non-Federal form or an expired Federal form for the test. This flaw may be corrected through the procedure set forth in §40.205(b)(2), provided that the collection testing process has been conducted in accordance with the procedures of this part in a DHHS-certified laboratory. The collector must provide a signed statement (i.e., a memorandum for the record). It must state that the incorrect form contains all the information needed for a valid DOT drug test, and that the incorrect form was used inadvertently or as the only means of conducting a test, in circumstances

beyond your control. The statement must also list the steps you have taken to prevent future use of non-Federal forms or expired Federal forms for DOT tests. You must supply this information on the same business day on which you are notified of the problem, transmitting it by fax or courier.

Section 2. LABORATORY TESTING

The scientific techniques used in controlled substances testing are virtually error-free when properly applied. The combination of immunoassay screening with confirmation by gas chromatography/mass spectrometry (GC/MS) makes the possibility of error extremely remote. In the past, most errors in test results were the result of human error in specimen handling or documentation, both of which have been reduced in recent years by using detailed test protocols and stringent quality control checks.

All controlled substances testing under the FMCSA regulations must be completed in a laboratory certified by the Department of Health and Human Services (DHHS). These laboratories have been rigorously inspected and tested and meet the highest standards for analytical competence. A list of certified laboratories is updated on a monthly basis, and current lists are printed in the Federal Register and are found on the Web at www.dot.gov/ost/dapc.

You should enter into a contract for primary laboratory services that specifically states the activities to be performed and the cost for such services. You should also enter into a contract with a second laboratory for split-sample analysis, and to serve as a back-up in case problems arise with the first laboratory.

The DOT regulation requires an immunoassay test as the initial test. If any prohibited controlled substance registers above the cut-off level on the immunoassay screen, an aliquot of the same urine specimen must be confirmed by GC/MS.

The initial test result is based on the ability of antibodies to recognize controlled substances in biological fluids. Immunoassay tests, called screens, are simple to run, often automated, and relatively inexpensive.

The confirmatory tests are more accurate, more time-consuming, require sophisticated laboratory equipment, and thus are more expensive than immunoassay screens. The only confirmatory test permitted by 49 CFR part 40 is GC/MS.

You must ensure that the laboratory meets the following standards for analytical controlled substances testing:

- The laboratory must be DHHS-certified.
- The laboratory must use an immunoassay technique to screen urine specimens for the specific controlled substances.
- The laboratory must confirm all positive screens with GC/MS.
- All confirmed positive specimens must be retained by the laboratory for a minimum of 1 year.
- The laboratory must provide secure storage for the split-sample. If directed by the MRO, the laboratory shall forward the split-specimen bottle (with seal intact), a copy of the MRO request, and the split-specimen copy of the CCF to a different DHHS-approved laboratory.
- Prior to finalizing the contract with the laboratory, you and driver representatives may want to personally inspect the laboratory.
- The laboratory must provide to you a statistical summary report every 6 months, on January 20 and July 20 each year. You should also request a copy upon an audit by FMCSA. This summary must be consistent with 49 CFR part 40.

Section 3. MEDICAL REVIEW OFFICER

The FMCSA regulation requires that all controlled substances testing laboratory results be reviewed by a qualified MRO. The purpose of this review is to verify and validate test results.

An MRO is defined in the regulation as a licensed physician (M.D. or D.O.) responsible for receiving laboratory results generated by an employer's controlled substances testing program. The MRO must have knowledge of substance abuse disorders and appropriate medical training to interpret and evaluate an individual's confirmed positive test result, together with his or her medical history and any other relevant biomedical information.

MRO Responsibilities

The MRO is required to perform the functions found in 49 CFR subpart G.

- Receive all of the results of controlled substances tests from the laboratory.

- Review the CCF to ensure its accuracy.
- Review and interpret a driver's confirmed positive, adulterated, substituted, or invalid test result by (1) reviewing the driver's medical history, including any medical records and biomedical information provided; (2) affording the driver an opportunity to discuss the test result; and (3) deciding whether there is a legitimate medical explanation for the result, including legally prescribed medication.
- Report each verified test result to the DER or to the C/TPA if you are using one.
- Maintain all necessary records and send the test results to the DER or to the C/TPA if you are using one.
- Protect the driver's privacy and testing program confidentiality.
- Contact the driver directly (i.e., actually talk to the driver), on a confidential basis, to determine whether the driver wants to discuss the test result. In making this contact, the MRO must explain to the driver that, if he/she declines to discuss the result, you will verify the test as positive or as a refusal to test because of adulteration or substitution, as applicable.
- Notify drivers who have verified positive tests that they have 72 hours in which to request a test of the split specimen. If a driver requests an analysis of the split specimen within 72 hours of having been informed of a verified positive test, the MRO shall direct the laboratory, in writing, to ship the split specimen to another DHHS-certified laboratory for analysis. Reporting a verified positive result is not delayed pending the split-specimen analysis.
    - — If the analysis of the split specimen fails to confirm the presence of a controlled substance(s) or metabolite(s), or if the split specimen is unavailable or inadequate for testing, cancel the test and report the cancellation and the reasons for it to the employer, the DOT, and the driver.
    - — If the driver has not contacted the MRO within 72 hours of being notified of a verified positive controlled substances test, the driver may present to the MRO information documenting that serious illness, injury, inability to

contact the MRO, lack of actual notice of the verified positive test, or other circumstances unavoidably prevented the driver from contacting the MRO in time.

— If the MRO concludes that there is a legitimate explanation for the driver's failure to contact the MRO within 72 hours, the MRO shall direct that the analysis of the split specimen be performed.

— If there is *no* legitimate explanation for the driver's failure to contact the MRO within 72 hours, then a split specimen does not have to be tested..

— If, after making three reasonable efforts within 24 hours (and documenting them), the MRO is unable to reach the driver directly, the MRO shall contact the DER, who shall direct the driver to contact the MRO within 72 hours. If, after making three reasonable efforts within 24 hours (and documenting them), your DER is unable to contact the driver, the MRO will report the positive results. This will occur 10 days after the date of the laboratory report.

Medical Information Obtained From the Driver During the Verification Process

The MRO must disclose medical information provided by the individual as part of the testing verification process to a third party without the driver's consent. The circumstances under which the MRO must disclose such information are in §40.327:

- The information is likely to result in the driver being determined to be medically unqualified under any applicable DOT agency regulation; or
- The information indicates that continued performance by the driver in a safety-sensitive function could pose a significant safety risk; or
- The third parties include the employer, a physician, or other health care provider responsible for the medical qualification of the driver, an SAP, the FMCSA, or the National Transportation Safety Board (NTSB).

Discussions With the Driver

The MRO must tell the driver that the laboratory has determined that the driver's test result was positive, adulterated, substituted, or invalid, as applicable. The MRO must also tell the driver of the drugs for which his/her specimen tested positive, or the basis for the finding of adulteration or substitution.

The MRO must explain the verification interview process to the driver and inform the driver that the decision will be based on information the driver provides in the interview.

The MRO must explain that, if further medical evaluation is needed for the verification process, the driver must comply with the MRO's request for this evaluation and that failure to do so is equivalent to expressly declining to discuss the test result.

The MRO must warn a driver who has a confirmed positive, adulterated, substituted, or invalid test that the MRO is required to provide to third parties drug test result information and medical information affecting the performance of safety-sensitive duties that the driver discloses in the verification process, without the driver's consent (see §40.327).

The MRO must give this warning to the driver before obtaining any medical information as part of the verification process.

The MRO must also advise the driver that, after informing any third party about any medication the driver is using pursuant to a legally valid prescription under the Controlled Substances Act, the MRO will allow 5 days for the driver to have the prescribing physician contact him/her to determine if the medication can be changed to one that does not make the driver medically unqualified or does not pose a significant safety risk. If the MRO receives such information from the prescribing physician, he/she must transmit this information to any third party to whom the MRO previously provided information about the safety risks of the driver's other medication.

The driver must provide documentation (e.g., a doctor's report, a copy of a prescription) as proof of the legitimate use of medication. The MRO should be certain to set a deadline for receipt of any medical information offered by the driver.

Explanations for Legitimate Confirmed Positive Test Results

Explanations for a legitimate confirmed positive test result might include the use of legally prescribed or dispensed medication or the ingestion of substances that produce the same metabolites as an illegal substance. Examples of legitimate medical treatment are

- Codeine prescriptions for coughing and/or pain
- Narcotic analgesics prescribed for pain
- Tetrahydrocannabinol prescribed to cancer patients for anti-emetic purposes and to Acquired Immune Deficiency Syndrome (AIDS) patients for weight loss
- Cocaine prescribed as a topical or a vasoconstrictive anesthetic
- Schedule V opiate-containing preparation (e.g., cough suppressants and antidiarrheal preparations containing paregoric).

Medical judgment is required on a case-by-case basis. If satisfied that there is a valid medical reason for the confirmed positive test, the MRO will assure the driver that all information relating to the confirmed positive test and valid explanation will remain confidential. The MRO will verify the test result as negative and any report to the employer will indicate that the test is negative. The original laboratory-confirmed positive result **should never** be provided to you, the employer, and would be a violation of the rule.

Reporting a Verified Positive Test Result

If, after appropriate review, the MRO concludes that no legitimate medical reason exists for a confirmed positive test, and that the chain-of-custody and laboratory procedures were correct, the MRO must report the verified positive test and the identity of the substance(s) to the employer or designated agent according to established company procedure and DOT regulations(§40.163.) Once a positive test result is verified, the MRO signs the verification statement of Copy 2 of the CCF. A copy of Copy 2 is the recommended way to report the results. The MRO should also document for his/her own files the basis for having made the positive determination. The MRO must retain the testing results for positive, adulterated or substituted results for a minimum of 5 years.

49 CFR section 40.163 requires the MRO to report to you the results of every controlled substances test. If the MRO does not use a copy of Copy 2 of the CCF, the report must, at a minimum, include the following information:

(1) Full name, as indicated on the CCF, of the driver tested,

(2) Specimen ID number from the CCF and the donor SSN or driver ID number,

(3) Reason for the test, if indicated on the CCF (e.g., random, post-accident),

(4) Date of the collection,

(5) Date you received Copy 2 of the CCF,

(6) Result of the test (i.e., positive, negative, dilute, refusal to test, test

cancelled) and the date the result was verified by the MRO,

(7) For verified positive tests, the drug(s)/ metabolite(s) for which the test was positive,

(8) For cancelled tests, the reason for cancellation and

(9) For refusals to test, the reason for the refusal determination (e.g., in the case of an adulterated test result, the name of the adulterant).

The MRO may report negative results using an electronic data file; however, the report must contain, at a minimum, the information specified above. The report also must contain the MRO's name, address, and phone number, the name of any person other than the MRO reporting the results, and the date the electronic results report is released.

Copy 1 of the CCF must not be used to to report drug test results.

The MRO and the Medical Examiner

Under the regulations, controlled substances tests are not required as part of a periodic physical exam under 49 CFR part 391, subpart E. If the employer is an interstate motor carrier and wants to do periodic testing, the employer must not do so under FMCSA authority, but under its own separate authority.

If the Medical Examiner is qualified, he or she may be designated to also serve as the MRO. Such an arrangement would simplify the certification process.

MRO Selection

National associations, including organizations affiliated with the American Medical Association, offer certification programs for MROs. When selecting a qualified MRO, you should conduct the following activities and retain documents resulting from these activities:

1. Review qualifications, medical licenses, memberships, and other relevant training and experience to ensure that minimum standards are met.

2. Have the MRO describe his/her methods for remaining informed of MRO policies and practices (e.g., attending conferences, additional training, memberships, newsletters, reviewing the regulations, etc.).

3. Assess ability to work with collection sites, testing laboratories, SAPs, and individual drivers; assess the proposed method of notifying drivers of verified positive test results and the method used to afford drivers the opportunity to discuss test results.

4. If not based locally, have the MRO indicate how interviews with drivers will be conducted and how the MRO will coordinate with your Designated Employer Representative (DER).

   When the services of an MRO have been retained, you should do the following:

   - Describe procedures for disclosure of verified positive test results and the confidentiality that is required for medical information not specifically related to use of controlled substances.
   - Describe specimen collection procedures, collection sites, laboratories, and chain-of-custody procedures, and provide them to the MRO.
   - Provide the MRO with copies of 49 CFR part 40 and part 382.

Section 4. SUBSTANCE ABUSE PROFESSIONAL (SAP)

DOT regulation 49 CFR part 40, subpart O requires that any individual who has a verified positive controlled substances test result or has refused to be tested, must be immediately removed from his/her safety-sensitive position. In addition, he/she must be advised of the resources available to evaluate and resolve problems associated with controlled substances use, including the names, addresses, and telephone numbers of SAPs and counseling and treatment programs. The driver must also be evaluated by an SAP, who shall determine what assistance the driver needs in resolving problems associated with controlled substances use.

An SAP can be (1) a licensed physician (medical doctor or doctor of osteopathy), or a licensed or certified psychologist, social worker, or driver assistance professional, with knowledge of and clinical experience in the diagnosis and treatment of controlled substances and alcohol-related disorders; or (2) an addiction counselor certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission (NAADAC) or by the International Certification Reciprocity Consortium/Alcohol and Other Drug Abuse (ICRC).

The SAP must be knowledgeable about:

1. The diagnosis and treatment of alcohol and controlled substances-related disorders (and have clinical experience in this area),
2. The safety-sensitive duties of a driver and the employer's interests, and

3. 49 CFR part 40, part 382, and the DOT SAP guidelines.

The SAP must keep current on any changes to these materials. These documents are available from ODAPC (Department of Transportation, 400 7th Street SW, Room 10403, Washington DC, 20590, (202) 366-3784, or on the ODAPC Web site (http://www.dot.gov/ost/dapc).

An SAP must maintain documentation showing that he/she currently meet all requirements of this section. Upon request, the SAP must provide this documentation to DOT agency representatives and to employers and C/TPAs who are using or contemplating using his/her services.

An SAP evaluation is required when a driver has violated FMCSA drug and alcohol regulations. As an employer, you are not required to provide an SAP evaluation or any subsequent recommended education or treatment for a driver who has violated FMCSA drug and alcohol regulations. However, if you offer that driver an opportunity to return to any FMCSA safety-sensitive duty following a violation, you must, before the driver again performs that duty, ensure that the driver receives an evaluation by an SAP meeting the requirements of §40.281 and that the driver successfully complies with the SAP's evaluation recommendations.

The SAP must make a face-to-face clinical assessment and evaluation to determine what assistance is needed by the employee to resolve problems associated with alcohol and/or drug use.

In all cases, the SAP must refer the employee to an appropriate education and/or treatment program. SAPs cannot refer an employee requiring assistance to their own private practices, or to a person or organization from which they receive payment, or to a person or organization in which they have a financial interest.

However, the employer and driver may use

- A public agency (e.g., treatment facility) operated by a state, county, or municipality; or
- A person or organization under contract to the employer to provide alcohol or drug treatment and/or education services (e.g., the employer's contracted treatment provider); or
- A sole source of therapeutically appropriate treatment under the employee's health insurance program (e.g., the single substance abuse in-patient treatment program made available by the employee's insurance coverage plan); or

- A sole source of therapeutically appropriate treatment reasonably available to the employee (e.g., the only treatment facility or education program reasonably located within the general commuting area.)

The SAP must conduct a face-to-face follow-up evaluation to determine if the employee has actively participated in the education and/or treatment program and has demonstrated successful compliance with the initial assessment and evaluation recommendations, provide the DER with a follow-up drug and/or alcohol testing plan for the employee, and provide the employee and employer with recommendations for continuing education and/or treatment.

The SAP's written reports are to be in a specific format found in 49 CFR, section 40.311. Keep in mind that the return-to-duty test cannot be conducted until the SAP makes the follow up interview and you receive the fit for duty letter.

The SAP must establish a written follow-up testing plan for any driver who seeks to resume the performance of safety-sensitive functions. The SAP must not establish this plan until after he/she determines that the employee has successfully complied with the recommendations for education and/or treatment. A copy of this plan must be given directly to the DER (see §40.311(d)(9)).

The SAP is the sole determiner of the number and frequency of follow-up tests and whether these tests will be for drugs, alcohol, or both, unless otherwise directed by the appropriate DOT agency regulation. For example, if the employee had a positive drug test, but your evaluation or the treatment program professionals determined that the employee had an alcohol problem as well, you should require that the employee have follow-up tests for both drugs and alcohol. However, at a minimum, the employee is subject to six unannounced follow-up tests in the first 12 months of safety-sensitive duty following the employee's return to safety-sensitive functions.

As an employer, you must maintain your reports from SAPs for 5 years from the date you received them.

Chapter 6 Appendix

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Collection Site Checklist

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Collection Site Checklist
(To be Used by Specimen Collection Personnel)

April 2004

The following 23 steps summarize a "typical" urine collection conducted under the DOT-mandated procedures. Changes in the sequence of these procedures, errors, or omissions in some of the steps may result in the collection being unacceptable for testing at the laboratory or the results being declared invalid upon review by the MRO.

1. The collector prepares the collection site to collect urine specimens. All collection supplies must be available, the area properly secured, water sources secured, and bluing (coloring) agent placed in all toilets as specified under 49 CFR 40.43.

2. The collector begins the collection without delay after the employee arrives at the collection site. Do not wait because the employee is not ready or states he or she is unable to urinate. In most cases, employees who state they cannot provide a specimen will, in fact, provide sufficient quantity to complete the test process. (If an alcohol breath test is also scheduled, the alcohol test should be conducted first, if practicable.)

3. The collector requests the employee to present an acceptable form of identification. If the employee cannot produce positive identification, the collector must contact the DER to verify the identity of the employee. If the employee asks the collector to provide identification, the collector must show the employee some form of identification. It must include the collector's name and the employer's (or collection site) name. It does not have to be a picture identification or include the collector's home address or telephone number.

4. The collector explains the basic collection procedures to the employee and reviews the instructions on the back of CCF with the employee.

5. The collector ensures that the required information is provided at the top of the CCF (the laboratory name and address and a pre-printed specimen ID number which matches the ID number on the specimen bottle seals). If the information is not already preprinted, the collector enters the required information in Step 1 of the CCF (employer's name, address, telephone, fax number; employee SSN or employee ID number (refusal by the employee to provide a SSN is not a refusal to test, but requires the collector to annotate this in the remarks); reason for test; drug test to be performed; and collection site information.

Note: Part 40 requires a specific MRO's name and address on the CCF rather than the name of the clinic or medical facility. An employer must provide to the collector the name and telephone number of the appropriate DER. This may be part of the CCF information that is pre-printed or may be under separate documentation. If there is no employer or DER telephone number on the CCF, the collector should write in the DER name and telephone number on the CCF (if this information is available) so that either the collector or the MRO may get in touch with a company representative when any problems arise related to that specimen.

6. The collector asks the employee to remove any unnecessary outer clothing (e.g., coat, jacket, hat, etc.) and to leave any briefcase, purse, or other personal belongings he or she is carrying with the outer clothing. The employee may retain his or her wallet. If the employee asks for a receipt for any belongings left with the collector, the collector must provide one.

Note: To safeguard employee's belongings, procedures may be established where the belongings are locked (at the collection site or in the bathroom) or other alternate methods may be developed. For example, if an employee comes to the collection site with his or her medications and desires that the collector secure the medication, the collector may place the medication in a locked cabinet, if available, or alternately, could seal the medication in an envelope, secure the envelope with tamper evident tape and retain the envelope in a secure place.

Note: The collector may encourage the employee to also leave, with his or her other belongings, any other items that the employee will not need or may be prohibited from carrying into the restroom.

Note: The employee must not be asked to remove other articles of clothing, such as shirt, pants, dress, or under garments. Additionally, the employee must not be requested or required to remove all clothing in order to wear a hospital or examination gown. An exception may be made, if the employee is also undergoing a physical examination authorized by a DOT operating administration's rule, in conjunction with the drug test, which normally includes wearing a hospital gown. Work boots or cowboy boots do not have to be removed unless the collector has a reason to suspect that the employee has something in them, which may be used to adulterate or substitute a specimen. When an employee is asked to remove his or her hat or head covering, and refuses to do so based on religious practice, the collector may exempt the employee from removal of the head covering, unless the collector has an observable indicator that the employee is attempting to hide inside the head covering adulterants or other substances which may be used in an attempt to adulterate or substitute a specimen.

7. The collector directs the employee to empty his or her pockets and display the items to ensure that no items are present that could be used to adulterate the specimen. If nothing is there that can be used to adulterate a specimen, the employee places the items back into the pockets and the collection procedure continues. If the employee refuses to empty his or her pockets, this is considered a refusal to cooperate in the testing process.

