

**Create Drug and Alcohol Testing Policies for County Employees**

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**Disclaimer**

*This training is designed to provide general information about the subject matter covered. Neither TAC nor the trainers are engaged in rendering legal advice. If you need legal advice, TAC recommends that you seek the services of a competent attorney who is familiar with your specific situation.*

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**Learning Objectives**

- Be able to describe the differences in regular county employee drug and alcohol testing and CDL DOT Federal Regulation Drug and Alcohol testing requirements.
- Gain knowledge of the five different types of CDL DOT Federal Drug and Alcohol Tests.
- Be able to communicate back to your county the requirements of what must be included in all drug and alcohol policies.
- Be able to develop your county drug and alcohol testing policies by applying practice and utilizing tools provided during the training session.

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**Non-CDL Employees – Best Practices**

- Have a Drug and Alcohol Policy for all employees
- Include in your policy:
  - Pre-employment Testing
  - Reasonable Suspicion Testing
  - Post Accident Testing

NOTE: Do Not Include Random Testing



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**Non-CDL Policy Recommendations**

A good basic policy should include:

<b>A statement on the objectives of the policy</b>	<b>Definitions</b>	<b>Who is covered under the policy</b>
<b>What is considered a violation</b>	<b>What types of testing will be done</b>	<b>What disciplinary measures will be taken</b>



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**Federal Motor Carrier Safety Administration Regulations**

**FMCSA**

- 49 CFR Part 40
  - Specifies employer responsibilities
  - Specifies how to conduct these tests
  - Specifies what procedures to use
  - Specifies confidentiality and release of information



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### Federal Motor Carrier Safety Administration Regulations

#### FMCSA

- **49 CFR Part 382**
  - Specifies prohibitions and consequences of drug and alcohol use
  - Specifies which test are required and when
  - Specifies alcohol misuse and controlled substances use information, training, and referral.




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### Who Do We Test?

**Commercial Drivers License(CDL) holder operating Commercial Motor Vehicle with Gross Vehicle Weight or Gross Combination Weight rating of 26,001 pounds**

- Full Time Employees
- Part Time Employees
- Temporary Employees
- Volunteers




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### CDL Policy Development

**FMCSA requires each county with CDL drivers to develop a written policy** (382.601)




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**CDL Policy Requirements**

- **Required Policy Statement**  
Short statement describing policy objectives (382.601)
- **Definitions** (382.107)
- **Categories of drivers subject to testing** (382.103)  
All CDL drivers operating CMV must be tested
- **Participation is a requirement of employment**  
Your policy must state that all CDL drivers operating a CMV must participate in the program





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**CDL Policy Requirements**

**Required Hours of Compliance**

- **Alcohol Rule** (382.205, 07, 09)
  - On Duty
  - 4 hours prior to duty
  - 8 hours post accident or until employee undergoes post accident testing
- **Controlled Substance Rule** (382.213)
  - May not report or remain on duty
  - \* Exception – Use is at instruction of physician who advised will not adversely affect employee




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**CDL Policy Requirements**

**Employee Prohibited Behavior Rules**

- Improper use of alcohol
- Improper use of drugs
- Possession of alcohol or drugs
- Possession of drug paraphernalia
- Prescriptions/Over the Counter Drugs
- Adulterants





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### CDL Policy Requirements

#### Circumstances for Testing (382, Subpart C)

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



**NOTE:** Your policy must be detailed to inform drivers what circumstances will trigger a test




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### CDL Policy Requirements

#### Behavior that Constitutes Refusal (382.107, 382.211)

- Inability to provide sufficient quantity of breath, saliva or urine (without a medical explanation)
- Tampering or adulterating or MRO reports such
- Interfering with testing procedure
- Not immediately report to collection site
- Failing to remain at collection site until released
- Leaving an accident without a valid reason before test can be conducted




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### CDL Policy Requirements

#### Testing Procedures – How to Do It (49 CFR Part 40)

- Controlled substance test will be performed with a split sample and analysis reviewed by MRO
- Alcohol tests – breath or saliva
- Privacy of employee is protected
- Integrity of test is maintained
- Test results attributed to correct driver
- Post accident conducted with specific instructions to driver
- Records and results only released to those authorized (382.405)




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**CDL Policy Requirements**

**Consequences of Positive Tests**

- **Alcohol**
  - **.02 to .04** the employee shall not perform or continue to perform safety sensitive functions for 24 hours following test (382.505)
  - **.04 or greater** is mandatory removal from safety sensitive function (382.5)
  - **Less than .02** is considered a negative test
  - **Refusal to submit to test**

**NOTE:** This is minimum requirements. The regulation does not stop you from terminating.



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**CDL Policy Requirements**

**Consequences of Positive Tests**

- **Controlled Substance Abuse**
  - **Verified positive controlled substance test result**
  - **Refusal to submit to test**

**NOTE:** This is minimum requirements. The regulation does not stop you from terminating.

- **These result in mandatory evaluation by a substance abuse professional – Even if your policy allows/requires for termination (382.503)**
- **Driver must have a Return to Work follow up Negative drug test before being reinstated**



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**CDL Policy Requirements**

**Identify a Contact Person**

- **Must designate a person to answer questions about your alcohol misuse and controlled substance use program**
- **You must include the telephone number and location address.**



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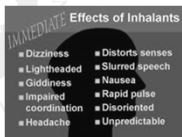
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## CDL Policy Requirements

### Effects of Alcohol and Controlled Substances

Alcohol and substance use can negatively affect:

- Vision
- Coordination
- Aggressiveness
- Reflexes
- Emotions
- Judgement
- Driving Ability



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## CDL Policy Communication

- Must make sure drivers are aware of policy and the affect it has on them
- Must provide written materials to explain regulations, policy and corresponding procedures to all CDL drivers (382.601)
- Must require a CDL driver to sign a certificate of receipt of materials and keep on file (382.601(d))



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## CDL Supervisor Requirements

All supervisors designated to supervise CDL drivers must take Reasonable Suspicion Training (382.603)

- 1 Hour Controlled Substance Training
- 1 Hour Alcohol Misuse Training



NOTE: Recurrent training is not required, but all new supervisors must complete.

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## Overview

- You may have a drug testing policy for non-CDL drivers to include pre-employment, reasonable suspicion or post accident
- Counties who have CDL drivers operating CMV with GVW or GCW of 26,001 pounds must have a CDL written policy and testing program to include pre-employment, random, reasonable suspicion, post accident, return to work and follow up testing.
- Policy must be communicated in writing and a certificate of receipt must be on file for all CDL drivers.
- Supervisors must have reasonable suspicion training of 1 hour each for controlled substance and alcohol misuse,



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## Resource Links

### Regulations

<https://www.fmcsa.dot.gov/regulations/drug-alcohol-testing/overview-drug-and-alcohol-rules-employers>

### Policy Development

<https://www.fmcsa.dot.gov/regulations/drug-alcohol-testing/implementation-guidelines-alcohol-and-drug-regulations-chapter-3>

### Be a Driver in the Know – FMCSA Employee Brochure

<https://www.fmcsa.dot.gov/regulations/drug-alcohol-testing/drug-and-alcohol-testing-brochure-drivers>



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## Questions



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