

MINNESOTA COMMERCIAL TRUCK AND PASSENGER REGULATIONS FACT SHEET

Controlled Substance and Alcohol Testing

Most drivers of commercial motor vehicles (CMV) engaged in interstate and intrastate transportation are subject to controlled substances and alcohol testing under the Federal Motor Carrier Safety Regulations found in 49 CFR, Part 382.

Employers are required to have a program and procedures in place to ensure that all drivers who are required to have a commercial driver's license (CDL), **and** who operate a CMV, are tested for drug and alcohol use. The purpose of controlled substance and alcohol testing is to reduce highway accidents that result from driver use of these substances.

Commercial Motor Vehicle (CMV) Definition

A CMV is defined as a vehicle that:

- Has a gross combination weight rating of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds; or
- Has a gross vehicle weight rating of 26,001 or more pounds; or
- Is designed to transport 16 or more passengers, including the driver; or
- Is of any size and is used in the transportation of hazardous materials (HM) that requires the vehicle to be placarded.

This applies to all drivers that operate CMV's and are required to have a Commercial Drivers License (CDL), including drivers who drive for:

- For-hire and private companies;
- Federal, state, local, and tribal governments;
- Church and civic organizations;
- Farmers and custom harvesters (unless exempted from CDL); and
- Apiarian industries (beekeeping).

Drivers Not Subject to Controlled Substance and Alcohol Testing

The following drivers are not subject to the controlled substance and alcohol testing regulations:

- Those required to comply with alcohol and/or drug testing requirements of 49 CFR, Part 655, Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations;
- Those granted an optional state waiver from CDL requirements; or
- Those granted a full waiver from the requirements of the CDL program.

Alcohol Definitions

"Alcohol" means the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols including methyl and isopropyl alcohol.

"Alcohol use" means the consumption of any beverage, mixture, or preparation (including medication) that contains alcohol.

"Safety-sensitive function" means all time from the time a driver begins to work or is required to be in readiness to work until the time he/she is relieved from work and all responsibility for performing work.

Safety-sensitive functions shall include:

- All time spent at a carrier's or shipper's plant, terminal, facility, or other property waiting to be dispatched;
- All time a driver spends inspecting equipment, servicing, or conditioning any CMV;
- All driving time as defined in 49 CFR 395.2;
- 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 commercial vehicle, supervising or assisting in loading or unloading, or remaining in readiness to operate the CMV; and
- All time repairing, obtaining assistance, or remaining in attendance upon a disabled CMV.

Alcohol Prohibitions

The alcohol rule prohibits any alcohol use that could affect performance of a safety-sensitive function, including:

- Reporting for duty or remaining on duty to perform safety-sensitive functions with an alcohol concentration of 0.04 BAC or greater;
- Use while performing safety-sensitive functions;
- Use during the 4 hours before performing safety-sensitive functions;
- Use during 8 hours following an accident, or until driver undergoes a post-accident test, whichever occurs first; and
- Refusal to take a required test.

Controlled Substance Testing

Employers are required to test for the following controlled substances:

- Marijuana;
- Cocaine;
- Opiates;
- Amphetamines; and
- Phencyclidine (PCP)

Drug Prohibitions

A driver may not report for duty (or remain on duty) to perform a safety-sensitive function if:

- The driver uses any of the above-mentioned drugs unless prescribed by a doctor who has told the driver that the use will not adversely affect the driver's ability to operate a CMV safely;
- The driver tests positive for controlled substance use; or
- Driver refuses to take a required test.

Consequences

A driver who violates any of the above prohibitions must:

- Not perform, nor be permitted to perform, a safety-sensitive function;
- Be referred to a substance abuse professional (SAP) for evaluation to determine what assistance is needed; and
- Undergo a return-to-duty test for:
 - **Alcohol.** If the prohibited conduct involved alcohol, driver must obtain a result of an alcohol concentration of less than 0.02; and/or
 - **Drugs.** If the prohibited conduct involved drugs, the driver must obtain a verified negative result.

In addition, any driver identified as needing rehabilitative treatment must be re-evaluated by a SAP to determine if treatment has been completed, and must be subject to unannounced follow-up testing after returning to work.

Other Alcohol Related Conduct

A driver tested under subpart C and found to have an alcohol concentration of 0.02 or greater but less than 0.04 must be removed from the performance of safety-sensitive functions until the driver's next regularly scheduled duty period, but not less than 24 hours following administration of the test.

Types of Testing

The types of alcohol and controlled substance tests are: Pre-employment (for drug testing only), Random, Reasonable Suspicion, Post-accident, Return to duty, and Follow-up.

Approved Labs for Drug Testing

Only laboratories certified by the Substance Abuse and Mental Health Services Administration (SAMHSA) are approved to perform drug test analysis. These labs may be separate from the actual collection site. All collection and testing must follow the prescribed guidelines set forth in 49 CFR, Part 40, Procedures for Transportation Workplace Drug and Alcohol Testing Programs.

Medical Review Officer

A carrier must use a Medical Review Officer (MRO) to review and verify individual controlled substance test results. The MRO must be a licensed doctor of medicine (MD) or osteopathy (DO) with knowledge of drug abuse disorders. It is the MRO who must notify the carrier whether a driver's drug test was positive or negative, and which controlled substance tested positive.

Alcohol Testing Devices

The National Highway Traffic Safety Administration (NHTSA) must approve alcohol-testing devices, and testing must be administered in accordance with 49 CFR, Part 40.

Record Keeping

Carriers and agents must maintain records as prescribed in 49 CFR 382.401.

Access to Records

- An employer must obtain, pursuant to a driver's written consent, the driver's alcohol and drug compliance records from a previous employer;
- A previous employer, pursuant to a driver's written consent, must release a driver's alcohol and drug compliance records to a prospective employer; and
- Carriers must make all records related to the administration of their testing programs and individual test results available to agencies with regulatory jurisdiction.

Education Materials and Company Policy

Employers must provide educational materials explaining the requirements and employer policies and procedures with respect to drug and alcohol testing of 49 CFR 382.

Carrier Responsibility

49 CFR, Part 382 standards allow carriers to contract with outside services and consortiums to assist with administration of the carrier's program. Frequently contracted services include company policy development, random selections, collection site, and testing services. Responsibility for compliance is ultimately the responsibility of the employer.

This Fact Sheet is intended as a resource. It is not intended to explain all the requirements of Minnesota or Federal law. The actual Statutes and Regulations are recommended as a resource, and can be purchased at the Minnesota Bookstore (phone number 651/297-3000 or 1-800-657-3757). For additional assistance contact the US DOT at 651/291-6150 or Mn/DOT's Office of Freight and Commercial Vehicle Operations.



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