Note: If an item is found that appears to be inadvertently brought to the collection site, secure the item and continue with the normal collection procedure. For example, a bottle of eye drops may have been brought inadvertently and would have to be secured by the collector and the collection process would continue.

8. The collector instructs the employee to wash and dry his or her hands, under the collector's observation, and informs the employee not to wash his or her hands again until after the employee provides the specimen to the collector. The employee must not be allowed any further access to water or other material that could be used to put into the specimen.

> Note: The employee may use soap and, if practicable, it should be a liquid or cream. A solid bar or soap gives the employee the chance to conceal soap shaving under his or her fingernails and subsequently use them to attempt to adulterate the specimen.

9. The collector either gives the employee or allows the employee to select the collection kit or collection container (if it is separate from the kit) from the available supply. Either the collector or the employee, with both present, then unwraps or breaks the seal of the kit or collection container.

> Note: If the collection kit is sealed, the collection container must still be sealed or individually wrapped in a plastic bag or shrink wrapping; or must have a peelable, sealed lid or other easily visible tamper-evident system. Do not unwrap or break the seal on any specimen bottle at this time. Only unwrap the collection container.
>
> Note: Ensure the employee takes only the collection container into the room used for urination. The sealed specimen bottles remain with the collector.

10. The collector directs the employee to go into the room used for urination, provide a specimen of at least 45 mL, not to flush the toilet, and return with the specimen as soon as possible after completing the void. The collector may set a reasonable time limit for the employee to be inside the bathroom and this time frame should be explained to the employee.

> Note: The collector should also tell the employee that the temperature of the specimen is a critical factor and that the employee should bring the specimen to the collector as soon as possible after urination. The collector should inform the employee that if it is longer than 4 minutes from the time the employee urinates into the container and the collector takes the specimen temperature, the potential exists that the specimen may be out of range and an observed collection may be required.
>
> Note: The collector should pay close attention to the employee during the entire collection process to note any conduct that clearly indicates an attempt to substitute or adulterate a specimen.

11. After the employee gives the specimen to the collector, the collector must check the temperature of the specimen, check the specimen volume, and inspect the specimen for adulteration or substitution. The collector should check the temperature of the specimen as soon as the employee hands over the specimen, but no later than four minutes after the employee comes of out of the restroom. The acceptable temperature range is 32°-38°C/90°-100°F. Temperature is determined by reading the temperature strip originally affixed to or placed on the outside of the collection container. If the temperature is within the acceptable range, the "Yes" box is marked in Step 2 on the CCF and the collector proceeds with the collection procedure. The collector then checks to make sure that the specimen contains a sufficient amount of urine (a minimum of 45 mL for all DOT collections). If the volume is sufficient, the collector checks the box on the CCF (Step 2) indicating that this was a split specimen collection. (This may be done at the same time that the collector checks the temperature box.) The collector must inspect the specimen for unusual color, presence of foreign objects or material, or other signs of tampering or adulteration (e.g., the specimen is blue, exhibits excessive foaming when shaken, or has smell of bleach).

12. After the employee hands the collection container to the collector, the collector unwraps or opens the specimen bottles. (The employee may be permitted to do this, however, the recommended "best practice" is for the collector to perform this procedure.) Bottles may be shrink-wrapped or secured by other easily discernable tamper-evident methodology and may be wrapped separately or together.

> Note: Both the collector and employee will maintain visual contact with the specimen to the greatest extent possible until the labels/seals are placed over the specimen bottle caps/lids. If practical, the collector may permit the employee to wash his or her hands right after the employee gives the collection container to the collector (and the collector checked the temperature), provided the employee and the collector can still maintain visual control of the specimen collection container.

13. The collector, not the employee, then pours at least 30 mL of urine from the collection container into a specimen bottle and places the lid/cap on the bottle. This will be the primary specimen or "A" bottle. The collector, not the employee, then pours at least 15 mL of urine into a second bottle and places the lid/cap on the bottle. This will be the "B" bottle used for the split specimen. (The collector may first pour the requisite amount of urine into each bottle and then secure the lids/caps on each bottle.)

> Note: The collector should not fill the primary or split specimen bottle up to the cap because a completely full bottle is more likely to leak in transit. Additionally, when a split specimen bottle is full and subsequently frozen, it may cause the bottle material to crack and then leak during transit as the specimen thaws.

14. The collector, not the employee, must then remove the tamper-evident seals from the CCF and place them on each bottle, ensuring that the seal labeled "A" is placed on the primary bottle with at least 30 mL of urine and that the seal labeled "B" is placed on the bottle of 15 mL of urine. The seal must be centered over the lid/cap and down the sides of the bottle to ensure that the lid/cap cannot be removed without destroying the seal. The collector, not the employee writes the date on the seals. The employee is then requested to initial the seals. The employee must be present to observe the sealing of the specimen bottles. If the employee fails or refuses to initial the seals, the collector must note this in the "Remarks" line of the CCF and complete the collection process; this is not considered a refusal to test.

Note: The collector must not ask the employee to initial the labels/seals while they are still attached to the CCF; they must be initialed after they are placed on the bottles. The collector should also inform the employee to use care during the initialing process to avoid damaging the labels/seals.

Note: Occasionally, the tamper-evident label/seal provided with the CCF will not properly adhere to the specimen bottle because of environmental conditions (e.g., moisture, temperature, specimen bottle material) or may be damaged or broken during the collection process. When this occurs, the collector should use the following corrective procedures:

(a)If the seal is broken while being removed from the chain of custody form or during
the application of the first seal on the primary bottle, the collector should transfer the information to a new CCF and use the seals from the second form.

(b) If one seal is already in place on a bottle and the second seal is broken while being removed from the CCF or is broken during application on the second bottle or while the employee is initialing either seal, the collector should initiate a new CCF and provide an appropriate comment on the "Remarks" line in Step 5. The seals from the second CCF should be placed perpendicular to the original seal to avoid obscuring information on the original seals and must be initialed by the employee (both sets of employee initials should match). The collector should draw a line through the Specimen ID number and bar code (if present) on the original seals to ensure that the laboratory does not use that number for reporting the results. The collector should not pour the specimen into new bottles.

(c) In both cases, the collector should ensure that all copies of the original (first) chain of custody form are destroyed or disposed of properly (e.g., shredded, torn into pieces).

(d) If the collector inadvertently reverses the seals (i.e., places the "A" bottle seal on the split bottle and vise-versa) and the collector subsequently notices this, the

(continued)

collector should note this in the "Remarks" line and continue the collection process. Laboratories have procedures that permit them to "re-designate" the bottles.

Note: There is no corrective procedure available if the seal is broken after the employee leaves the collection site.

Note: Since the specimen bottle is now sealed with tamper-evident tape and does not have to be under the employee's direct observation, the employee is allowed to wash his or her hands if he or she desires to do so.

15. The collector directs the employee to read, sign, and date the certification statement and provide date of birth, printed name, and day and evening contact telephone numbers in Step 5 on Copy 2 of the CCF.

Note: If the employee refuses to sign the form or provide date of birth, printed name, or telephone numbers, the collector must make a notation on the "Remarks" line to that effect and complete the collection. If the employee refuses to fill out any information, the collector must, as a minimum, print the employee's name in the appropriate place. This does <u>not</u> constitute a refusal to test.

16. The collector completes the collector's portion of the chain of custody on the CCF (Copy 1, Step 4) by printing his or her name (the name may be pre-printed), recording the date and time of the collection, signing where indicated, and entering the specific name of the delivery or courier service transferring the specimens to the laboratory.

17. The collector then ensures that all copies of the CCF are legible and complete. The collector removes Copy 5 from the CCF and gives it to the employee.

Note: At this time, the collector can suggest that the employee list any prescription and over-the-counter medications he or she may be taking on the employee's copy (Copy 5) of the CCF, but not on any other copy. This information may help the employee remember what medication he or she may have taken if a positive result is reported by the laboratory to the MRO.

18. The collector places the specimen bottles and Copy 1 of the CCF inside the appropriate pouches of the leak-resistant plastic bag, and seals both pouches. If the employee has not had the opportunity to wash his or her hands, they may do so now. The collector then informs the employee that he or she may leave the collection site.

19. Any urine specimen left over in the collection container after both specimen bottles have been appropriately filled and sealed should be discarded at this time. Excess urine may be used to conduct clinical tests (e.g., protein, glucose) if the collection was conducted in conjunction with a physical examination required by a DOT operating administration's regulation. No further testing (e.g. adulteration testing, DNA, additional drugs) may be conducted on this excess urine and the employee has no right to demand that the excess urine be turned over to the employee.

20. The collector places the sealed plastic bag in an appropriate shipping container (e.g., box, express courier mailer) designed to minimize the possibility of damage during shipment. More than one sealed plastic bag can be placed into a single shipping container if there are multiple collections. The collector seals the shipping container as appropriate. If a laboratory courier hand-delivers the specimens from the collection site to the laboratory, the collector prepares the shipment as directed by the courier service. In this case, the plastic bag may not need to be placed into a shipping container, but still need to be transported by the courier in a manner that protects the bottles from damage.

> Note: If the laboratory courier does not hand-deliver the specimens to the laboratory, but subsequently places the specimens into a commercial delivery system, the specimens must be placed into a shipping container to minimize damage in transit.

21. The collector then sends Copy 2 of the CCF to the MRO and Copy 4 to the DER (or service agent if authorized by the employer). The collector must fax or otherwise transmit these copies to the MRO and DER within 24 hours or during the next business day and keep Copy 3 for at least 30 days, unless otherwise specified by applicable DOT operating administration's regulations.

> Note: The MRO copy (Copy 2) may be faxed to the MRO's secure fax machine, it may be scanned and the image sent to the MRO's secure computer, or it may be mailed or sent by courier to the MRO. (It is recommended that the MRO copy be faxed, since it is critical for the MRO to have this document to expeditiously conduct the verification process.) In the case where the MRO copy (Copy 2) is faxed or the scanned image is sent securely to the MRO, the collector or the collection site should maintain the MRO copy together with the collector's copy for 30 days. Retention is in case the MRO's copy is lost in the mail or the faxed or scanned copy is not legible and another copy is required by the MRO. The transmission process must be coordinated between the collection site and the MRO to ensure that transmission procedures meet the MRO's requirements (e.g., MROs must provide secure fax numbers to collection sites, some MROs may want hard copies mailed; others may want only faxed copies).

22. The collector or collection site must ensure that each shipment collected is shipped to a laboratory as quickly as possible, but in any case within 24 hours or during the next business day.

23. If the specimen will not be shipped immediately, the collector is responsible for ensuring its integrity and security. Specimens in plastic bags, which have not been placed into shipping containers or which are awaiting a laboratory courier, must be kept in a secure location. The specimens need not be under lock and key; however, procedures must exist that would ensure specimens cannot be subject to tampering.

Note: After specimens are placed into shipping containers that are subsequently sealed, the shipping containers may be placed with other containers or packages that the collection site has waiting to be picked up by the courier. It is expected that collection sites will use reasonable security to ensure that all of their packages are relatively secure and not subject to damage, theft or other actions that would potentially raise questions related to the integrity of the specimens.

Note: Couriers, postal employees, and other personnel involved in the transportation of the sealed shipping container are not required to make, and should not attempt to make, additional chain of custody entries on the custody and control form.

The above 23 steps represent a "typical" collection and are the basic requirements for a DOT mandated urine specimen collection. They are presented in chronological order to represent the proper order for the steps in obtaining, documenting, and securing a urine specimen.

To obtain more specific information regarding the procedures of collecting a specimen, visit the Office of Drug and Alcohol Policy and Compliance website at http://www.dot.gov/ost/dapc/.

Driver Specimen Collection Checklist

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Driver Specimen Collection Checklist
(For Drivers Required to Provide Urine Specimens for Drug Testing)

1. Report to the specimen collection site as soon as possible after notification to report. Refusal to report for collection or refusal to cooperate with the collection process will result in a refusal to test essentially a positive test.

2. The employee must provide appropriate identification to the collector upon arrival at the collection site. Acceptable forms of identification include:

    (a) A photo identification (e.g., drivers license, employee badge issued by the employer, or any other picture identification issued by a Federal, state, or local government agency), or

    (b) Identification by an employer or employer representative, or

    (c) Any other identification allowed under an operating administrator's rules.

3. Check your outer garments with the collection site personnel for safekeeping. You have the right to retain your wallet and to ask for a receipt for your belongings. Also, at the direction of the specimen collector you must empty your pockets and display items to ensure that no items are present that could be used to adulterate the specimen.

4. Wash and dry your hands.

5. Observe the specimen collector unwrap a specimen container.

6. Proceed to the room used for urination and provide a specimen in the collection container. At least 45 mL of urine is required for analysis. Do not tamper with the specimen or make substitutions. The specimen will be visually inspected for unusual color and sediment.

7. Give the specimen to the specimen collector and observe while the collector checks the specimen for temperature, volume, and visually inspects the specimen for signs of tampering or substitution. The specimen must be of sufficient volume (45 mL) and within acceptable temperature range. If the specimen fails to meet sufficient volume or falls outside the acceptable temperature range, you will be required to undergo a second collection. If for temperature, the second collection will be by direct observation.

8. Observe the specimen collector pour the required amount of urine into specimen bottles, place the tamper-evident seals on specimen bottles and label them accordingly. Initial the labels verifying that the specimen is yours.

9. You may wish to indicate on the back of your copy of the custody and control form any medications you are currently using. This list may serve as a memory jogger in the event a Medical Review Officer (MRO) calls you to discuss the results of your test.

10. The results of the laboratory analysis will be forwarded to your employer's Medical Review Office (MRO). If the results are negative (no controlled substances detected), the MRO will notify your employer. If the laboratory confirms a positive test result (controlled substances detected), the MRO will contact you at the telephone number you provided to give you the opportunity to discuss the test results and submit information demonstrating authorized used of the controlled substances in question.

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Terms and Definitions Used in Chapter 6

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Terms and Definitions

Aliquot

A portion of a specimen used for testing

Cancelled or Invalid Controlled Substances Test

A controlled substances test that has been declared invalid by a Medical Review Officer. A cancelled test is neither a positive nor a negative test. A sample that has been rejected for testing by a laboratory is treated the same as a cancelled test.

Chain of Custody

Procedures to account for the integrity of each urine specimen by tracking its handling and storage from point of collection to final disposition. With respect to controlled substances testing, these procedures require that a Federal Drug Testing Custody and Control Form, consisting of five pages, be used from time of collection to receipt by the laboratory and that upon receipt by the laboratory an appropriate chain of custody form(s) account(s) for the sample or sample aliquots within the laboratory.

Collection Container

A container into which the employee urinates to provide the urine sample used for a controlled substances test.

Collection Site

A place designated by the employer where individuals present themselves for the purpose of providing a specimen of their urine to be analyzed for the presence of controlled substances.

Collection Site Person

A person who instructs and assists individuals at a collection site and who receives and makes a screening examination of the urine specimen
provided by those individuals.

Controlled Substances

Marijuana, cocaine, opiates, amphetamines, or phencyclidine.

Controlled Substance Confirmation Test

A second analytical procedure to identify the presence of a specific controlled substance or metabolite which is independent of the screening test and which uses a different technique and chemical principle from that of the screening test in order to ensure reliability and accuracy.

Controlled Substances Metabolite

The specific substance produced when the human body metabolizes a given prohibited controlled substance as it passes through the body and is excreted in urine.

Controlled Substances Screening Test

An immunoassay screen to eliminate "negative" urine specimens from further consideration.

Creatinine

A chemical normally produced when the human body metabolizes creatine as it passes through the body and is excreted in urine. Creatinine is an anhydride of creatine.

Drug

(see Controlled Substances)

Medical Review Officer (MRO)

A licensed physician (Doctor of Medicine or Osteopathy) responsible for receiving laboratory results generated by an employer's controlled substances testing program, who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate an individual's confirmed positive test results together with his or her medical history and any other relevant biomedical information.

Refusal to Submit to a Controlled Substances Test

The driver fails to appear for any test within a reasonable time, after being directed to do so by the employer; fails to remain at the testing site until the testing process is complete; fails to provide a urine specimen for any drug test required; in the case of direct observation or monitored collection driver fails to permit the observation or monitoring; fails to provide sufficient amount of urine when directed; fails or declines to take a second test the employer or collector has directed the driver to take; fails to undergo a medical examination or evaluation, as directed by the MRO as part of the verification process or as directed by the DER; fails to cooperate with any part of the testing process; and finally, or is reported by the MRO as having a verified adulterated or substituted test result.

Shipping Container

A container capable of being secured with a tamper evident seal that is used for transfer of one or more urine specimen bottle(s) and associated documentation from the collection site to the laboratory.

Specimen Bottle or Specimen Containment System

The bottle that, after being labeled and sealed, is used to transmit a urine sample to the laboratory.

Substance Abuse Professional (SAP)

A licensed physician (Doctor of Medicine or Osteopathy), or a licensed or certified psychologist, social worker, or employee assistance professional, or a drug and alcohol counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission (NAADAC); or by the International Certification Reciprocity Consortium/Alcohol and Other Drug Abuse (ICRC); or by the National Board of Certified Counselors Inc. and Affiliates/Masters Addictions Counselor (NBBC).

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Sample Custody and Control Form

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FEDERAL DRUG TESTING CUSTODY AND CONTROL FORM

1A

SPECIMEN ID NO. 1234567 LAB ACCESSION NO.

STEP 1: COMPLETED BY COLLECTOR OR EMPLOYER REPRESENTATIVE

A. Employer Name, Address, I.D. No.

B. MRO Name, Address, Phone and Fax No.

OMB No. 0930-0158

C. Donor SSN or Employee I.D. No. _____

D. Reason for Test: ☐ Pre-employment ☐ Random ☐ Reasonable Suspicion/Cause ☐ Post Accident ☐ Return to Duty ☐ Follow-up ☐ Other (specify) _____

E. Drug Tests to be Performed: ☐ THC, COC, PCP, OPI, AMP ☐ THC & COC Only ☐ Other (specify) _____

F. Collection Site Address:

Collector Phone No. _____

Collector Fax No. _____

STEP 2: COMPLETED BY COLLECTOR

Read specimen temperature within 4 minutes. Is temperature between 90° and 100° F? ☐ Yes ☐ No, Enter Remark	Specimen Collection: ☐ Split ☐ Single ☐ None Provided (Enter Remark)	☐ Observed (Enter Remark)

REMARKS

STEP 3: Collector affixes bottle seal(s) to bottle(s). Collector dates seal(s). Donor initials seal(s). Donor completes STEP 5 on Copy 2 (MRO Copy)

STEP 4: CHAIN OF CUSTODY - INITIATED BY COLLECTOR AND COMPLETED BY LABORATORY

I certify that the specimen given to me by the donor identified in the certification section on Copy 2 of this form was collected, labeled, sealed and released to the Delivery Service noted in accordance with applicable Federal requirements.

X _____ Signature of Collector

_____ Time of Collection AM PM ▶

_____ (PRINT) Collector's Name (First, MI, Last)

_____ Date (Mo./Day/Yr.) ▶

SPECIMEN BOTTLE(S) RELEASED TO:

_____ Name of Delivery Service Transferring Specimen to Lab

RECEIVED AT LAB:

X _____ Signature of Accessioner ▶

_____ (PRINT) Accessioner's Name (First, MI, Last)

_____ Date (Mo./Day/Yr.) ▶

Primary Specimen Bottle Seal Intact

☐ Yes

☐ No, Enter Remark Below

SPECIMEN BOTTLE(S) RELEASED TO:

STEP 5a: PRIMARY SPECIMEN TEST RESULTS - COMPLETED BY PRIMARY LABORATORY

☐ NEGATIVE ☐ DILUTE ☐ REJECTED FOR TESTING

☐ POSITIVE for: ☐ MARIJUANA METABOLITE ☐ COCAINE METABOLITE ☐ PCP ☐ CODEINE ☐ MORPHINE ☐ 6-ACETYLMORPHINE ☐ AMPHETAMINE ☐ METHAMPHETAMINE ☐ ADULTERATED ☐ SUBSTITUTED ☐ INVALID RESULT

REMARKS _____

TEST LAB (if different from above) _____

I certify that the specimen identified on this form was examined upon receipt, handled using chain of custody procedures, analyzed, and reported in accordance with applicable Federal requirements.

X _____ Signature of Certifying Scientist

_____ (PRINT) Certifying Scientist's Name (First, MI, Last)

_____ Date (Mo./Day/Yr.)

STEP 5b: SPLIT SPECIMEN TEST RESULTS - (IF TESTED) COMPLETED BY SECONDARY LABORATORY

_____ Laboratory Name

_____ Laboratory Address

☐ RECONFIRMED ☐ FAILED TO RECONFIRM - REASON _____

I certify that the split specimen identified on this form was examined upon receipt, handled using chain of custody procedures, analyzed, and reported in accordance with applicable Federal requirements.

X _____ Signature of Certifying Scientist

_____ (PRINT) Certifying Scientist's Name (First, MI, Last)

_____ Date (Mo./Day/Yr.)

PEEL

1234567 A

SPECIMEN ID NO.

PLACE OVER CAP

1234567

SPECIMEN BOTTLE SEAL

_____ Date (Mo. Day Yr.)

_____ Donor's Initials

PEEL

1234567 B (SPLIT)

SPECIMEN ID NO.

PLACE OVER CAP

1234567

SPECIMEN BOTTLE SEAL

_____ Date (Mo. Day Yr.)

_____ Donor's Initials

COPY 1 - LABORATORY

PRESS HARD - YOU ARE MAKING MULTIPLE COPIES

0000-0000-0225

Drug Form Part 1
Face Inks: 000 BLK / 000 RED
Date: 05/09/00
Not To Use For Colormatch
Follow PMS Guide For Colors

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FEDERAL DRUG TESTING CUSTODY AND CONTROL FORM

2A

SPECIMEN ID NO. 1234567 LAB ACCESSION NO.

OMB No. 0930-0158

STEP 1: COMPLETED BY COLLECTOR OR EMPLOYER REPRESENTATIVE

A. Employer Name, Address, I.D. No.

B. MRO Name, Address, Phone and Fax No.

C. Donor SSN or Employee I.D. No. _____

D. Reason for Test: ☐ Pre-employment ☐ Random ☐ Reasonable Suspicion/Cause ☐ Post Accident ☐ Return to Duty ☐ Follow-up ☐ Other (specify) _____

E. Drug Tests to be Performed: ☐ THC, COC, PCP, OPI, AMP ☐ THC & COC Only ☐ Other (specify) _____

F. Collection Site Address:

Collector Phone No. _____

Collector Fax No. _____

STEP 2: COMPLETED BY COLLECTOR

Read specimen temperature within 4 minutes. Is temperature between 90° and 100° F? ☐ Yes ☐ No, Enter Remark	Specimen Collection: ☐ Split ☐ Single ☐ None Provided (Enter Remark)	☐ Observed (Enter Remark)

REMARKS

STEP 3: Collector affixes bottle seal(s) to bottle(s). Collector dates seal(s). Donor initials seal(s). Donor completes STEP 5 on Copy 2 (MRO Copy)

STEP 4: CHAIN OF CUSTODY - INITIATED BY COLLECTOR AND COMPLETED BY LABORATORY

I certify that the specimen given to me by the donor identified in the certification section on Copy 2 of this form was collected, labeled, sealed and released to the Delivery Service noted in accordance with applicable Federal requirements.

X _____ Signature of Collector

_____ AM PM Time of Collection ▶

_____ (PRINT) Collector's Name (First, MI, Last)

_____ Date (Mo./Day/Yr.) ▶

SPECIMEN BOTTLE(S) RELEASED TO:

_____ Name of Delivery Service Transferring Specimen to Lab

RECEIVED AT LAB:

X _____ Signature of Accessioner ▶

_____ (PRINT) Accessioner's Name (First, MI, Last)

_____ Date (Mo./Day/Yr.) ▶

Primary Specimen Bottle Seal Intact

☐ Yes

☐ No, Enter Remark Below

SPECIMEN BOTTLE(S) RELEASED TO:

STEP 5: COMPLETED BY DONOR

I certify that I provided my urine specimen to the collector; that I have not adulterated it in any manner; each specimen bottle used was sealed with a tamper-evident seal in my presence; and that the information provided on this form and on the label affixed to each specimen bottle is correct.

X _____ Signature of Donor

_____ (PRINT) Donor's Name (First, MI, Last)

_____ Date (Mo. / Day / Yr.)

Daytime Phone No. ( ) _____ Evening Phone No. ( ) _____ Date of Birth _____ Mo. Day Yr.

Should the results of the laboratory tests for the specimen identified by this form be confirmed positive, the Medical Review Officer will contact you to ask about prescriptions and over-the-counter medications you may have taken. Therefore, you may want to make a list of those medications for your own records. THIS LIST IS NOT NECESSARY. If you choose to make a list, do so either on a separate piece of paper or on the back of your copy (Copy 5). —DO NOT PROVIDE THIS INFORMATION ON THE BACK OF ANY OTHER COPY OF THE FORM. TAKE COPY 5 WITH YOU.

STEP 6: COMPLETED BY MEDICAL REVIEW OFFICER - PRIMARY SPECIMEN

In accordance with applicable Federal requirements, my determination/verification is:

☐ NEGATIVE ☐ POSITIVE ☐ TEST CANCELLED ☐ REFUSAL TO TEST BECAUSE:
☐ DILUTE ☐ ADULTERATED ☐ SUBSTITUTED

REMARKS _____

X _____ Signature of Medical Review Officer

_____ (PRINT) Medical Review Officer's Name (First, MI, Last)

_____ Date (Mo./Day/Yr.)

STEP 7: COMPLETED BY MEDICAL REVIEW OFFICER - SPLIT SPECIMEN

In accordance with applicable Federal requirements, my determination/verification for the split specimen (if tested) is:

☐ RECONFIRMED ☐ FAILED TO RECONFIRM - REASON _____

X _____ Signature of Medical Review Officer

_____ (PRINT) Medical Review Officer's Name (First, MI, Last)

_____ Date (Mo./Day/Yr.)

0000-0000-0225

COPY 2 - MEDICAL REVIEW OFFICER COPY

Drug Form Part 2
Face Inks: 000 BLK / 000 RED
Date: 05/09/00
Not To Use For Colormatch
Follow PMS Guide For Colors

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FEDERAL DRUG TESTING CUSTODY AND CONTROL FORM

3A

SPECIMEN ID NO. 1234567 LAB ACCESSION NO.

OMB No. 0930-0158

STEP 1: COMPLETED BY COLLECTOR OR EMPLOYER REPRESENTATIVE

A. Employer Name, Address, I.D. No.

B. MRO Name, Address, Phone and Fax No.

C. Donor SSN or Employee I.D. No. _____

D. Reason for Test: ☐ Pre-employment ☐ Random ☐ Reasonable Suspicion/Cause ☐ Post Accident ☐ Return to Duty ☐ Follow-up ☐ Other (specify) _____

E. Drug Tests to be Performed: ☐ THC, COC, PCP, OPI, AMP ☐ THC & COC Only ☐ Other (specify) _____

F. Collection Site Address:

Collector Phone No. _____

Collector Fax No. _____

STEP 2: COMPLETED BY COLLECTOR

Read specimen temperature within 4 minutes. Is temperature between 90° and 100° F? ☐ Yes ☐ No, Enter Remark	Specimen Collection: ☐ Split ☐ Single ☐ None Provided (Enter Remark)	☐ Observed (Enter Remark)

REMARKS

STEP 3: Collector affixes bottle seal(s) to bottle(s). Collector dates seal(s). Donor initials seal(s). Donor completes STEP 5 on Copy 2 (MRO Copy)

STEP 4: CHAIN OF CUSTODY - INITIATED BY COLLECTOR AND COMPLETED BY LABORATORY

I certify that the specimen given to me by the donor identified in the certification section on Copy 2 of this form was collected, labeled, sealed and released to the Delivery Service noted in accordance with applicable Federal requirements.

X _____ Signature of Collector

_____ Time of Collection AM PM ▶

_____ (PRINT) Collector's Name (First, MI, Last)

_____ Date (Mo./Day/Yr.) ▶

SPECIMEN BOTTLE(S) RELEASED TO:

_____ Name of Delivery Service Transferring Specimen to Lab

RECEIVED AT LAB:

X _____ Signature of Accessioner ▶

_____ (PRINT) Accessioner's Name (First, MI, Last)

_____ Date (Mo./Day/Yr.) ▶

Primary Specimen Bottle Seal Intact

☐ Yes

☐ No, Enter Remark Below

SPECIMEN BOTTLE(S) RELEASED TO:

STEP 5: COMPLETED BY DONOR

I certify that I provided my urine specimen to the collector; that I have not adulterated it in any manner; each specimen bottle used was sealed with a tamper-evident seal in my presence; and that the information provided on this form and on the label affixed to each specimen bottle is correct.

X _____ Signature of Donor

_____ (PRINT) Donor's Name (First, MI, Last)

_____ Date (Mo. / Day / Yr.)

Daytime Phone No. ( ) _____ Evening Phone No. ( ) _____ Date of Birth _____ Mo. Day Yr.

Should the results of the laboratory tests for the specimen identified by this form be confirmed positive, the Medical Review Officer will contact you to ask about prescriptions and over-the-counter medications you may have taken. Therefore, you may want to make a list of those medications for your own records. THIS LIST IS NOT NECESSARY. If you choose to make a list, do so either on a separate piece of paper or on the back of your copy (Copy 5). —DO NOT PROVIDE THIS INFORMATION ON THE BACK OF ANY OTHER COPY OF THE FORM. TAKE COPY 5 WITH YOU.

STEP 6: COMPLETED BY MEDICAL REVIEW OFFICER - PRIMARY SPECIMEN

In accordance with applicable Federal requirements, my determination/verification is:

☐ NEGATIVE ☐ POSITIVE ☐ TEST CANCELLED ☐ REFUSAL TO TEST BECAUSE:
☐ DILUTE ☐ ADULTERATED ☐ SUBSTITUTED

REMARKS _____

X _____ Signature of Medical Review Officer

_____ (PRINT) Medical Review Officer's Name (First, MI, Last)

_____ Date (Mo./Day/Yr.)

STEP 7: COMPLETED BY MEDICAL REVIEW OFFICER - SPLIT SPECIMEN

In accordance with applicable Federal requirements, my determination/verification for the split specimen (if tested) is:

☐ RECONFIRMED ☐ FAILED TO RECONFIRM - REASON _____

X _____ Signature of Medical Review Officer

_____ (PRINT) Medical Review Officer's Name (First, MI, Last)

_____ Date (Mo./Day/Yr.)

0000-0000-0225

COPY 3- COLLECTOR COPY

Drug Form Part 3
Face Inks: 000 BLK / 000 RED
Date: 05/09/00
Not To Use For Colormatch
Follow PMS Guide For Colors

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FEDERAL DRUG TESTING CUSTODY AND CONTROL FORM

4A

SPECIMEN ID NO. 1234567 LAB ACCESSION NO.

OMB No. 0930-0158

STEP 1: COMPLETED BY COLLECTOR OR EMPLOYER REPRESENTATIVE

A. Employer Name, Address, I.D. No.

B. MRO Name, Address, Phone and Fax No.

C. Donor SSN or Employee I.D. No. _____

D. Reason for Test: ☐ Pre-employment ☐ Random ☐ Reasonable Suspicion/Cause ☐ Post Accident ☐ Return to Duty ☐ Follow-up ☐ Other (specify) _____

E. Drug Tests to be Performed: ☐ THC, COC, PCP, OPI, AMP ☐ THC & COC Only ☐ Other (specify) _____

F. Collection Site Address:

Collector Phone No. _____

Collector Fax No. _____

STEP 2: COMPLETED BY COLLECTOR

Read specimen temperature within 4 minutes. Is temperature between 90° and 100° F? ☐ Yes ☐ No, Enter Remark	Specimen Collection: ☐ Split ☐ Single ☐ None Provided (Enter Remark)	☐ Observed (Enter Remark)

REMARKS

STEP 3: Collector affixes bottle seal(s) to bottle(s). Collector dates seal(s). Donor initials seal(s). Donor completes STEP 5 on Copy 2 (MRO Copy)

STEP 4: CHAIN OF CUSTODY - INITIATED BY COLLECTOR AND COMPLETED BY LABORATORY

I certify that the specimen given to me by the donor identified in the certification section on Copy 2 of this form was collected, labeled, sealed and released to the Delivery Service noted in accordance with applicable Federal requirements.

X _____ Signature of Collector

_____ AM PM Time of Collection

_____ (PRINT) Collector's Name (First, MI, Last)

__/__/__ Date (Mo./Day/Yr.)

SPECIMEN BOTTLE(S) RELEASED TO:

_____ Name of Delivery Service Transferring Specimen to Lab

RECEIVED AT LAB:

X _____ Signature of Accessioner

_____ (PRINT) Accessioner's Name (First, MI, Last)

__/__/__ Date (Mo./Day/Yr.)

Primary Specimen Bottle Seal Intact

☐ Yes

☐ No, Enter Remark Below

SPECIMEN BOTTLE(S) RELEASED TO:

STEP 5: COMPLETED BY DONOR

I certify that I provided my urine specimen to the collector; that I have not adulterated it in any manner; each specimen bottle used was sealed with a tamper-evident seal in my presence; and that the information provided on this form and on the label affixed to each specimen bottle is correct.

X _____ Signature of Donor

_____ (PRINT) Donor's Name (First, MI, Last)

__/__/__ Date (Mo. / Day / Yr.)

Daytime Phone No. (___) _____ Evening Phone No. (___) _____ Date of Birth __/__/__ Mo. Day Yr.

Should the results of the laboratory tests for the specimen identified by this form be confirmed positive, the Medical Review Officer will contact you to ask about prescriptions and over-the-counter medications you may have taken. Therefore, you may want to make a list of those medications for your own records. THIS LIST IS NOT NECESSARY. If you choose to make a list, do so either on a separate piece of paper or on the back of your copy (Copy 5). —DO NOT PROVIDE THIS INFORMATION ON THE BACK OF ANY OTHER COPY OF THE FORM. TAKE COPY 5 WITH YOU.

STEP 6: COMPLETED BY MEDICAL REVIEW OFFICER - PRIMARY SPECIMEN

In accordance with applicable Federal requirements, my determination/verification is:

☐ NEGATIVE ☐ POSITIVE ☐ TEST CANCELLED ☐ REFUSAL TO TEST BECAUSE:
☐ DILUTE ☐ ADULTERATED ☐ SUBSTITUTED

REMARKS _____

X _____ Signature of Medical Review Officer

_____ (PRINT) Medical Review Officer's Name (First, MI, Last)

__/__/__ Date (Mo./Day/Yr.)

STEP 7: COMPLETED BY MEDICAL REVIEW OFFICER - SPLIT SPECIMEN

In accordance with applicable Federal requirements, my determination/verification for the split specimen (if tested) is:

☐ RECONFIRMED ☐ FAILED TO RECONFIRM - REASON _____

X _____ Signature of Medical Review Officer

_____ (PRINT) Medical Review Officer's Name (First, MI, Last)

__/__/__ Date (Mo./Day/Yr.)

0000-0000-0225

COPY 4- EMPLOYER COPY

Drug Form Part 4
Face Inks: 000 BLK / 000 RED
Date: 05/09/00
Not To Use For Colormatch
Follow PMS Guide For Colors

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FEDERAL DRUG TESTING CUSTODY AND CONTROL FORM

5A

SPECIMEN ID NO. 1234567 LAB ACCESSION NO.

OMB No. 0930-0158

STEP 1: COMPLETED BY COLLECTOR OR EMPLOYER REPRESENTATIVE

A. Employer Name, Address, I.D. No.

B. MRO Name, Address, Phone and Fax No.

C. Donor SSN or Employee I.D. No. _____

D. Reason for Test: ☐ Pre-employment ☐ Random ☐ Reasonable Suspicion/Cause ☐ Post Accident ☐ Return to Duty ☐ Follow-up ☐ Other (specify) _____

E. Drug Tests to be Performed: ☐ THC, COC, PCP, OPI, AMP ☐ THC & COC Only ☐ Other (specify) _____

F. Collection Site Address:

Collector Phone No. _____

Collector Fax No. _____

STEP 2: COMPLETED BY COLLECTOR

Read specimen temperature within 4 minutes. Is temperature between 90° and 100° F? ☐ Yes ☐ No, Enter Remark	Specimen Collection: ☐ Split ☐ Single ☐ None Provided (Enter Remark)	☐ Observed (Enter Remark)

REMARKS

STEP 3: Collector affixes bottle seal(s) to bottle(s). Collector dates seal(s). Donor initials seal(s). Donor completes STEP 5 on Copy 2 (MRO Copy)

STEP 4: CHAIN OF CUSTODY - INITIATED BY COLLECTOR AND COMPLETED BY LABORATORY

I certify that the specimen given to me by the donor identified in the certification section on Copy 2 of this form was collected, labeled, sealed and released to the Delivery Service noted in accordance with applicable Federal requirements.

X _____ Signature of Collector

_____ Time of Collection AM PM ▶

_____ (PRINT) Collector's Name (First, MI, Last)

_____ Date (Mo./Day/Yr.) ▶

SPECIMEN BOTTLE(S) RELEASED TO:

_____ Name of Delivery Service Transferring Specimen to Lab

RECEIVED AT LAB:

X _____ Signature of Accessioner ▶

_____ (PRINT) Accessioner's Name (First, MI, Last)

_____ Date (Mo./Day/Yr.) ▶

Primary Specimen Bottle Seal Intact

☐ Yes

☐ No, Enter Remark Below

SPECIMEN BOTTLE(S) RELEASED TO:

STEP 5: COMPLETED BY DONOR

I certify that I provided my urine specimen to the collector; that I have not adulterated it in any manner; each specimen bottle used was sealed with a tamper-evident seal in my presence; and that the information provided on this form and on the label affixed to each specimen bottle is correct.

X _____ Signature of Donor

_____ (PRINT) Donor's Name (First, MI, Last)

_____ Date (Mo. / Day / Yr.)

Daytime Phone No. ( ) _____ Evening Phone No. ( ) _____ Date of Birth _____ Mo. Day Yr.

Should the results of the laboratory tests for the specimen identified by this form be confirmed positive, the Medical Review Officer will contact you to ask about prescriptions and over-the-counter medications you may have taken. Therefore, you may want to make a list of those medications for your own records. THIS LIST IS NOT NECESSARY. If you choose to make a list, do so either on a separate piece of paper or on the back of your copy (Copy 5). —DO NOT PROVIDE THIS INFORMATION ON THE BACK OF ANY OTHER COPY OF THE FORM. TAKE COPY 5 WITH YOU.

STEP 6: COMPLETED BY MEDICAL REVIEW OFFICER - PRIMARY SPECIMEN

In accordance with applicable Federal requirements, my determination/verification is:

☐ NEGATIVE ☐ POSITIVE ☐ TEST CANCELLED ☐ REFUSAL TO TEST BECAUSE:
☐ DILUTE ☐ ADULTERATED ☐ SUBSTITUTED

REMARKS _____

X _____ Signature of Medical Review Officer

_____ (PRINT) Medical Review Officer's Name (First, MI, Last)

_____ Date (Mo./Day/Yr.)

STEP 7: COMPLETED BY MEDICAL REVIEW OFFICER - SPLIT SPECIMEN

In accordance with applicable Federal requirements, my determination/verification for the split specimen (if tested) is:

☐ RECONFIRMED ☐ FAILED TO RECONFIRM - REASON _____

X _____ Signature of Medical Review Officer

_____ (PRINT) Medical Review Officer's Name (First, MI, Last)

_____ Date (Mo./Day/Yr.)

0000-0000-0225

COPY 5- DONOR COPY

Drug Form Part 5
Face Inks: 000 BLK / 000 RED
Date: 05/09/00
Not To Use For Colormatch
Follow PMS Guide For Colors

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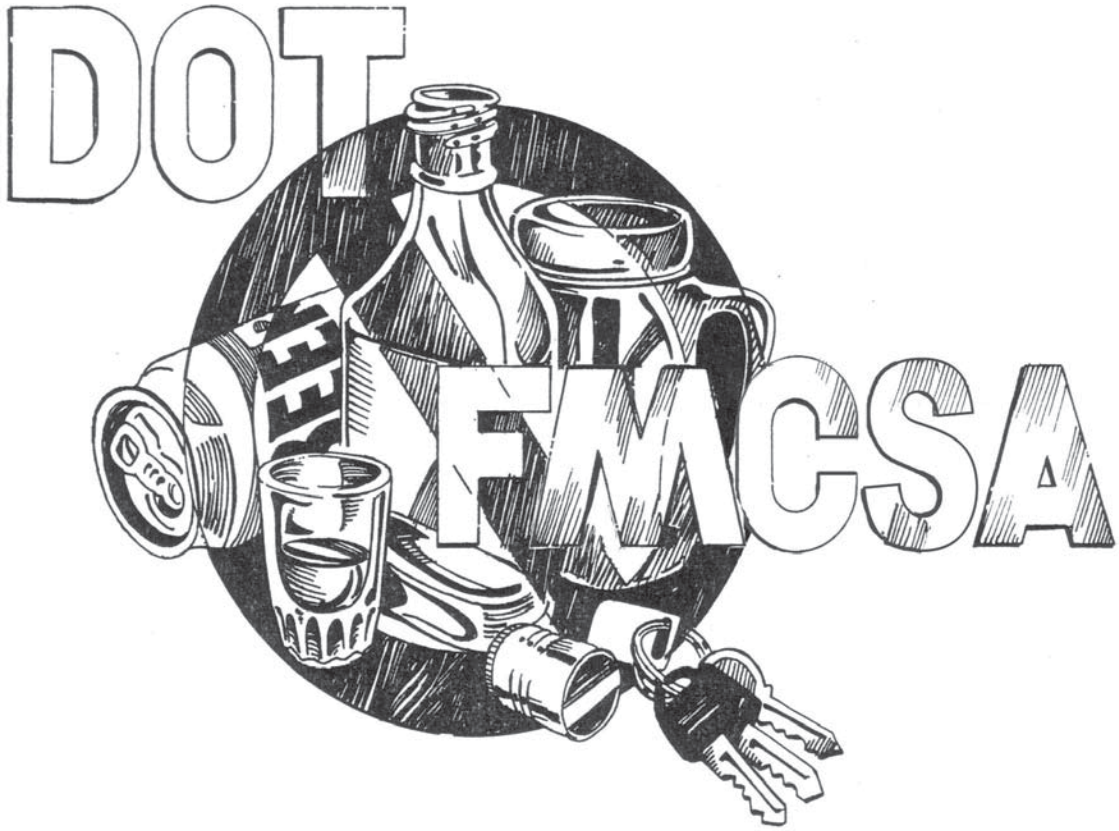


Chapter 7.

ALCOHOL TESTING PROCEDURES

Section 1. OBTAINING PROGRAM SERVICES

When establishing an effective alcohol testing program, you will need to perform certain specialized services. You will need someone to

- Operate the testing equipment
- Report the results
- Assess drivers who test positive (unlike the controlled substances testing requirements, the alcohol rule does not require the use of an MRO).

You will need to have access to equipment to perform the tests.

If you do not have qualified individuals on staff to perform these functions, or do not have the equipment available, you will need to identify qualified contractors to provide each of these services.

Alcohol Testing

The FMCSA regulation (49 CFR part 382) requires that you conduct alcohol testing on drivers performing safety-sensitive functions consistent with the provisions set forth in 49 CFR part 40. The initial sample must be collected through the use of a saliva device, a nonevidential breath test device [alcohol screening device (ASD)], or an evidential breath testing device (EBT) that is approved by the National Highway Traffic Safety Administration (NHTSA). All screening tests must be performed by a trained breath alcohol technician (BAT). Saliva and nonevidential breath testing must only be performed by a trained screening test technician (STT).

The confirmation sample must be conducted within 30 minutes of the completion of the screening test. The confirmation test must use an EBT that is approved by NHTSA. The test must be performed by a trained BAT.

The FMCSA regulation prohibits you from allowing a driver with an alcohol concentration of 0.04 or greater to perform any safety-sensitive functions until he/she has been evaluated by an SAP and has passed a return-to-duty test. A driver with an alcohol concentration of 0.02 or greater, but less than 0.04, must be removed from duty for 24 hours.

Evidential Breath Testing Device (§40.229).

An EBT is a breath testing device that is capable of measuring a driver's blood alcohol concentration. It must be able to distinguish alcohol from acetone at the 0.02 alcohol concentration level. An EBT must be capable of conducting an air blank and performing an external calibration check. For confirmation tests (defined later), you must use EBTs that can

- Produce a printed result in triplicate or three consecutive identical copies of each breath test
- Print a unique and sequential number of each completed test, with the BAT and the driver being able to read the number before each test, and print the number on each copy of the result
- Print, on each copy of the result, the manufacturer's name for the device, the device's serial number, and the time of the test

The EBT must have a manufacturer-developed quality assurance plan approved by NHTSA. The plan must include

- A designated method or methods to be used to perform external calibration checks of the device
- Specified minimum intervals for performing external calibration checks of the device that account for different frequencies of use, environmental conditions (e.g., temperature, altitude, humidity), and contexts of operation (e.g., stationary or mobile use)
- Specified tolerances on an external calibration check within which the EBT is regarded to be in proper calibration
- Specified inspection, maintenance, and calibration requirements and intervals for the device.

NHTSA will occasionally print updates to its Conforming Products List (CPL) of EBTs in the Federal Register.

The regulation specifically requires that you comply with the NHTSA-approved quality assurance plan by ensuring that the external calibration checks of each EBT are performed as described in the manufacturer's plan and that the EBT will be taken out of service if any external calibration check results in a reading outside the tolerances for the EBT. The EBT cannot be returned to service until it has been recalibrated and has had an acceptable external calibration check. You must also ensure that the inspection, maintenance, and calibration of each EBT are performed by the manufacturer or a maintenance representative certified by the manufacturer or an appropriate State agency. You must also maintain records of the external calibration checks of the EBT and store the EBT in a secure place when not being used.

Provisions should be made for a back-up EBT for times when the primary EBT is unavailable, out of calibration, or being serviced. This could include acquiring a second instrument, arranging for a "loaner," or arranging to use another employer's EBT when necessary.

Breath Alcohol Technician (§40.213)

The alcohol tests must be performed by a BAT who is "trained to proficiency" in the operation of the EBT that he/she is using and in the alcohol testing procedures specified in the regulations. The BAT must successfully complete a DOT-approved course of instruction that provides training in the principles of EBT methodology, operation, and

calibration checks. Information on these courses of instruction may be obtained from the Government Printing Office (GPO). See Chapter 4, "Education and Training." In addition, the BAT must complete training on the fundamentals of breath analysis for alcohol content, the procedures required for obtaining a breath sample, and interpreting and recording EBT results.

The BAT must demonstrate competence in the operation of the specific EBT he/she will use. The BAT will be required to receive additional training as new or additional devices or technology are introduced.

You must identify the individual(s) who will serve as your BAT(s). If one BAT is selected as the primary EBT operator, provisions should be made for back-up services. You are required to document the training and proficiency testing of the BAT who tests your employees.

The supervisor of a driver to be tested for alcohol misuse, if at all possible, should not serve as the BAT for that driver's test. However, in no circumstances will the supervisor who made the reasonable cause determination serve as the BAT for that driver's test.

Alcohol Testing Site (§40.221)

Alcohol tests should be conducted at a site that provides privacy to the driver being tested. The testing site must be secured, with no unauthorized access at any time the ASD and/or EBT is unsecured or when testing is occurring. The BAT must conduct only one test at a time and must not leave the testing site while the preparations for testing or the test itself are in progress.

In unusual circumstances (e.g., an accident), an alcohol test can be conducted at a place other than an alcohol testing site. In such cases, the STT or BAT shall conduct the test in a manner that provides the driver with privacy to the greatest extent practicable.

You may purchase and operate the ASD and/or EBT, or these services may be procured from a for-profit or nonprofit entity. If possible, the alcohol test should be performed at the same location used for urine collection for controlled substances tests to minimize the time and logistical problems associated with the collection process, particularly when a driver will be taking both an alcohol and a controlled substances test (e.g., preemployment, postaccident). Other possible locations include other employer facilities and facilities available at other transportation employers that fall under the DOT regulations

(e.g., transit agencies, school bus operations, or other agencies that have drivers holding CDLs).

In an attempt to reduce cost demands, you may wish to join forces with other transportation employers in your region to purchase ASDs, EBTs, and STT and BAT services as a group.

In anticipation of the need for alcohol testing services, the following procedures should be followed:

1. Develop specifications for ASD, EBT, STT, and BAT services consistent with 49 CFR part 40. Estimate the number and types of tests to be performed and their approximate frequency throughout the year. Specify the hours of required availability and the need for back-up equipment and trained personnel.

2. Confer with other employers that must purchase alcohol testing services to satisfy DOT regulations to identify potential consortia/ third- party administrators (private and public) for testing services.

3. Investigate the current and potential availability of ASDs, EBTs, and STT and BAT services in the local community and evaluate the level of interest in the provision of testing services.

4. As soon as possible, select an alcohol testing site. If possible, the alcohol testing site should be the same as the drug sample collection site. Law enforcement agencies are not recommended as collection sites in order to avoid any perception of testing as a "police" action.

5. Develop a contract that specifies the obligation of the collection site to maintain equipment quality standards, and STT and BAT proficiency training consistent with 49 CFR part 40 throughout the duration of the contract. Require that sufficient records of the quality control measures, equipment calibration, and proficiency training are provided for documentation of the employer's program.

Alcohol Testing Process

The following procedures must be used to conduct the test.

Preparation (See 49 CFR part 40 Subpart L).

Upon arrival at the alcohol testing site, the driver must provide positive identification to the STT or BAT. The identification can be in the form of a company photo identification card, a commercial driver's license (CDL), or identification by an employer representative.

These alcohol requirements only apply to drivers who are subject to CDL requirements. A color photograph, except in rare circumstances in the State of Alaska, is required to be on a CDL. The FMCSA fully expects most employers to require the driver to present the CDL document to the STT or BAT.

After the testing procedures are explained to the driver, the driver and the STT or BAT must complete, date, and sign the alcohol testing form. The driver and the STT or BAT sign the form indicating that the driver is present and providing a saliva or breath sample. You may not modify or revise this form, unless the form is directly generated by an EBT (i.e., the space for affixing a separate printed result is not needed on an EBT-generated form since the form itself is the result). The form must provide carbonless triplicate copies. Electronic signatures are prohibited. Copy 1 must be transmitted to the employer. Copy 2 must be provided to the driver. Copy 3 must be retained by the BAT. Except for a form generated by an EBT, the form shall be 8½ by 11 inches (21.6 by 28 centimeters) in size. The form may be found in the appendix at the end of this chapter.

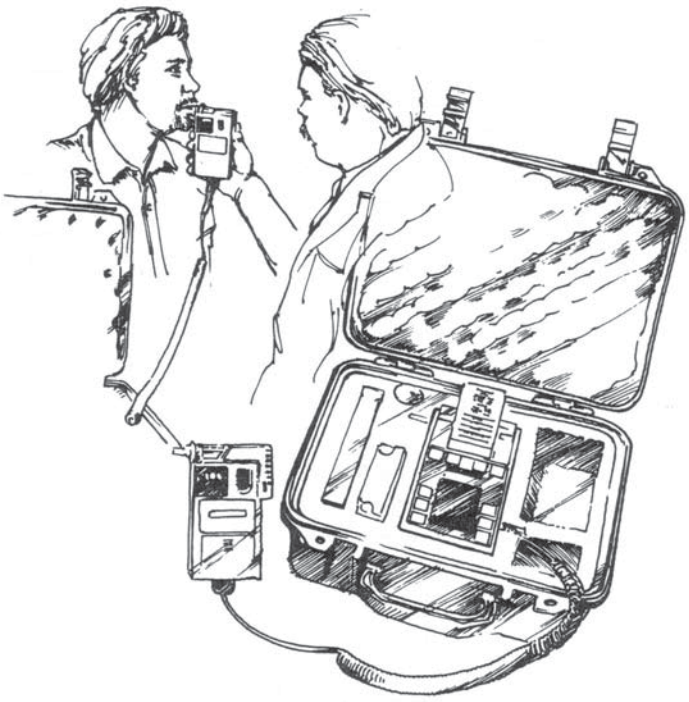
EBT Screening Test (§40.243).

The BAT will inform the driver of the need to conduct a screening test. The BAT must open an individually sealed, disposable mouthpiece in view of the driver and attach it to the EBT. For screening tests, air blanks are not required.

The BAT will instruct the driver to blow forcefully into the mouthpiece for at least 6 seconds or until an adequate amount of breath has been obtained. Following the screening test, the BAT must show the driver the result displayed on the EBT or the printed result.

If the result of the screening test is an alcohol concentration of less than 0.02, no further testing is required and the test will be reported to you as a negative test. The driver may then return to his/ her safety-sensitive function.

ASD screening test (§40.245)



The steps for preparation for testing are the same as provided for EBT alcohol testing. If a saliva test is being conducted, the STT will explain the testing procedure to the driver. The STT will check the expiration date of the saliva testing device, showing the date to the driver, and must not use a device at any time after the expiration date. The STT will open an individually sealed package containing the device in the presence of the driver and then will offer the driver the opportunity to use the swab. If the driver chooses to use the swab, the STT will instruct the employee to insert the absorbent end of the swab into his/her mouth, moving it actively throughout the mouth for a sufficient time to ensure that it is completely saturated, as indicated in the manufacturer's instructions for the device.

If the employee chooses not to use the swab, or in all cases in which a new test is necessary because the device did not activate, the STT will insert the absorbent end of the swab into the driver's mouth, moving it actively throughout the mouth for a sufficient time to ensure that it is completely saturated, as indicated in the manufacturer's instructions for the device.

The STT will wear a surgical glove while doing so. The STT will place the device on a flat surface or otherwise in a position in which the swab can be firmly placed into the opening provided in the device for this purpose. The STT will insert the swab into this opening and maintain firm pressure on the device until the device indicates that it is activated.

If the swab breaks, or the STT drops the swab on the floor or another surface, or the swab is removed or falls from the device before the device is activated, the STT will discard the device and swab and conduct a new test using a new device. The new device will be one that has been under the control of the employer or STT prior to the test. The STT will note in the remarks section of the form the reason for the new test.

In this case, the STT shall offer the employee the choice of using the swab himself or herself or having the STT use the swab. If the test continues to be unsuccessful, the collection shall be terminated and an explanation provided in the remarks section of the form. A new test shall then be conducted, using an EBT for both the screening and confirmation tests.

If the procedures are followed successfully but the device is not activated, the STT will discard the device and swab, and conduct a new test. In this case, the STT will place the swab into the driver's mouth to collect saliva for the new test.

The STT will read the result displayed on the device 2 minutes after inserting the swab into the device and will show the device and its reading to the driver and enter the result on the form.

Devices, swabs, gloves, and other materials used in saliva testing shall not be reused and shall be disposed of in a sanitary manner following their use, consistent with applicable requirements.

Confirmation Test (see 49 CFR part 40 subpart M).

If the result of the screening test is an alcohol concentration of 0.02 or greater, a confirmation test must be performed.

The confirmation test must be conducted at least 15 minutes, but not more than 30 minutes, after the completion of the initial test. This delay prevents any accumulation of alcohol in the mouth from leading to an artificially high reading.

Employers that use nonevidential ASDs are responsible for ensuring that an EBT is available for use within 30 minutes of obtaining a test result on the ASD. If an employer cannot ensure that an EBT will be available within the 30-minute time limit, the employer must not use ASDs in an alcohol testing program. The FMCSA will not allow, as a standard practice, employers to violate the 30-minute time limit for getting a confirmation test started. *Rare* instances may be allowed, at the FMCSA's discretion, on a *case-by-case* basis.

Once a screening test indicates an alcohol concentration of 0.02 or greater, however, a confirmation test must be conducted, no matter how long it takes to complete it. As stated above, these instances will be rare.

The BAT will inform the driver of the need to conduct a confirmation test. The driver will be instructed not to eat, drink, or put any object or substance in his/her mouth. The BAT will also instruct the driver not to belch (to the

extent possible) while awaiting the confirmation test. The BAT must inform the driver that the test will be conducted at the end of the waiting period, even if the driver has disregarded the instructions.

Before the confirmation test is administered, the BAT shall conduct an air blank on the EBT. An air blank is a test of ambient air containing no alcohol to ensure that the EBT is properly calibrated. If the reading is greater than 0.00, the BAT shall conduct one more airblank. If the second air-blank reading is greater than 0.00, the EBT must not be used to conduct the test.

The confirmation test is conducted using the same procedures as the EBT screening test. A new mouthpiece must be used if the screening test was conducted on the EBT. If the initial and confirmation test results are not identical, the confirmation test result is deemed to be the final result.

If the result displayed on the EBT is not the same as that on the printed form, the test will be cancelled and the EBT removed from service.

The BAT will sign and date the form. The driver will sign and date the certification statement, which includes a notice that the driver cannot perform safety-sensitive functions or operate a motor vehicle if the results are 0.02 or greater. If the results are 0.04 or greater, the driver must be removed from his/her driving duties and attendant safety-sensitive functions and be evaluated by an SAP. The BAT will attach the alcohol test result printout directly onto the alcohol collection form with tamper-evident tape (unless the results are printed directly on the form).

Reporting.

The BAT will transmit all results to your designated representative in a confidential manner (in writing, in person, by telephone, or other electronic means). In the event a driver must be removed from safety-sensitive functions, the BAT will notify your representative immediately.

Incomplete Tests (See 49 CFR part 40 Subpart N).

If a screening or confirmation test cannot be completed, the BAT must, if practical, begin a new test using a new alcohol testing form with a new sequential test number.

Refusal by a driver to complete and sign the alcohol testing form, to provide breath, to provide an adequate amount of breath, or otherwise to cooperate with the collection process must be noted on the form and the test will be terminated.

If a driver attempts and fails to provide an adequate amount of breath, the BAT must note this on the form and immediately inform you. You shall direct your driver to obtain, from a licensed physician acceptable to you, an evaluation concerning the driver's medical ability to provide an adequate amount of breath. The evaluation should be made as soon as practical after the attempted breath test. If the physician indicates that there was a valid medical reason, the driver's failure to provide an adequate amount of breath will not be considered a refusal. If no valid medical reason is determined, the inadequate amount of breath must be considered a refusal to take the test.

Test Accuracy (See 49 CFR part 40 Subpart N).

To protect the integrity of the test and to ensure accurate results, the procedures for conducting an alcohol test are rigorous. Alcohol tests are considered invalid when the following occur:

- The external calibration check of the EBT produces a result outside the allowed tolerance levels.
- The BAT does not wait 15 minutes between the screening and confirmation tests.
- A valid air blank test that registers 0.00 is not performed before each confirmation test.
- The alcohol test form with the attached EBT printout is not completed correctly. Employee, STT, and BAT signatures, and relevant STT and BAT remarks, must be included.
- The EBT fails to print the confirmation results, the sequential test number on the EBT is not the same as the number on the printout, or the alcohol concentration displayed on the EBT is different from what is printed out.
- For tests conducted on a saliva device —
  - The result is read before 2 minutes or after 15 minutes from the time the swab is inserted into the device.
  - The device does not activate.
  - The device is used for a test after the expiration date printed on its package.
  - The STT fails to note on the alcohol testing form that the test was conducted using a saliva device.

Substance Abuse Professional

The FMCSA regulations require that any individual who has a breath alcohol concentration of 0.04 or greater must be removed immediately from his/her driving duties and any attendant safety-sensitive functions. In addition, he/she must be advised of the resources available to evaluate and resolve problems associated with alcohol misuse, including the names, addresses, and telephone numbers of SAPs and counseling and treatment programs. The driver must also be assessed by an SAP, who must determine the required treatment and/or education the driver needs in resolving problems associated with alcohol misuse.

An SAP is (1) a licensed physician (medical doctor or doctor of osteopathy), or licensed or certified psychologist, licensed or certified social worker, or certified employee assistance professional with knowledge of and clinical experience in the diagnosis and treatment of alcohol-related disorders; or (2) an addiction counselor certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission or International Certification Reciprocity Consortium. The SAP must carry out the following responsibilities:

- Evaluate whether each driver who has an alcohol test result of 0.04 or greater or has refused to submit to an alcohol test should be prescribed treatment and/or education in resolving problems associated with alcohol misuse.

- Evaluate whether each driver who previously tested 0.04 or greater and wants to return to work has properly followed the SAP's recommendations for treatment and/or education.

- Determine the number of months a returning driver will be subject to follow-up alcohol testing after returning to duty (after the minimum six tests required during the first 12 months).

- Recommend whether a returning driver should also be subject to return-to-duty and/or follow-up testing for controlled substances use.

SAPs may not provide treatment to drivers that they have assessed. Nor may SAPs have any financial or other ties to treatment providers who are treating drivers that the SAP referred.

Potential SAPs should provide documentation of their credentials and a summary of their assessment and referral procedures. The SAP should also provide a list of the treatment options available and the frequency with which each is recommended. A primary SAP and a back-up SAP should be selected. A contract should be negotiated that states the specific requirements for the SAP and the associated cost for the services. The contract may be with individuals or with a company that provides the SAP services.

A primary SAP should be selected to provide services to your drivers. This professional should be encouraged to learn about your operations and the safety-sensitive functions that your drivers perform. This knowledge will be a major asset when assessing the needs of your drivers and their ability to perform safety-sensitive functions. Back-up SAPs should also be selected to provide assessments when the primary SAP is not available.

Section 2. ALCOHOL-RELATED CONDUCT

The FMCSA alcohol regulation prohibits the following alcohol-related conduct by CMV drivers:

- Using alcohol within 4 hours prior to driving and performing attendant safety-sensitive functions.
- Reporting for duty or remaining on duty requiring driving and the performance of attendant safety-sensitive functions while having an alcohol concentration of 0.04 or greater.
- Using alcohol while driving and performing attendant safety-sensitive functions.
- Using alcohol within 8 hours following an accident that requires the employee to take an alcohol test, unless the driver has already taken a postaccident alcohol test or if his/her involvement has been discounted as a contributing factor.
- Refusing to submit to an alcohol test required by FMCSA regulations.

In addition, driving and performing attendant safety-sensitive functions is prohibited after an alcohol test result of 0.02 or higher, but less than 0.04, regardless of when the alcohol was ingested and regardless of

whether the driver is under the influence of alcohol as defined in Federal, State, or local law. Conduct will result in being removed from duty for at least 24 hours.

In addition to stipulating which behavior is unacceptable and in violation of DOT and FMCSA regulations, you must inform drivers of the consequences of violating these regulations. Drivers who have violated provisions of the alcohol regulations are subject to the following consequences:

- Drivers will not be permitted to drive CMVs and perform attendant safety-sensitive functions.

- Drivers shall be advised by the employer of the resources available to them in evaluating and resolving problems associated with the misuse of alcohol.

- Drivers shall be evaluated by an SAP who shall determine the treatment and/or education the employee needs in resolving problems associated with alcohol misuse.

- Before returning to duty, the driver shall undergo a return-to-duty alcohol test resulting in an alcohol concentration less that 0.02.

- Drivers identified as needing assistance in resolving problems associated with alcohol shall be evaluated by an SAP to determine that the driver has followed the rehabilitation program prescribed.

- The driver shall also be subject to unannounced follow-up alcohol testing in resolving a problem.

Section 3. DRY RUN OF THE PROGRAM

You should begin your actual alcohol misuse program with a dry-run period, and then, after all is in order, implement the actual program. Do not allow a gap between the dry run of the program and the actual implementation.

A detailed discussion of how to do a dry run can be found in Chapter 6, “Controlled Substances Testing Procedures.” The only difference between the dry runs of the controlled substances use and alcohol misuse programs is the sample collection procedure. In the dry run of the controlled substances use program, the urine specimen would be

collected but then disposed of in clear view of the driver. For the alcohol dry run, the air blank would still be performed on an operating EBT, but the breath sample from the driver should be blown into the EBT after the machine is turned off. As with the controlled substances dry run, this assures the driver that the sample will not be analyzed, yet allows you to trial-run all the necessary procedures.

You should announce the starting date of actual testing at the same time that you begin your dry run. This will allow drivers to take full advantage of your EAP and voluntary rehabilitation programs, if applicable.

Chapter 7 Appendix

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Conforming Products List

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Alcohol Screening Devices

(Authorized for Use in the DOT & FMCSA Program)
Printed in the *Federal Register* on May 4, 2001 (66 FR 22639)
This list is subject to change. Amendments will be published by the National Highway Traffic Safety Administration.

For Further Information Contact: Driver Control Division, NTS-21
Office of Alcohol and State Programs
National Highway Traffic Safety Administration
400 Seventh Street SW
Washington, DC 20590
Telephone: (202) 366 9851

Conforming Products List of Alcohol Screening Devices

Manufacturer	Device(s)
1. Akers Laboratories, Inc Thorofare, N.J.	•Alcohol “
2. Alco Check International *Hudsonville, MI	•Alco Check 3000 D.O.T •Alco Screen 3000•Alco Check 9000
3. Chematics, Inc. North Webster, IN	•ALCO-SCREEN 02
4. Guth Laboratories, Inc.* Harrisburg, PA	•Alco Tector Mark X •Mark X Alcohol Checker
5. Han International, Co., Ltd. Seoul, Korea	•A.B.I. (Alcohol Breath Indicator)
6. OraSure Technologies, Inc. Bethlehem, PA (Formerly STC Technologies, Inc.)	•Q.E.D. Saliva Alcohol Test
7. PAS Systems International, Inc. Fredericksburg, VA	•PAS IIIa •PAS Vr
8. Repco Marketing, Inc. Raleigh, NC	•Alco Tec III
9. Roche Diagnostic Systems Branchburg, NJ	•On-Site Alcohol
10. Sound Off, Inc. * Hudsonville, MI	•Digitox D.O.T. •Alco Screen 1000

Evidential Breath Testing Devices

(Authorized for Use in the DOT & FMCSA Program)
Printed in the *Federal Register* on July 21, 2000 (65 FR 45419)

This list is subject to change. Amendments will be published by the National Highway Traffic Safety Administration.

For Further Information Contact: Driver Control Division, NTS-21
Office of Alcohol and State Programs
National Highway Traffic Safety Administration
400 Seventh Street SW
Washington, DC 20590
Telephone: (202) 366 9851

Manufacturer and Model	Mobile	Non-mobile
Alcohol Countermeasure Systems Corp. Mississauga, ON		
Altert J3AD*	X	X
PBA3000C	X	X
BAC Systems, Inc. Ontario, Canada		
Breath Analysis Computer*	X	X
CAMEC Ltd., North Shields, Tyne, and Ware, England		
IR Breath Analyzer*	X	X
CMI, Inc., Owensboro, KY		
Intoxilyzer Model:		
200	X	X
200D	X	X
300	X	X
400	X	X
400PA	X	X
1400	X	X
4011*	X	X
4011A*	X	X
4011AS*	X	X
4011AS-A*	X	X
4011AS-AQ*	X	X
4011AW*	X	X
4011A27-1011*	X	X
4011A27-10100 with filter*	X	X
5000	X	X
5000 (w/Cal. Vapor Re-Circ.)	X	X
5000 (w/3/8" ID Hose option)	X	X
5000CD	X	X
5000CD/FG5	X	X
5000EN	X	X
5000 (CAL DOJ)	X	X
5000VA	X	X
PAC 1200*	X	X
S-D2	X	X
Decator Electronics, Decator, IL		
Alco-Tector model 500*	X	X

Manufacturer and Model	Mobile	Non-mobile
Draeger Safety, Inc. Durango, CO		
Alcotest Model:		
7010*	X	X
7110*	X	X
7110 MKIII	X	X
7110 MKIII-C	X	X
7410	X	X
7410 Plus	X	X
Breathalzyer Test:		
900*	X	X
900A*	X	X
900BG*	X	X
7410	X	X
7410-II	X	X
Gall's Inc., Lexington, Kentucky		
Alcohol Detection System-A.D.S. 500	X	X
Intoximeters, Inc., St. Louis, MO		
Photo Electric Intoximeter*	X	
GC Intoximeter MK II*	X	X
GC Intoximeter MK IV*	X	X
Auto Intoximeter*		
Intoximeters Model:		
3000*	X	X
3000 (rev B1)*	X	X
3000 (rev B2)*	X	X
3000 (rev B2A)*	X	X
3000 (rev B2A) w/FM Option	X	X
3000 (Fuel Cell)*	X	X
3000 D*	X	X
3000 DFC*	X	X
Alcomonitor		X
Alcomonitor CC	X	X
Alco Sensor III	X	X
Alco Sensor IV	X	X
Alco-Sensor IV-XL	XL	X
Alco-Sensor AZ	X	X
RBT-AZ	X	X
RBT III	X	X
RBT III-A	X	X
RBT IV	X	X
RBT IV with CEM (cell enhancement module)	X	X
Portable Intox EC/IR	X	X
Komyp Kitagawa, Kogyo, K.K		
Alcoyzer DPA-2*	X	X
Breath Alcohol Meter PAM 101B*	X	X

Manufacturer and Model	Mobile	Non-mobile
Life Loc, Inc., Wheat Ridge, CO		
PBA 3000B	X	X
PBA 3000-P*	X	X
PBA 3000C	X	X
Alcohol Data Sensor	X	X
Phoenix	X	X
Lion Laboratories, Ltd., Cardiff, Wales, United Kingdom		
Alcolmeter Model:		
300	X	X
400	X	X
AE-D1*	X	X
SD-2*	X	X
EBA*	X	X
Auto-Alcolmeter*	X	X
Intoxilyzer Model:		
200	X	X
200D	X	X
1400	X	X
5000CD/FG5	X	X
5000 EN	X	X
Luckey Laboratories, San Bernadino, CA		
Alco-Analyzer Model:		
1000*	X	X
2000*	X	X
National Draeger, Inc., Pitts-burgh, PA		
Alcotest Model:		
7010*	X	X
7110*	X	X
7110 MKIII	X	X
7110 MK-C	X	X
7410	X	X
7410 Plus	X	X
Breathalyzer Model:		
900*	X	X
900A*	X	X
900BG*	X	X
7410	X	X
7410-II	X	X
National Patent Analytical Systems, Inc., Mansfield, OH		
BAC DataMaster (with or without the Delta-1 accessory)	X	X
BAC Verifier DataMaster (with or without the Delta-1 accessory)	X	X
DataMaster cdm (with or without the Delta-1 accessory)	X	X
Omicron Systems, Palo Alto, CA		
Intoxilyzer Model:		
4011*	X	X
4011AW*	X	X

Manufacturer and Model	Mobile	Non-mobile
Plus 4 Engineering, Minturn, CO		
5000 Plus4*	X	X
Seres, Paris, France		
Alco Master	X	X
Alcopro	X	X
Siemans-Allis, Cherry Hill, NJ		
Alcomat*	X	X
Alcomat F*	X	X
Smith and Wesson Electronics, Springfield, MA		
Breathalyzer Model:		
900*	X	X
900A*	X	X
1000*	X	X
2000*	X	X
2000 (non-Humidity Sensor)*	X	X
Sound-Off, Inc., Hudsonville, MI		
AlcoData	X	X
Seres Alco Master	X	X
Seres Alcopro	X	X
Stephenson Corp.		
Breathalyzer 900*	X	X
U.S. Alcohol Testing, Inc./Protection Devices, Inc., Rancho Cucamonga, CA		
Alco Analyzer 1000		X
Alco Analyzer 2000		X
Alco Analyzer 2100	X	X
Verax Systems, Inc., Fairport, NY		
BAC Verifier*	X	X
BAC Verifier DataMaster	X	X
BAC Verifier DataMaster II*	X	X

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Evidential Breath Tester Calibration Devices

(Authorized for Use in the DOT & FMCSA Program)

Printed in the Federal Register on December 29, 1994 (59 FR)

This list is subject to change. Amendments will be published by the National Highway Traffic Safety Administration.

For Further Information, Contact: Driver Control Division, NTS-21
Office of Alcohol and State Programs
National Highway Traffic Safety Administration
400 Seventh Street, SW
Washington, DC 20590
Telephone: (202) 366-9851
www.dot.gov/ost/dabc

Manufacturer	Calibrating Unit
1. CMI, Inc., Owensboro, KY	•Toxitest II
2. Guth Laboratories, Inc., Harrisburg, PA	•Model 34C Simulator •34C (Cal DOJ) •34C-FM •34C-NPAS •Model 3412 •Model 10 4 •Model 1214
3. National Draeger, Inc., Pittsburgh, PA	•Mark II-A
4. PLD of Florida, Inc., Rockledge, FL	•BA 500
5. Repco Marketing, Inc., Raleigh, NC	•AS-1
6. U.S. Alcohol Testing, Rancho Cucamonga, CA	•Alco-Simulator 61000

Note: Instruments meet the model specifications in 59 FR (December 29, 1994).

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Breath Alcohol Testing Form

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U.S. Department of Transportation (DOT)
Alcohol Testing Form

(The instructions for completing this form are on the back of Copy 3)

Step 1: TO BE COMPLETED BY ALCOHOL TECHNICIAN

A: Employee Name _____
(Print) (First, M.I., Last)

B: SSN or Employee ID No. _____

C: Employer Name _____
Street
City, ST ZIP _____

_____

DER Name and Telephone No. _____ (____) _____
DER Name **DER Phone Number**

D: Reason for Test: • **Random** • **Reasonable Susp** • **Post-Accident** • **Return to Duty** • **Follow-up** • **Pre-employment**

Affix Or Print Screening Results Here

Affix With Tamper Evident Tape

STEP 2: TO BE COMPLETED BY EMPLOYEE

I certify that I am about to submit to alcohol testing required by US Department of Transportation regulations and that the identifying information provided on the form is true and correct.

_____ _____/____/____
Signature of Employee **Date Month Day Year**

Affix Or Print Confirmation Results Here

Affix With Tamper Evident Tape

STEP 3: TO BE COMPLETED BY ALCOHOL TECHNICIAN

(If the technician conducting the screening test is not the same technician who will be conducting the confirmation test, each technician must complete their own form.) I certify that I have conducted alcohol testing on the above named individual in accordance with the procedures established in the US Department of Transportation regulation, 49 CFR Part 40, that I am qualified to operate the testing device(s) identified, and that the results are as recorded.

TECHNICIAN: • **BAT** • **STT** **DEVICE:** • **SALIVA** • **BREATH*** **15-Minute Wait:** • **Yes** • **No**

SCREENING TEST: *(For BREATH DEVICE* write in the space below only if the testing device is not designed to print.)*

Test #	Testing Device Name	Device Serial # OR Lot # & Exp Date	Activation Time	Reading Time	Result

CONFIRMATION TEST: *Results MUST be affixed to each copy of this form or printed directly onto the form.*

REMARKS:

_____

_____

_____

_____ _____
Alcohol Technician's Company **Company Street Address**

_____ _____ (____) _____
(PRINT) Alcohol Technician's Name (First, M.I., Last) **Company City, State, Zip** **Phone Number**

_____ _____/____/____
Signature of Alcohol Technician **Date Month Day Year**

Affix Or Print Additional Results (e.g. Calibration Check) Here

Affix With Tamper Evident Tape

STEP 4: TO BE COMPLETED BY EMPLOYEE IF TEST RESULT IS 0.02 OR HIGHER

I certify that I have submitted to the alcohol test, the results of which are accurately recorded on this form. I understand that I must not drive, perform safety-sensitive duties, or operate heavy equipment because the results are 0.02 or greater.

_____ _____/____/____
Signature of Employee **Date Month Day Year**

OMB No. 2105-0529

COPY 1 – ORIGINAL – FORWARD TO THE EMPLOYER

PAPERWORK REDUCTION ACT NOTICE (as required by 5 CFR 1320.21)

Public reporting burden for this collection of information is estimated for each respondent to average: 1 minute/employee, 4 minutes/Breath Alcohol Technician. Individuals may send comments regarding these burden estimates, or any other aspect of this collection of information, including suggestions for reducing the burden, to U.S. Department of Transportation, Drug and Alcohol Policy and Compliance, Room 10403, 400 Seventh St., SW, Washington, D.C. 20590. Please note that an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control number associated with the collection is 2105-0529.

BACK OF PAGES 1 and 2

U.S. Department of Transportation (DOT)
Alcohol Testing Form

(The instructions for completing this form are on the back of Copy 3)

Step 1: TO BE COMPLETED BY ALCOHOL TECHNICIAN

A: Employee Name _____
(Print) (First, M.I., Last)

B: SSN or Employee ID No. _____

C: Employer Name _____
Street
City, ST ZIP _____

_____

DER Name and Telephone No. _____ (____) _____
DER Name **DER Phone Number**

D: Reason for Test: • Random • Reasonable Susp • Post-Accident • Return to Duty • Follow-up • Pre-employment

Affix Or Print Screening Results Here

Affix With Tamper Evident Tape

STEP 2: TO BE COMPLETED BY EMPLOYEE

I certify that I am about to submit to alcohol testing required by US Department of Transportation regulations and that the identifying information provided on the form is true and correct.

_____ _____/____/____
Signature of Employee **Date Month Day Year**

Affix Or Print Confirmation Results Here

Affix With Tamper Evident Tape

STEP 3: TO BE COMPLETED BY ALCOHOL TECHNICIAN

(If the technician conducting the screening test is not the same technician who will be conducting the confirmation test, each technician must complete their own form.) I certify that I have conducted alcohol testing on the above named individual in accordance with the procedures established in the US Department of Transportation regulation, 49 CFR Part 40, that I am qualified to operate the testing device(s) identified, and that the results are as recorded.

TECHNICIAN: • BAT • STT DEVICE: • SALIVA • BREATH* 15-Minute Wait: • Yes • No

SCREENING TEST: *(For BREATH DEVICE* write in the space below only if the testing device is not designed to print.)*

Test #	Testing Device Name	Device Serial # OR Lot # & Exp Date	Activation Time	Reading Time	Result

CONFIRMATION TEST: *Results MUST be affixed to each copy of this form or printed directly onto the form.*

REMARKS:

_____

_____

_____

Affix Or Print Additional Results (e.g., Calibration Check) Here

Affix With Tamper Evident Tape

_____ _____
Alcohol Technician's Company **Company Street Address**

_____ _____ (____) _____
(PRINT) Alcohol Technician's Name (First, M.I., Last) **Company City, State, Zip** **Phone Number**

_____ _____/____/____
Signature of Alcohol Technician **Date Month Day Year**

STEP 4: TO BE COMPLETED BY EMPLOYEE IF TEST RESULT IS 0.02 OR HIGHER

I certify that I have submitted to the alcohol test, the results of which are accurately recorded on this form. I understand that I must not drive, perform safety-sensitive duties, or operate heavy equipment because the results are 0.02 or greater.

_____ _____/____/____
Signature of Employee **Date Month Day Year**

OMB No. 2105-0529

COPY 2 – EMPLOYEE RETAINS

PAPERWORK REDUCTION ACT NOTICE (as required by 5 CFR 1320.21)

Public reporting burden for this collection of information is estimated for each respondent to average: 1 minute/employee, 4 minutes/Breath Alcohol Technician. Individuals may send comments regarding these burden estimates, or any other aspect of this collection of information, including suggestions for reducing the burden, to U.S. Department of Transportation, Drug and Alcohol Policy and Compliance, Room 10403, 400 Seventh St., SW, Washington, D.C. 20590. Please note that an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control number associated with the collection is 2105-0529.

BACK OF PAGES 1 and 2

U.S. Department of Transportation (DOT)
Alcohol Testing Form

(The instructions for completing this form are on the back of Copy 3)

Step 1: TO BE COMPLETED BY ALCOHOL TECHNICIAN

A: Employee Name _____
(Print) (First, M.I., Last)

B: SSN or Employee ID No. _____

C: Employer Name _____
Street
City, ST ZIP _____

_____

DER Name and Telephone No. _____ (____) _____
DER Name **DER Phone Number**

D: Reason for Test: • Random • Reasonable Susp • Post-Accident • Return to Duty • Follow-up • Pre-employment

Affix Or Print Screening Results Here

Affix With Tamper Evident Tape

STEP 2: TO BE COMPLETED BY EMPLOYEE

I certify that I am about to submit to alcohol testing required by US Department of Transportation regulations and that the identifying information provided on the form is true and correct.

_____ ____/____/____
Signature of Employee **Date Month Day Year**

Affix Or Print Confirmation Results Here

Affix With Tamper Evident Tape

STEP 3: TO BE COMPLETED BY ALCOHOL TECHNICIAN

(If the technician conducting the screening test is not the same technician who will be conducting the confirmation test, each technician must complete their own form.) I certify that I have conducted alcohol testing on the above named individual in accordance with the procedures established in the US Department of Transportation regulation, 49 CFR Part 40, that I am qualified to operate the testing device(s) identified, and that the results are as recorded.

TECHNICIAN: • BAT • STT DEVICE: • SALIVA • BREATH* 15-Minute Wait: • Yes • No

SCREENING TEST: *(For BREATH DEVICE* write in the space below only if the testing device is not designed to print.)*

Test #	Testing Device Name	Device Serial # OR Lot # & Exp Date	Activation Time	Reading Time	Result

CONFIRMATION TEST: *Results MUST be affixed to each copy of this form or printed directly onto the form.*

REMARKS:

_____
_____
_____

_____ _____
Alcohol Technician's Company **Company Street Address**

_____ _____ (____) _____
(PRINT) Alcohol Technician's Name (First, M.I., Last) **Company City, State, Zip** **Phone Number**

_____ ____/____/____
Signature of Alcohol Technician **Date Month Day Year**

Affix Or Print Additional Results (e.g. Calibration Check) Here

Affix With Tamper Evident Tape

STEP 4: TO BE COMPLETED BY EMPLOYEE IF TEST RESULT IS 0.02 OR HIGHER

I certify that I have submitted to the alcohol test, the results of which are accurately recorded on this form. I understand that I must not drive, perform safety-sensitive duties, or operate heavy equipment because the results are 0.02 or greater.

_____ ____/____/____
Signature of Employee **Date Month Day Year**

OMB No. 2105-0529

COPY 3 – ALCOHOL TECHNICIAN RETAINS

INSTRUCTIONS FOR COMPLETING THE U.S. DEPARTMENT OF TRANSPORTATION ALCOHOL TESTING FORM

NOTE: Use a ballpoint pen, press hard, and check all copies for legibility.

STEP 1 The Breath Alcohol Technician (BAT) or Screening Test Technician (STT) completes the information required in this step. Be sure to print the employee's name and check the box identifying the reason for the test.

NOTE: If the employee refuses to provide SSN or I.D. number, be sure to indicate this in the remarks section in STEP 3. Proceed with STEP 2.

STEP 2 Instruct the employee to read, sign, and date the employee certification statement in STEP 2.

NOTE: If the employee refuses to sign the certification statement, do not proceed with the alcohol test. Contact the designated employer representative.

STEP 3 The BAT or STT completes the information required in this step and checks the type of device (saliva or breath) being used. After conducting the alcohol screening test, do the following (as appropriate):

Enter the information for the screening test (test number, testing device name, testing device serial number or lot number and expiration date, time of test with any device-dependent activation times, and the results), on the front of the AFT. For a breath testing device capable of printing, the information may be part of the printed record.

NOTE: Be sure to enter the result of the test exactly as it is indicated on the breath testing device, e.g., 0.00, 0.02, 0.04, etc.

Affix the printed information to the front of the form in the space provided, or to the back of the form, in a tamper-evident manner (e.g., tape), or the device may print the results directly on the ATF. If the results of the screening test are less than 0.02, print, sign your name, and enter today's date in the space provided. The test process is complete.

If the results of the screening test are 0.02 or greater, a confirmation test must be administered in accordance with DOT regulations. An EVIDENTIAL BREATH TESTING device that is capable of printing confirmation test information must be used in conducting this test.

Ensure that a waiting period of at least 15 minutes occurs before the confirmation test begins. Check the box indicating that the waiting period lasted at least 15 minutes.

After conducting the alcohol confirmation test, affix the printed information to the front of the form in the space provided, or to the back of the form, in a tamper-evident manner (e.g., tape), or the device may print the results directly on the ATF. Print, sign your name, and enter the date in the space provided. Go to STEP 4.

STEP 4 If the employee has a breath alcohol confirmation test result of 0.02 or higher, instruct the employee to read, sign, and date the employee certification statement in STEP 4.

NOTE: If the employee refuses to sign the certification statement in STEP 4, be sure to indicate this in the remarks line in STEP 3.

Immediately notify the DER if the employee has a breath alcohol confirmation test result of 0.02 or higher.

NOTE: Results from a calibration check may be printed or affixed to the front of the form in the space provided, or to the back of the form.

Forward **Copy 1** to the employer. Give **Copy 2** to the employee. Retain **Copy 3** for BAT/STT records.

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Terms and Definitions Used in Chapter 7

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Terms and Definitions

Air Blank	In evidential breath testing devices (EBTs) using gas chromatography technology, a reading of the device's internal standard. In all other EBTs, a reading of ambient air containing no alcohol.
Alcohol Confirmation Test	A subsequent test using an EBT, following a screening test with a result of 0.02 or greater, that provides quantitative data about the alcohol concentration.
Alcohol Screening Test	An analytical procedure to determine whether a driver may have a prohibited concentration of alcohol in his or her saliva or breath specimen.
Alcohol Screening Device (ASD)	A breath or saliva device, other than an EBT, that is approved by the National Highway Traffic Safety Administration (NHTSA) and placed on a conforming products list (CPL) for such devices.
Breath Alcohol Technician (BAT)	An individual who instructs and assists individuals in the alcohol testing process and operates an EBT.
Cancelled or Invalid Alcohol Test	A drug or alcohol test that has a problem identified that cannot be or has not been corrected, or which this part otherwise requires to be cancelled. A cancelled test is neither a positive or negative test.
Evidential Breath Testing (EBT) Device	A device approved by NHTSA for the evidential testing of breath at the .02 and .04 alcohol concentration, placed on NHTSA's Conforming Products List (CPL) for "Evidential Breath Measurement Devices" and identified on the CPL as conforming with the model specification available from NHTSA's Traffic Safety Program.
Refusal to Submit to an Alcohol Test	The driver fails to provide an adequate amount of saliva or breath for testing without a valid medical explanation after he

	or she has received notice of the requirement for breath testing in accordance with these regulations or engages in conduct that clearly obstructs the testing process.
Screening Test Technician (STT)	A person who instructs and assists drivers in the alcohol testing process and operates an ASD.

Chapter 8. EMPLOYEE ASSISTANCE PROGRAMS, REHABILITATION, AND TREATMENT

Under the FMCSA controlled substances use and alcohol misuse regulation, you are required to refer any driver to an SAP for evaluation, who has used controlled substances or misused alcohol, regardless of the consequences specified in your policy (see 49 CFR part 40, subpart O). For example, you must provide these referrals to your drivers even if your policy is to terminate drivers who violate the controlled substances use and alcohol misuse regulations. You must also inform your drivers of resources available to resolve problems associated with controlled substances use and alcohol misuse.

You are not required by this regulation to provide, or to pay for, rehabilitation and treatment programs. However, many employers choose to do so because research and experience have demonstrated that such programs can be highly cost-effective.

Programs that address substance abuse problems in the workplace are often referred to as "employee assistance programs" or "EAPs." Many EAPs address other problems of drivers and their family members.

Providing EAP services to support the controlled substances and alcohol regulations may be relatively inexpensive if you already have an EAP in place. In many cases, your existing EAPs may already be providing some, or all, of the recommended services, such as assessment and counseling.

For these reasons, employers that currently do not have EAPs should carefully consider the economic and other benefits of establishing them when implementing their controlled substances use and alcohol misuse testing programs. Employers that already offer EAPs should review them for opportunities to integrate their FMCSA-mandated testing programs. You should ensure, however, that the testing programs do not compromise, or appear to the drivers to compromise, the integrity of the EAP.

The relationship of the SAP to the EAP is a complex and sensitive one. Under the regulation, the SAP must evaluate those who fail controlled substances and alcohol tests. The SAP is required to recommend the appropriate treatment and/or education to a driver who has tested positive on a DOT controlled substances or alcohol test. According to the regulation, the employer is responsible for ensuring that the SAP does not refer drivers to a treatment provider that has a financial relationship with the SAP. This provision applies whether or not the employer offers an EAP or other treatment coverage.

SAPs are also responsible for ensuring that drivers satisfactorily complete treatment before they are permitted to return to safety-sensitive duties. In this case, an SAP associated with the EAP or other treatment program may, at the employer's option, be the one to certify readiness to return to duty even if a financial relationship exists between the SAP and the treatment provider. Since not all counselors in treatment programs will possess the credentials required in the regulations to qualify as a SAP (§382.107), employers must confirm this qualification prior to accepting the return-to-duty recommendation.

Section 1. EMPLOYEE ASSISTANCE PROGRAMS

EAPs help drivers and their family members with personal and behavioral problems, including but not limited to health, marital, financial, alcohol, drug, legal, emotional, stress, and other concerns that may adversely affect performance and productivity.

EAP services may be provided directly by the employer or union, or they may be contracted out. Generally speaking, employers with fewer than 3,000 employees will find it more cost-effective to contract out for services. In addition, regardless of the number of employees, if workers are geographically dispersed or if the EAP is intended to be "full-service" and to cover a broad range of problems, contracting out is often cost-effective.

Internal EAPs (those operated directly by the employer) are typically established within human resources or medical departments. Although the company operates the EAP, the EAP facility may or may not be on the employer's property.

External EAPs are contracted services provided for the employer or union by an outside vendor. Vendors may be large national or international EAP providers, local specialized EAP providers, or university-based or other mental health clinics. As with the internal EAPs, physical facilities may or may not be located on the employer's property.

Finally, just as with testing programs, EAPs may be cost-effectively developed through consortia (see Chapter 10, "Joining a Consortium"). Small employers or unions join together to combine their resources and achieve purchasing power and operational expertise typically unavailable to any one consortium member acting individually. For example, a 10-driver employer that could not afford to purchase external EAP services on its own could join a consortium with other similar employers and achieve more favorable financial terms.

Because consortia EAP offer both advantages and disadvantages, their use should be carefully considered. On the positive side:

- Consortia reduce costs for small and medium-sized employers.
- Confidentiality is easier to maintain.
- Community resources are usually better identified and employed.
- A greater range of employees can be served.
- Often the counseling staff has greater diversity and better credentials.

On the negative side:

- Some supervisors and managers will be reluctant to bring

"company matters" before "outsiders."

- The consortium providers (like other external EAP operations) have limited knowledge of the company.

- Role definition between the consortium and the individual members may be unclear, leading to misunderstandings.

- Participating employers may disagree about services needed and apportionment of costs.

- Counselors may find it difficult to integrate themselves into your work force.

Clearly, several of the negatives apply to all external EAPs and not just to consortia. Sound management, a spirit of cooperation, and careful selection of the consortium management and staff can alleviate many of the potential negatives.

The specific services your EAP will provide are a matter of program design. You can choose to include any services you believe will improve the productivity and safety of your work force. Table 8.1 suggests features that EAPs should provide whether they are internally, externally, or consortium-operated.

In addition, some specific requirements of the new testing regulations lend themselves to being performed by EAPs. Examples of these requirements include

- Maintenance of confidential program records

- Program reporting

- Testing (particularly return-to-duty and follow-up)

- Supervisory training and driver education on the requirements of alcohol and drug testing regulations.

You should keep in mind, however, that your EAP may object to conducting drug testing, particularly testing that is not conducted for return-to-duty or follow-up purposes. This may be the case even if the EAP normally conducts testing as a part of its treatment regimen. EAPs often feel that conducting company drug testing makes them appear to be part of the disciplinary or security functions of the company, and as such discourages self-referrals for treatment services.

Table 8.1. Features of a Full-Functioning EAP

Features	Comprehensive Option
Program Development	—Needs Assessment —Program Design —Policies and Procedures Development —Union Integration —Start-Up Meetings with Key Personnel and Advisory Committee
EAP Promotion	—Annual Face-to-Face Employee Orientations (or Video) —Wellness Seminars —Posters —Paycheck Stuffers and Wallet Cards —Personalized EAP Brochure
Clinical Services (Includes Immediate Family)	—Face-to-Face Assessment, Counseling, and Referral Services —24-Hour Response —Appointments Within 48 Hours —Telephone and Face-to-Face Follow-Up for a Minimum of 3 Months until Problem Resolution
Supervisor and Manager Training	—Training Programs (2.5 Hours Each) —Periodic Updates for New Managers and Supervisors —Supervisor's Guide
Consultation	—Consultation With Key Managers as Needed —Unlimited Telephone Consultation and Assistance to Individual Supervisors as Needed
Reports and Evaluation	—Quarterly Reports Analyzing Performance (Statistical Summaries and Narrative Reports With Recommendations) —Semi-annual Presentations to Senior Management
Fee Options Available	—Per Capita Fee —Sliding Scale Based on Utilization —Administrative Fee/Per-Case Basis
Other Services and Features Available	—Critical Incident Response —Executive Assistance Program —Drug-Free Workplace Training and Consultation —Workplace Seminar Series

Providing an EAP.

As mentioned above, the testing regulations do not require you to provide treatment or rehabilitation for your drivers. Nonetheless, many employers in a variety of industries, with and without testing programs, have discovered the value of providing employee assistance services for their employees and their immediate families.

According to the U.S. Department of Labor, corporations are increasingly turning to EAPs to deal with their employees' substance abuse problems. More than 10,000 EAPs operate across the country.

All sizes and types of employers have instituted EAPs. They can help save money by decreasing absenteeism, the number of accidents, use of medical and insurance benefits, worker's compensation claims, grievances and arbitrations, and employee replacement costs.

Major Decisions to be Made in Establishing an EAP

The decisions you must make in establishing an EAP fall into three broad categories:

- Program Scope

  — Employee eligibility (e.g., all employees, safety-sensitive employees only, probationary employees, immediate family members, significant others)

  — Number of work sites to be served

  — Location of work sites

  — Types of problems to be addressed (e.g., substance abuse, legal, financial, marital, psychological).

- Program Type

  — Internal: provide in-house EAP

  — External: purchase services of external company

  — Consortium: combine with other employers to purchase services.

- Program Administration

  — EAP interface with other departments and programs (e.g., personnel, benefits, unions, training and development, controlled substances use and alcohol misuse testing, progressive discipline)

  — Resources, facilities, and staffing

  — Program launching and promotion

— Education, training, and consulting

— Program accountability (statistical reporting, records, program evaluation).

Steps in Establishing an EAP

Because the steps you will follow to establish an EAP closely parallel those you have followed in establishing your controlled substances use and alcohol misuse program, much of the work may have already been accomplished. At the very least, you will have procedures and processes in place that can guide your EAP development.

While there are many ways to approach EAP development, the following steps have proved useful for many organizations:

- Create a program advisory committee.
- Conduct a needs assessment.
- Select a provider.
- Estimate the cost.
- Determine what needs to be done after an EAP service provider is in place.
- Determine additional resources available.

Creating a Program Advisory Committee.

You may have established such a committee or task team to implement your controlled substances use and alcohol misuse program. The program advisory committee involves many components of the employer organization in designing and implementing the EAP. This can be critical later in promoting the acceptability and use of the program.

Typically, a program advisory committee will include representatives of both labor and management. It will also cut across employer divisions and departments. The general rule you should follow in selecting participants is that if their support will be important in implementing or operating the program, they should be included. Obvious departments to include are human resources, medical services, labor relations, legal, and security, as well a broad representation of employees to be covered by the program. Because of the importance of the interface between your controlled substances use and alcohol misuse testing programs and the EAP, whoever manages those programs should be on the advisory committee. However, if your EAP will provide typical services and will not

simply be a counseling arm of the testing program, the manager of the testing program should not be the chair of the program advisory committee or the coordinator of the EAP.

The responsibilities of the program advisory committee will be to develop, implement, and oversee the EAP. This committee will be the primary force moving the creation of the EAP, but its responsibilities will not end once the EAP has begun operating.

The program advisory committee will develop the EAP policy (which may require negotiation between management and bargaining units) and ensure that the policy and the program are properly integrated with other policies and operations of the employer.

To meet its responsibilities in these areas, the program advisory committee may turn to outside resources, including

- Other employers of CDL holders who operate EAPs
- Independent personnel and employee benefits consultants
- EAP professionals, including local and national employee assistance professional associations

Conducting a Needs Assessment.

The needs assessment is used to help you determine the scope of services the program should offer and other elements of program design. It can be useful in identifying characteristics of the work environment that affect employee performance, as well as in predicting utilization levels for various EAP services. This last information can be particularly valuable since it will help you staff the EAP appropriately and budget accurately. It can also suggest the most advantageous fee structure in any contract to be negotiated with an external EAP service provider.

You may also choose to conduct a needs assessment on an annual or biennial basis as a part of an organized evaluation and planning tool for assessing and improving EAP performance.

Selecting a Provider.

If you choose to operate a program internally, once you have your needs assessment in hand, you are ready to begin identifying staff and establishing the program.

Many employers will choose to contract for external EAP services either individually or as members of a consortium. If you have determined that a consortium is the best

approach, you will need to identify potential partners. Local associations of EAP professionals, chambers of commerce, other business groups, and your State industry association may be helpful. However you identify your partners, you should work with them on a program advisory committee so that the EAP consortium is responsive to all members' needs. While, as with all committees, this may result in a better program than you might have designed individually, you may also need to compromise on design issues in ways that you would not if you were not a part of a consortium.

You will need to prepare and release a request for bid (RFB) to obtain EAP services. Because of the wide variety of types of EAP services and the different interpretations of common terms, your RFB should be very specific about the services you want to purchase and how you expect the bidders to prepare their responses. This specificity will help make sure that you are purchasing the services you expect and that proposals from different vendors are comparable. Just as importantly, it will serve as the basis for a very specific contract that you will negotiate with the service provider.

The appendix to this chapter contains a sample RFB for purchasing EAP services. You should review it to determine the extent to which it meets your program design needs.

Send the RFB to EAP providers who serve your area. You will be able to generate names by talking to other employers in the area, by consulting your local or State employee assistance professionals association, or by looking in your Yellow Pages directory under a heading such as "Employee Counseling Services."

Be sure to allow bidders adequate time to provide the detailed information you have requested in the format you have specified. Make the results of your needs assessment available to those who request it. If your company's purchasing procedures permit, meet with vendors who request meetings. EAPs are very "people-oriented," and you should take the opportunity to get to know the people who want to provide this service for your work force. You must be comfortable with them. You are, after all, turning over the care and well-being of your most valuable asset to them.

The draft RFB in the appendix suggests selection criteria you will want to employ in choosing among bidders. Relevant criteria might include, for example,

- Services offered
  - — Assessment
  - — Short-term counseling
  - — Referrals
  - — Follow-up
  - — Referral source maintenance
- Case management procedures
- Clinical supervision procedures
- Reporting procedures
- Managerial and supervisory training
- Management consultation
- Employee education and program announcement
- Staff qualifications
- Office space, facilities, and hours of operation
- Methods for evaluating EAP performance
- Organizational experience
- Understanding of your employees, work force, and needs
- Confidentiality and record keeping procedures
- Participation rates (historical and anticipated/guaranteed)
- Financial capability
- Understanding of multiculturalism, multilingual forces
- Price.

In the end, your best indication of how good a particular vendor will be might be determined best through interviews of other organizations the vendor serves. Once you have narrowed your search to two or three finalists who seem to meet your criteria, call several clients of each and ask detailed questions. While it is important that the EAP vendor understand workers in your industry, it is just as important that they have a thorough knowledge of the resources available in your community. Therefore, when you check references, be sure to call companies located in your community, as well as other companies in your industry.

Estimating the Cost.

Depending upon the size of your work force, its location, types of programs available, number of problems in your work force, whom you cover, and many other factors, the cost may vary significantly. This is true whether your program is internal or external. The more responsibilities the EAP has, the more it will cost. Internally, these costs are borne through the salaries and administrative costs of the program. Externally, they are recovered through the vendor's pricing structure.

The pricing structure may vary. You may have the option of paying on a per-capita basis, where you pay a set amount per year for each employee, whether or not each employee uses the program, or you may pay on a fee-for-service basis, where you pay only when an employee actually sees a counselor.

Actual pricing may vary from $10 to $110 per employee annually. In all but unusual circumstances, you can probably obtain comprehensive services at no more than $30 to $50 per employee per year.

Determining What Needs to Be Done After an EAP Is in Place.

Regardless of whether you have an internal, external, or consortium EAP, someone must be in charge. We refer to that person as the EAP coordinator although, in fact, the person may have a different title in your company (e.g., nurse, human resources specialist, vice president). Typically, this person will be the same one who coordinated the planning for the EAP with the program advisory committee.

The responsibilities of the EAP coordinator include

- Coordinating program advisory committee meetings
- Overseeing implementation of the EAP
- Scheduling senior management briefings
- Planning and coordinating EAP activities (e.g., training, employee orientation sessions, news articles)
- Overseeing EAP promotional activities
- Negotiating the EAP contract (usually annually)
- Monitoring the effectiveness of the EAP
- Monitoring the EAP provider's performance.

Determining the Additional Resources Available.

Implementation of the EAP is a time consuming-process that should not be rushed. If you do not have a program now and wish to consider incorporating one as a rehabilitation component to your controlled substances use and alcohol misuse program, begin right away! EAPs that succeed have been carefully planned and developed with the support and cooperation of many levels of management and union participation as well.

In addition, many companies, including those employing CDL holders, have implemented EAPs before you. Take advantage of their experience. As discussed above, consultants are available to help you establish a program, but a great deal of free and nearly free information is also available.

Section 2. REHABILITATION AND TREATMENT

As noted earlier, the FMCSA regulation does not require you to provide, or pay for, rehabilitation and treatment programs. However, rehabilitation and treatment programs are often an integral part of successful substance abuse programs. The decision to provide rehabilitation to affected employees should be made with both the employer's and employees' needs in mind.

Inpatient and outpatient services are available. The inpatient mode often involves a 1-to-4 week stay in a hospital or residential treatment center and may be targeted toward the more severely addicted person. The outpatient mode is appropriate for those persons who are employed and can benefit from education and behavior modification to remain drug-free and/or alcohol-free.

Intensive Inpatient Services.

Inpatient centers treat dependent people with physical and/or psychological complications. Patients in intensive treatment may need supervised detoxification and may suffer physical withdrawal symptoms. As part of treatment, patients will attend education and awareness lectures and group therapy sessions. Frequently, family members are involved in treatment, since dependency affects the entire family.

Intensive Outpatient Services.

These services generally treat dependent patients who have fewer physical or psychological complications. They offer effective and less expensive alternatives to residential care for individuals with relatively stable home environments and supportive employers. The patient receives education, group therapy, and individual counseling for up

to 10 weeks, with most sessions scheduled in the evenings (generally three sessions per week). These programs often require some family involvement. Costs are generally one third to one half of those for intensive inpatient treatment.

Outpatient Follow Up Services.

Patients discharged from intensive treatment need further help. Help may be provided through an outpatient follow-up program lasting several months to a year or more. One visit per week is typical. Many inpatient and intensive outpatient treatment plans include weekly follow-up sessions at no additional cost.

Usually your employee assistance counselor develops a treatment program that best meets the needs of the employee in a cost-effective manner. If, however, you participate in making a treatment referral, the following guidelines will assist in evaluating the treatment program's effectiveness.

- Cost. High cost does not guarantee effectiveness. Conduct a cost comparison of programs. It could be, for example, that cost disparities are in the number of professionals per bed, total hours of one-on-one counseling and group therapy, number of days of treatment, amount of aftercare counseling, or extent of other medical resources utilized.

- Reputation. Ask other SAPs and former program participants for their candid opinions concerning the effectiveness, service, and reliability of the treatment program.

- Staff qualifications. A quality program should have a balance of professionals. Intensive inpatient programs should be staffed by nurses, physicians, psychologists, social workers, and formerly dependent counselors. There should be medical management of detoxification. Intensive outpatient programs should be staffed by a mix of psychologists, social workers, and formerly dependent counselors. In both cases, all professional staff should be State-certified treatment specialists or counselors interning for certification.

Although an EAP is not required under the FMCSA regulations, a policy decision to attempt to reclaim human resources should be carefully considered.

At first glance, it may seem inappropriate to allow anyone to work again who has demonstrated a high-risk behavior such as controlled substances use or alcohol misuse. However, treatment and rehabilitation can be effective. In addition, trained, skilled labor is a valuable resource. You should consider employee replacement costs, as well as the impacts on work productivity and morale, as you evaluate the cost-effectiveness of EAP rehabilitation services.

Chapter 8 Appendix

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(Reproduced from the Employee Assistance Program for Transit Systems Manual, September 1991)

SAMPLE

Request for Bid
for
Employee Assistance Program Services

Purpose: To Provide Employee Assistance Program (EAP) Services to Company Employees who are now subject to the controlled substances and alcohol regulations of the DOT and FMCSA.

Closing Date:

Place Due:

For Further Information Contact:

I. Purpose of Request for Bid

The purpose of this Request for Bid (RFB) is to solicit proposals to provide EAP technical and professional services for the Employer.

II. Description of the Project

The Employer, with an average population of (#) regular employees, is seeking to provide professional and confidential counseling and referral service to those employees experiencing personal problems. The Employer is requesting a comprehensive, broad-brush approach in the provision of diagnostic, treatment, referral, and follow-up activities to employees. Included in the program service is the basic training of company managers and supervisors in the purposes and uses of EAP.

III. Scope of Services

Provide EAP services including, but not necessarily limited to, the following:

A. Confidential, professional, and comprehensive diagnostic, counseling, and referral services for any employee experiencing personal problems. The first session should be initially offered within a reasonable time from employee contact.

B. Program administration, recordkeeping, and reporting. Assignment of staff to administratively service the Employer's EAP, maintain complete and confidential

records, and report quarterly to the Employer on various program and utilization statistics.

C. Annual supervisory training sessions to company supervisors in the function and uses of an EAP.

D. Communication and consultation with EAP staff by company supervisors about nonconfidential issues, should the need arise.

E. Periodic development and provision of EAP informational materials to the Employer work force.

F. Office space to provide necessary services.

IV. General Instructions

A. Proposal Content

Proposals must set forth full, accurate, and complete information as required by the RFB, and should:

1. Describe how the respondent will deal with each item outlined in the section of this RFB headed "Scope of Services." This applies even if it is the intent of the respondent to eliminate the item or to substitute some other activity.

2. Set forth an implementation plan specifying the staff credentials, capabilities, tasks to be performed, and relevant timetables for service.

3. Provide budget breakdown and fee schedule.

4. Provide original and five copies of bid.

5. Provide reference list and permission statement allowing the Employer to contact references as needed.

6. At the option of the respondent, include examples of no more than two relevant or similar projects provided by the respondent. It is highly desirable that, if such material is submitted, it be in the form of a brief summary that includes a description of the customer, description of services provided by respondent, description of the methodology employed, and examples of reporting forms used.

V. Criteria for Evaluating the Bids Received

The prospective contractor will be selected principally on the following criteria, though not necessarily in this order of ranking:

A. Offeror's proposed statement of work. Emphasis will be on soundness of approach, service provisions, previous experiences, and the quality of recommendations in meeting the Scope of Services.

B. Capability for establishing working relationships. The personnel of this project must be able to work effectively with the management of the Employer. Documentation of previously successful relationships is preferred. Interviews with prospective contractors within competitive range may be conducted to provide input for this criterion.

C. Background and previous experience of agency/personnel (including consultant and subcontractors) to be assigned to provide EAP services and their demonstrated competence in the type of work to be performed (include a complete resume and time commitment for professional persons to be assigned).

D. Budget and fees.

E. Organization and management. Consideration will be given to administrative, management, and program controls, and the ability to commit staff and relevant resources to an EAP.

F. Ability to satisfy minimum indemnification and insurance requirements as detailed under Section IX herein.

VI. Contract Requirements

A formal contract arrangement will be entered into with the EAP provider selected and the Employer. The providers considered will be selected from responses to this RFB. Time period of the contract shall cover one year.

VII. Compliance with Federal and State Laws

The provider shall comply with all applicable Federal and State laws, rules, and regulations, and will not discriminate or permit discrimination against any person or group of persons on the grounds of sex, race, color, age, religion, or national origin in any manner prohibited by law.

VIII. Acceptance Period

In submitting a proposal, RFB respondents agree that the proposal remain valid for a period of 60 days after the closing date for submission of proposal and may be extended beyond that time by material agreement.

IX. **Indemnification and Insurance Requirements**

A. **Indemnification**—The EAP provider agrees to defend, indemnify, and hold harmless the Employer and its employees from any claims, liabilities, obligations, and causes of action of whatsoever kind and nature for injury to or death of employees of the provider or any other person and for damage to or destruction of property, or loss of use, including property of the Employer, in connection with services performed under this agreement regardless of cause except that provider shall not be required to assume responsibility or indemnify the Employer for such injuries, damages, or claims deemed by law to be due to the sole negligence of the Employer or its employees.

B. **Insurance Requirements**—The EAP provider agrees to procure and maintain in effect for the duration of this agreement the following insurance coverage with insurers licensed or approved to conduct business in the State and holding a current financial rating satisfactory to the Employer.

1. **Professional Legal Liability**—Insuring against claims or suits brought by employees alleging injuries or damages, including claims brought directly by the Employer, due to errors and omissions and deemed to have arisen out of work or services performed under this agreement. Coverage shall be broad enough to include:

   a. Contractual Liability

   b. Contingent Liability

   Claims Made Policy—Shall provide for not less than 12 month discovery period or agreement that coverage will be renewed for a period of not less than 1 year, such completion of work or services under this agreement. In the event the Employer requires coverage beyond such extension, it will retain the right to implement such requirement prior to expiration of existing coverage as specified above.

2. **Commercial General Liability**—Insurance against claims or suits brought by employees alleging bodily injury or damages of property and claimed to have arisen out of services provided under this agreement. Coverage shall be broad enough to include:

   a. Premises and Operations

   b. Contingent Liability

   c. Contractual Liability

Limits of Liability—Shall not be less than $1,000,000 for coverage under 1 and 2 above.

Additional Named Insured—Naming the Employer as an additional insured.

Knowledge of Occurrence—Standard Wording

Notice of Occurrence—Standard Wording

3. **Workers Compensation and Employers Liability**—Insuring in accordance with statutory requirements in order to meet obligations toward employees in the event of injury or death sustained in the course of employment. Employers Liability (Coverage B) shall not be less than $100,000 each claim.

Policies under 1, 2, and 3 shall be endorsed to include the following:

Notice of Cancellation—In the event of nonrenewal or cancellation, provider's insurance shall give written notice to the Employer indicating that such cancellation or non-renewal shall not be effective in less than 60 days from the date the notice is received by registered mail.

Certificate of Insurance—Prior to start of work or operations under this agreement or contract, a properly authorized certificate of insurance evidencing that the above described coverage is in effect.

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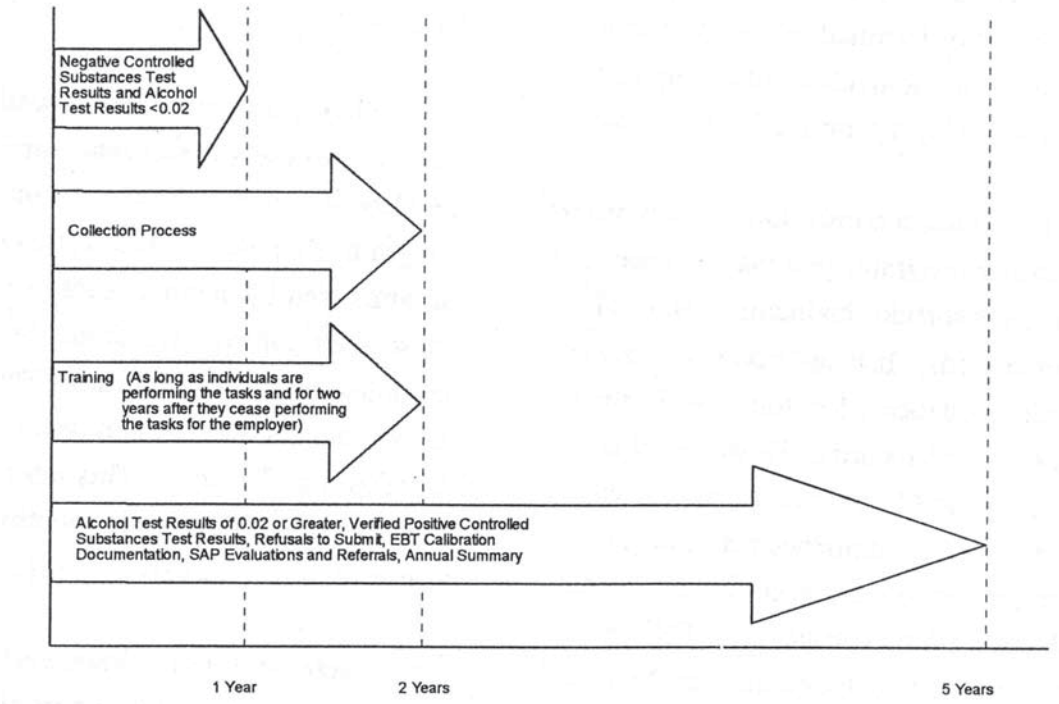

Figure 9.1. Record Retention Requirements

Chapter 9.
ADMINISTRATION

Section 1. RECORDKEEPING

You must maintain certain records concerning your alcohol and controlled substances testing program for specific periods of time. While most of the recordkeeping and reporting requirements are specified in the regulations, others are good business practices. This chapter consolidates these requirements to provide a comprehensive picture of recordkeeping and reporting processes.

You must maintain records on your program administration and the test results of individuals for whom you have testing responsibility. Figure 9.1 summarizes your record retention requirements. You must maintain your records in a secure location with controlled access. The duration and types of records that must be maintained can be found in the appendix of this chapter. Records shall

be made available for inspection at the employer's principal place of business within 2 business days after a request has been made by an authorized representative of the Federal Motor Carrier Safety Administration (FMCSA).
Specific records may be maintained on computer, or at a regional or terminal office, provided the records can be made available upon request from FMCSA within 2 business days.

If you use a consortium to administer your testing program, you may arrange to have the consortium maintain some or all of your records. It is not necessary, under these circumstances, for you to maintain a duplicate set of records. However, it is your responsibility to exercise and document oversight/compliance activities to ensure that records are accurate and current and that they fully comply with FMCSA regulations. The consortium must be able to get documents to the employer within 2 business days.
Oversight of the consortium may include those activities shown in Table 9-1. Checklists of how long you must maintain your records can be found in the appendix at the end of this chapter.

Section 2. DOCUMENTATION

In addition to the specific requirements set forth in the regulations, other portions of the rule pertain to record-keeping or reporting responsibilities that are described in greater detail elsewhere in these guidelines. These other responsibilities are the following:

Driver Program Participation.

If you wish to use a driver who participates in an alcohol and controlled substances testing program (that meets these regulations) administered by another employer, you must retain information about the driver's participation in that program. This information is discussed in detail in Chapter 5, "Types of Testing." This information must be verified every six months if you continue to use the driver (§382.301(d)(2)).

Release Form.

When verifying information about a driver participating in another alcohol and controlled substances program, you will need a request signed by the driver authorizing the other testing program to release the necessary information to you.
Similarly, you will need a written authorization from your driver to release information to other employers (§382.405(h) and 40.321(b)).

Reasonable Suspicion.

When supervisors request a driver to submit to testing for reasonable suspicion, the behavior(s) that led to the request to test must be documented.

Table 9.1. Examples of Consortium Monitoring/Oversight Activities

- Reviewing references of organizations and bidders proposing consortium services to ensure that they are qualified to perform the services and, ideally, that they currently are performing the same or similar services successfully.
- Maintaining a contract that requires the consortium to retain records in compliance with 49 CFR part 382 and any amendments to that regulation or subsequent regulations regarding FMCSA-controlled substances and alcohol-testing recordkeeping.
- Requiring the consortium to provide regular (monthly or quarterly, as appropriate to your testing volume) reports of testing activity regarding your employees.
- Maintaining a contract that permits you to review the consortium's procedures and facilities and to review the records of your employees. Exercising this option where feasible or economically justifiable to do so.
- Maintaining a contract that requires the consortium to provide you with copies of your records upon request within 2 employer business days if you require such records for FMCSA or other review.

This documentation should include the identity of the driver, time and location of the observation(s), behavior(s) observed, and signature(s) of the witness(es).

Random Testing Selection Process.

You must document the selection process used for random testing. For example, you must Maintain a list of the employees tested, the identification of employer representatives selecting the sample, the dates of selection and testing, and the confidential test results for each testing period.

Section 3. CONFIDENTIALITY

The regulations require that test results may be released only under the following circumstances:

- Employers must release information or copies of records regarding a driver's test results to a third party only as directed by specific, written instruction of the driver [this includes the driver's subsequent employer(s)] (§382.405(f) and 40.25(h)).

- Employers may disclose information related to a test result to the decision maker in a lawsuit, grievance, or other proceeding initiated by, or on behalf of, the driver tested (§382.405(g) and 40.323(a)(2)).

- Upon written request, employers must promptly provide any driver with records relating to his or her test. (§382.405(b))

- Employers must release information to the National Transportation Safety Board (NTSB) about any post-accident test performed for an accident under investigation. (§382.405(e))

- Employers must make available copies of all results of driver testing programs, and any other records pertaining to testing programs when requested by FMCSA or any State, or local agency with regulatory authority over the employer or any of its drivers. (§382.405(d))

Employers must maintain records in a secure manner, so that disclosure of information to unauthorized persons does not occur. (§382.405(a))

Besides employers, the collection site personnel, the laboratory, the MRO, the BAT, and the SAP must also be held to strict confidentiality requirements. The laboratory must be prohibited from releasing individual test results to anyone except the designated MRO (§40.97(b)). The MRO and the BAT must only report individual test results to you or your designated representative and to the individual who was tested. To ensure that confidentiality is not violated, it is your responsibility to clearly define who will receive test results and for what purposes.

The release of test results is only one concern. You must also be sensitive to driver expectations of confidentiality in other aspects of your controlled substances use and alcohol misuse program. For example, if it becomes widely known that a driver has undergone reasonable suspicion testing (even though the test results are negative), that driver may feel that his or her privacy and confidentiality has been violated. Likewise, if referrals to an EAP for rehabilitation become a topic of gossip, drivers may lose faith in your program and become distrustful of, and hostile toward, management. Therefore, confidentiality should be applied to all aspects of your controlled substances use and alcohol misuse program, particularly with respect to identifying specific individuals. The general rule of thumb is to apply the same high regard for privacy and

confidentiality that you would want and expect for yourself.

Medical Review Officer (§382.407).

The MRO is the only individual in the controlled substances testing process with access to all the items of information provided during the procedure, including receiving test results from the laboratory and any privileged medical information from the driver. It is the MRO who passes on individual test results to the driver and the employer. The regulations specify the manner in which test results are to be transmitted to the employer. The MRO may initially report to the employer using secure and confidential messenger, fax, telephone, electronic transmission or any other secure, confidential communications device. In all instances of any test result (e.g., canceled, negative, and positive), the initial report to the employer must be followed by a written document within 3 business days of the MRO review. This document must be signed by the MRO, or for negative results, rubber stamped by the MRO's staff.

The MRO must maintain all dated records and notifications for verified positive controlled substances test results, identified by individual, for 5 years.

The MRO must maintain all dated records and notifications for negative and cancelled controlled substances test results, identified by individual, for 1 year.

The MRO must not release the individual controlled substances test results of any driver to any person without specific, written authorization from the tested driver. However, the MRO must release driverspecific results to the driver's employer or Federal, State, or local officials with regulatory authority over the controlled substances testing program. (§382.409(c))

Section 4. TESTING LABORATORY PROCEDURES

Section 40.43 of the DOT regulation requires your testing laboratory to maintain a clear and well-documented procedure for collecting, shipping and processing urine specimens. The Federal Drug Testing Custody Form (CCF) (§40.45) must be used to document every urine collection required by the DOT drug testing program and split specimen collections shall be conducted (§40.71(a)). The Custody and Control Form (CCF) is a five-part carbonless manifold form.

- Copy 1 of the CCF and the two specimen containers are placed in plastic pouches and inserted in a shipping container for shipment to a Department of Health and Human Services laboratory (DHHS). Copy 2 of the CCF goes to the MRO.

Copy 3 of the CCF is retained by the collection site. Copy 4 of the CCF is sent to the employer's Designated Employer Representative (DER). Copy 5 of the CCF is given to the specimen donor (§40.73(a)). These multi-part forms are also described in Chapter 6, "Controlled Substances Testing Procedures."

· The specimen shipping container is transported by a delivery service provider to a Department of Health and Human Services (DHHS) certified laboratory for processing (§40.73(a)(2)).

Once the laboratory has satisfactorily completed testing procedures, it is required to:

- Report the results to your MRO in a timely manner and is usually done the same day the review is completed by the laboratory's certifying scientist. Most laboratories will be able to provide test results within 1-3 days after receiving specimen unless there is a problem concerning the specimen (§40.97).

- Provide you with a semi-annual statistical summary of all tests performed (§40.111(a)). This summary must be forwarded to you by January 20 of each year for period covering July 1 through December 31 of the prior year and by July 20 of each year of period covering January 1 through June 30 of current year.

This report must be part of your program administration records. The laboratory must also maintain written procedures on all aspects of its analysis and testing program.

Testing laboratories must retain documentation regarding all aspects of their testing procedures for 2 years, unless you request them to retain these records for a longer period, as you might if they are needed in legal proceedings (§40.109(c)). Positive specimens must be maintained for 1 year. If a positive result is challenged in court, the specimen must be kept indefinitely (§40.99(c)).

Section 5. ANNUAL CALENDAR YEAR SUMMARY

When requested by the FMCSA, another DOT agency, or the Secretary of Transportation, you must prepare and maintain an annual summary of the results of your controlled substances use and alcohol misuse programs. If the FMCSA requests in writing that you prepare an annual summary, it must be completed and reported to FMCSA. The form and manner of the report will be stated in the FMCSA's letter to you. Unless specifically requested, you must not submit an annual summary to the FMCSA. Reports submitted to the FMCSA that have not been requested will be discarded.

Each year in January, the FMCSA will notify a select number of employers to submit their annual summaries. If requested by the FMCSA to submit your annual report, you must do so by March 15 of that year. The information requested by the FMCSA must be typed, except for the signature of the certifying official.

If you are a member of a consortium, your consortium may prepare your annual report for you. However, you must sign report, and you are ultimately responsible for reports prepared or submitted (if requested) on your behalf by the consortium.

The annual summary must contain all the information outlined in 49 CFR Part 382.403. This annual summary must be maintained for 5 years and must be presented for review upon request from an agent of the U.S. Department of Transportation. An agent of the Department may also request a summary be prepared during a compliance investigation. Such a summary would, generally, be for a past calendar year and you will have two business days from the time the FMCSA agent makes the request to complete it and provide it to the agent.

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Chapter 9 Appendix

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Record Retention Checklists

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Record Retention Checklists

Alcohol Program Records You Must Maintain for 1 Year

1. Records of Test Results Less Than 0.02

   _____ All copies of the U.S. Department of Transportation (DOT) Breath Alcohol Testing Form OMB No. 2105-0529, including results of the test.

Alcohol Program Records You Must Maintain for 2 Years

1. Records Related to the Collection Process ***Except*** Calibration of Evidential Breath Testing Devices

   _____ Collection logbooks, if used.

   _____ Documents relating to the random selection process.

   _____ Documents generated in connection with decisions to administer reasonable suspicion alcohol tests.

   _____ Documents generated in connection with decisions on postaccident tests, including but not limited to

   - copies of citation, if given
   - towing records
   - medical treatment documentation
   - copy of accident report.

   _____ Documents showing existence of medical explanation of inability of drivers to provide enough breath for test.

Alcohol Program Records You Must Maintain for 5 Years

1. Alcohol Test Records with Alcohol Readings of 0.02 or Greater

   _____ All copies of the alcohol test form, including the results of the test.

   _____ Documents related to the refusal of any driver to submit to an alcohol test required by 49 CFR part 382.

_____ Documents related to a medical inability to provide an adequate breath sample.

_____ Documents presented by a driver to dispute the result of an alcohol test administered under 49 CFR part 382.

2. Calibration Documentation

_____ Documents specifying the machine calibrated (e.g., by serial number), the date of calibration, the certified technician calibrating the equipment, and the results of the calibration signed by the calibrating technician.

_____ Manufacturer's calibration schedule for the model of equipment used.

_____ Certification record for the calibrating technician.

3. Driver Evaluation and Referrals

_____ Records pertaining to a determination by a substance abuse professional concerning a driver's need for assistance.

_____ Records concerning a driver's compliance with the recommendations of the substance abuse professional.

Alcohol Program Records You Must Maintain for as Long as the Individuals Are Performing the Tasks and for 2 Years After They Cease Performing the Tasks for the Employer

1. Education and Training Records

_____ Materials on alcohol misuse awareness, including a copy of the employer's policy on alcohol misuse.

_____ Verification of Breath Alcohol Technician training.

_____ Documentation of compliance with requirements of 49 CFR part 382.

_____ Educational materials that explain the regulatory requirements.

_____ The employer's policy and procedures with respect to implementing the regulatory requirements.

_____ Documentation of training provided to supervisors to qualify them to make reasonable suspicion determinations.

_____ Documentation of appropriate MRO training.

_____ Training for persons who directly supervise drivers.

_____ Written notice to every driver of the availability of the above materials.

_____ Written notice to all driver organizations (i.e., collective bargaining units) of availability of the above materials.

Controlled Substances Program Records You Must Maintain for 1 Year

1. Records of Verified Negative Controlled Substances Test Results

_____ All copies of the Federal Drug Testing Custody and Control Form.

Controlled Substances Program Records You Must Maintain for 2 Years

1. Records Related to the Collection Process

   _____ Collection logbooks, if used.

   _____ Documents relating to the random selection process.

   _____ Documents generated in connection with decisions to administer reasonable-suspicion controlled substances tests.

   _____ Documents generated in connection with decisions on postaccident testing.

   _____ MRO documents showing existence of medical explanation of inability of a driver to provide enough urine.

Controlled Substances Program Records You Must Maintain for 5 Years

1. Records of Drivers' Verified Positive Controlled Substances Test Results

   _____ All copies of the Custody and Control Form.

   _____ Documents related to the refusal of any driver to submit to a required controlled substances test.

   _____ Documents presented by a driver to dispute the result of a controlled substances test administered under 49 CFR part 382.

2. Driver Referrals to Substance Abuse Professional and Return to Duty and Follow-Up

   _____ Records pertaining to a determination by a substance abuse professional concerning a driver's suitability to return to work.

   _____ Records concerning a driver's entry into and completion of the program of rehabilitation recommended by the substance abuse professional.

Controlled Substances Program Records You Must Maintain for as Long as the Individuals Are Performing the Tasks and for 2 Years After They Cease Performing the Tasks for the Employer

1. Education and Training Records

_____ Awareness training materials on controlled substances use, including a copy of the employer's policy on prohibited use.

_____ Documentation of training provided to supervisors to qualify them to make reasonable suspicion determinations.

_____ Certification that training complies with the regulatory requirements.

_____ Procedures to assess those with verified positive tests, providing available services, referral, suspension, and dismissal.

_____ Collection site personnel, SAP, and MRO training.

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Chapter 10.
JOINING A CONSORTIUM

Note: The use of a consortia does not eliminate your compliance responsibilities under the FMCSA rules. The consortium is your agent; you the employer remain responsible for full compliance.

Implementing your controlled substances use and alcohol misuse program is a significant undertaking. It will involve planning, contracting, administrative, legal, and monitoring efforts, which even some large employers may find among the most complex and demanding elements of their safety programs. Small employers may be more seriously challenged.

One common method of reducing these challenges and their associated costs is the

formation of consortia for testing and related services. The term consortium is defined by the FMCSA regulations as including, but not limited to, a group of employers who join together to administer DOT drug and alcohol testing programs. FMCSA encourages all employers to consider the possible business advantages of forming or joining consortia. Moreover, FMCSA *requires* individual owner/ drivers be in a random pool consisting of two or more persons (§382.103(b)).

The regulations allow you to form or to join consortia comprised of employers of any transportation modes subject to DOT alcohol and controlled substances testing regulations.

Section 1. ADVANTAGES OF CONSORTIA

Employers that form or join a consortia generally do so for one or more of the following reasons:

- Lower costs
- Greater expertise
- Reduced administrative burden.

Lower Costs.

Like all businesses, controlled substances testing laboratories incur overhead costs (e.g., training, recordkeeping, reporting, billing, and other administrative activities) as part of doing business. The same is true of collection sites, BATs, MROs, SAPs. When only a relatively few tests are conducted or a few drivers are evaluated, these costs on a per unit basis can be substantial. When larger numbers of tests are conducted or drivers are evaluated, the overhead costs can be spread over a much larger base, and the per unit costs are minimized as economies of scale are achieved.

In the extreme case, an employer with a low volume of business may have difficulty finding a laboratory to take its business at any reasonable price. For example, when testing services are purchased by small employers, each individual test is likely to cost much more than it would cost a large employer. The per test cost for a large purchaser may be a third or more less than that for a small purchaser.

Consortia allow several small purchasers to combine their service needs and to buy in bulk, thereby realizing substantial savings.

Greater Expertise.

The FMCSA and DOT regulations are not simple. Although the regulations were carefully crafted for all employers, experience from earlier FMCSA programs, from other transportation modes, and from other industries

indicates that you may experience unusual situations where it is not clear what your responsibilities are under the regulations. The regulations establish minimum standards. Many decisions are left to local management. Typically, management's position will be reflected in your policy statements and your operating procedures. Beyond this, however, neither FMCSA nor any other organization can anticipate every situation that will arise when you implement your program.

Many of the issues left to local option (e.g., number of random pools, when random testing of long distance drivers will occur) can have significant effects on program costs and efficacy and should be carefully considered as you develop your policy. A consortium, particularly one with a professional manager, can help you decide which of the permissible approaches are best for your company.

Regardless of who has responsibility for your controlled substances use and alcohol misuse program, that manager will almost certainly have additional job responsibilities. In the cases of small employers and owner operators, those other responsibilities may be especially varied, and some of them may be quite dissimilar from administering a controlled substances use and alcohol misuse program.

Joining a consortium allows employers to pool resources to hire a professional manager to run the program. Depending upon the size of the consortium, the manager may be full or part time, and his or her salary, as well as consortium expenses, may be recovered through the money saved on expenditures for testing services.

A professional consortium manager does not, for example, have to learn the many laws, regulations, policies, and procedures covering day to day fleet operations. His or her attention need not be diverted by scheduling or equipment maintenance. The manager can devote full attention to the testing regulations and your testing program. He or she can be the expert in this area, and you can be the expert in vehicle movement and maintenance.

Reduced Administrative Burden.

The administrative burden of operating programs in compliance with the regulations can be substantial. Procuring services, training employees and program personnel, maintaining chains of custody, and collection equipment and facilities, maintaining the random pool and completing random selection and notification, quality assurance, and recordkeeping and reporting can each be time consuming activities. Taken together, they can be daunting

to an employer that wants to operate a first class safety program.

A consortium can assume responsibility for any or all of these activities; and because the services are provided for all employers as a whole, the costs to an individual employer are substantially less than if each employer were to provide these services on its own.

Beyond cost savings and expertise, is practicality. Particularly for small employers, maintaining of a random pool and selecting drivers for random testing can be difficult.

The regulations permit you to develop a consortium that pools the drivers of all consortium members for the purposes of random testing (§382.305). As a result, it is easier to test at the required random rates, and there is more uncertainty regarding who will be tested.

Even in larger systems, the consortium approach to managing random selection has an advantage. Random testing has traditionally concerned drivers and their representatives. Some fear that, if an employer wished to target a driver, the employer could manipulate the random process to ensure that the driver was selected repeatedly or at specific times. Delegation of the random selection process to the consortium can minimize employer control and driver concerns.

An employer that employs only himself/herself as a driver —*must* join a random pool consisting of two or more drivers. The FMCSA believes these individuals, by definition, cannot select themselves for a random test. The test therefore cannot be unannounced and the intent of the random testing provisions of the law and regulations cannot be met by individuals who are not members of a random pool consisting of two or more drivers.

Similarly, employers who have only a few drivers must go to extra effort to ensure that random tests are distributed evenly throughout the year as required by regulations (§382.305(k). If an employer must only complete a few random tests, and those tests are completed prior to the end of the year, the employer must complete additional tests that year or make other special accommodations so that no driver may be comfortable that all random testing has been completed for the year. Because of this, small employers not in consortia will likely conduct random testing at effective rates greater than those in the regulations (currently 10 percent for alcohol and 50 percent for controlled substances) (§382.305. Because consortia are designed to increase the effective size of small employers, employers who join consortia do not have this problem and their program costs and administrative burden will be reduced.

Using a consortium may distance employers from the actual operation of the testing program; however, employers remain responsible for program actions. Therefore, employers should exercise due diligence in selecting a consortium and monitor performance as appropriate. Employers should consult their attorneys for specific information regarding how a consortium might best be structured and operated to minimize liabilities. As noted before, the use of a consortium does not eliminate your compliance responsibilities under FMCSA rules. The consortium is your agent; you, the employer, remain responsible for full compliance.

Section 2. ADDITIONAL CONSIDERATIONS IN ESTABLISHING CONSORTIA

Although there are many advantages, particularly for small employers, in establishing consortia, the advantages do entail costs. You should consider the implications of those costs to your organization prior to establishing or joining a consortium. Allowances must be made for

- Shared design
- Reduced control
- Financial considerations.

Shared Design.

As a consortium is essentially a committee and because compromise is inherent in the nature of all committees, it is possible that you may need to compromise on some of the nonregulated elements of your controlled substances use and alcohol misuse program design. For example, you may join a consortium that has a core of services that comply with FMCSA and DOT regulations. Still, that consortium may not offer other elements (e.g., rehabilitation) that you consider important in your program.

Reduced Control.

If you operated your own program, the managers in charge of it would be your managers, and they would operate according to your own policies and procedures under your sole control. This will not be the case in a consortium. As a result, it will be more difficult to make changes in the program, and changes that you do make will take longer than if you operated your own program. Conversely, the consortium may make changes in the program that you do not wish to have made, but may be powerless to avoid.

Your best protection against this reduced control is a sound contract with the consortium. While you still may not be able to make unilateral changes, at a minimum you can

ensure compliance with all applicable laws and regulations. You might also limit the ability of the consortium to make changes without your approval, and might provide for your timely withdrawal from the consortium if circumstances warrant.

Financial Considerations.

Although the net financial results of a consortium should be to reduce your substance abuse program costs, financial risks exist. Failure of some consortium members to pay their costs may increase the financial burden on other members under some consortium models.

In addition, it is a common practice for consortia to require a membership payment in addition to payments for services as they are delivered. This membership payment may support initial services such as policy development or educational materials. Charging a membership fee is a reasonable and common practice, and in virtually all cases, the membership fee will be less than the initial investment in an in-house program. Nonetheless, the membership fee may be several times the cost of a single controlled substances test, and small employers who anticipate joining consortia should expect the fee and budget accordingly.

Section 3. TYPES OF CONSORTIA

Consortia arrangements can be made to provide collectively the same types of services as those available through separate or individual contract arrangements (e.g., education and training, specimen collection, laboratory analysis, MRO services). There are a number of models of consortia, each with its own advantages and disadvantages. The following are examples of four such models:

- Purchasing cooperative
- Separate entity
- Managing partner
- External management.

Purchasing Cooperative.

In a purchasing cooperative model, the consortium contracts for services at a volume price to take advantage of large-volume buying power and management efficiencies. Suppliers would deal directly with each employer. This model is analogous to a cooperative formed by a group of small retailers to purchase merchandise at volume discounts. In this case, the cooperative or consortium negotiates terms and conditions with suppliers. The actual orders for and delivery of goods and services, however, are conducted between the individual members and the suppliers.

Separate Entity.

If the number of drivers represented by all consortium members is large enough, it may be cost effective to form a separate entity. The consortium hires a manager whose responsibility it is to provide services at the cost of purchasing the services, plus the costs incurred in operating the consortium. An analogous example is a food cooperative. Consumers form cooperatives because they want the highest quality product at the lowest price.

Managing Partner.

In this model, smaller employers contract for services with larger employers subject to DOT controlled substances use and alcohol misuse testing regulations (e.g., state DOT, a transit agency, an airline). A large employer that has the staff and resources to service its own controlled substances use and alcohol misuse testing program may also be able to sell surplus staff time to small employers, thereby providing an economic benefit to both. This model is analogous to a limited partnership in which investors pool resources. Usually the investor with the greatest investment becomes the managing partner with the responsibility of managing and making decisions for the partnership.

External Management/Third-Party Administrators.

Under this model, employers contract with a company that provides the services desired. The management company should have demonstrated expertise in the transportation substance abuse field. This model is analogous to a pension fund management service or an insurance health benefits manager. A given management company may operate more than one consortium. External management may be considered both by consortia and by individual employers.

A consortium of organizations with a full time controlled substances use and alcohol misuse program manager provides the members with specialized expertise without each member having to hire its own specialist to run a program. This can often prove cost-effective since it spreads administrative costs over a greater base, while providing greater expertise than any consortium member is likely to have on its staff without additional hiring.

In many cases, establishing a consortium will require forming a legal entity. The consortium would probably operate as a nonprofit corporation. The consortium would have power to conduct business for its members, enter into contracts, and be their

legal representative according to a charter and bylaws. A governing board of the members would be responsible for managing the consortium.

Several nationally based third party managers provide "turn key" services for employers and consortia seeking external management. The FMCSA does not recommend specific providers so those companies' names are not listed here. However, most of them are represented at major industry trade shows. These external managers may operate consortia themselves or may facilitate your entry into an existing consortium that they operate or provide services to. In addition, some DHHS approved laboratories operate consortia and provide external management services.

Section 4. THE IMPORTANCE OF YOUR CONSORTIUM CONTRACT

Regardless of the model of consortium you select, you should realize that you are entering into a contractual relationship, and your interests should be protected. Although you are implementing the regulations through a consortium, you remain responsible to FMCSA for implementing those regulations. This means that if the consortium is implementing some aspect of the program incorrectly, *you* are implementing it incorrectly and could be subject to fines and penalties. You should exercise due diligence in selecting a consortium and in monitoring consortium operations.

Depending upon your needs and those of other consortium members, you may purchase a variety of required or optional services from the consortium. Also, depending upon how the consortium is structured, you may be required to purchase all services or may only purchase those you require on an as needed basis. A menu of services might include any or all of the following:

- Policy development
- Program implementation
- DHHS certified laboratory specimen analysis
- Collection services
- Mobile or on site collection services
- BAT (breath analysis technician)
- EBT (evidentiary breath testing) equipment
- SAP (Substance Abuse Professional)
- MRO (Medical Review Officer)
- Supervisor training
- Driver education

- Employee Assistance Program alternatives
- Consultation services
- Random testing—pool management selection and administration
- Quality control (blind sample) programs for controlled substances testing
- Recordkeeping
- Federal report preparation.

Regardless of the services you obtain from the consortium, however, you must have a written contract with the consortium manager (§382.401(c)(6)(i)). The contract should specify

- The specific services you are purchasing.
- The price you will pay and how it is calculated, the schedule upon which you will pay, and any discounts to which you may be entitled.

- That all services will be delivered in accordance with 49 CFR parts 40 and 382, and other applicable Federal, State and local laws and regulations; that it is the responsibility of the consortium manager to stay current on these requirements; and that the consortium manager will immediately change consortium policies and procedures to comply with changes in laws and

regulations. You may agree to renegotiate fees retroactively to the

date of the change within 45 days after the change becomes effective if sufficient time is not available prior to the change.

- The contract term. Because controlled substances testing prices have fallen steadily, it is probably in your best interest not to negotiate for a term of more than one year unless you have the right to renegotiate price at the end of a year. It is anticipated that initial alcohol testing costs will also decline over several years. Both parties should have the right to break the contract for cause, and you should be able to withdraw on 60 days written notice.

- Record review. You should reserve the right to examine consortium facilities, records, and procedures. Review of BAT, urine collection site service records, MRO files, SAP files and laboratory reports may be conducted by an employer official or a third party authorized to access such confidential records and who will hold personal information in confidence.

- Periodic reporting. You should require the consortium to provide periodic reports of consortium activities related to your organization. If those services include testing or training, the reports should be in a format analogous to the annual summaries you may be required by FMCSA to submit. The consortium should be responsible for preparing appropriate parts of the MIS report that the employer may be required to submit (§382.403).

- Timeliness requirements. Since the consortium potentially adds an additional administrative layer to your testing program, you must ensure that it acts expeditiously to avoid negative effects on your drivers or your operations through unnecessary reporting delays. You may wish to negotiate liquidated damages clauses for consortium failures in this area.

- Quality control requirements. The consortium should implement appropriate quality control procedures, including blind sample laboratory specimens for

controlled substances testing, as required in Part 40.

Section 5. HOW TO EXPLORE CONSORTIA FURTHER

If you think that a consortium is an option your company should consider, some actions you might take include include the following:

- Contact other employers participating in consortia, ask about their experiences, and find out whether their approaches might work for you.

- Consider which of the consortium models might best serve your needs. An informed purchasing cooperative may meet the needs of many employers.

Separate Entity Model.

If you believe the separate entity model might be best, you have two options: to create or to buy. There may be an existing consortium, perhaps providing testing services to State government or to another transportation mode, that you might join.

Remember, though, other transportation modes subject to their own DOT regulations may have regulatory requirements that differ from those promulgated by FMCSA. For example, over time random testing rates will be adjusted separately for each of the transportation modes, based upon the test results of the modes' respective industries. Therefore, even though an employer or consortium in another industry may comply with FMCSA regulations today, it may not in the future.

You must ensure that the consortium will comply with the FMCSA regulations in all respects. In addition, if the existing consortium does not provide all required services, you must make separate arrangements for those services. Your system might provide them internally or purchase them elsewhere.

Forming your own consortium from scratch might be the best approach for ensuring that the consortium will be fully compliant with FMCSA regulations. If you pursue this model, you will need to identify other employers interested in participating. Your personal network, statewide industry association, or State department of transportation may be useful in identifying other interested employers, just as they

might be useful in helping you identify existing consortia that you might choose to join.

Managing Partner Model.

If you are a small employer with a neighboring large employer, this may be a particularly attractive model. Contact the large employer to determine how that operator is implementing the controlled substances use and alcohol misuse regulations. Large employers may have had their own programs for many years. They may be able to accommodate your needs fairly effortlessly and inexpensively.

External Management Model.

This model is really a subcategory of the other models. Each of the other models might be internally or externally managed. Indeed, even in the absence of a consortium, an individual employer might choose to contract out the management of its controlled substances use and alcohol misuse program. Several national and regional management companies provide services of varying quality in this area. Some are excellent and may provide you with a better program than you could operate on your own. Others may leave you out of compliance with the FMCSA regulations and subject to fines and penalties. The experience of other employers, particularly those employing CDL holders, will be your best guide. As you select a management company, remember to check references thoroughly and to employ a detailed written contract specifying your requirements.

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