

## **CDL-Only Applicable**

### **Summary of Reasonable Suspicion Requirements - 49 CFR Part 382.307**

1. The determination that reasonable suspicion exists to require the driver to undergo an alcohol and/or controlled substances test must be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the driver. The observations may include indications of the chronic and withdrawal effects of controlled substances.
2. The determination to require a reasonable suspicion test shall be made by a supervisor or employer official who is trained in accordance with § 382.603.
3. Alcohol testing is authorized only if the observations are made during, just preceding, or just after the period of the work day that the driver is required to be in compliance with this part.
4. An alcohol test should be administered within two hours following the determination to test if possible. If the test can't be administered within 2 hours the employer shall prepare and maintain on file a record stating the reasons the alcohol test was not promptly administered. If an alcohol test required by this section is not administered within eight hours following the determination to test the employer shall cease attempts to administer an alcohol test and shall state in the record the reasons for not administering the test.
5. A written record shall be made of the observations leading to an alcohol or controlled substances reasonable suspicion test, and signed by the supervisor or company official who made the observations, within 24 hours of the observed behavior or before the results of the alcohol or controlled substances tests are released, whichever is earlier.

#### **When must a driver submit to reasonable suspicion testing?**

A driver must submit to an alcohol or drug test when the employer has reasonable suspicion to believe the driver has violated any of the prohibitions listed in Subpart B-Prohibitions that are defined below:

#### **Sec. 382.201 Alcohol concentration.**

No driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of 0.04 or greater. No employer having actual knowledge that a driver has an alcohol concentration of 0.04 or greater shall permit the driver to perform or continue to perform safety-sensitive functions.

#### **Sec. 382.205 On-duty use.**

No driver shall use alcohol while performing safety-sensitive functions. No employer having actual knowledge that a driver is using alcohol while performing safety-sensitive functions shall permit the driver to perform or continue to perform safety-sensitive functions.

#### **Sec. 382.207 Pre-duty use.**

No driver shall perform safety-sensitive functions within four hours after using alcohol. No employer having actual knowledge that a driver has used alcohol within four hours shall permit a driver to perform or continue to perform safety-sensitive functions.

#### **Sec. 382.209 Use following an accident.**

No driver required to take a post-accident alcohol test under Sec. 382.303 shall use alcohol for eight hours following the accident, or until he/she undergoes a post-accident alcohol test, whichever occurs first.

#### **Sec. 382.211 Refusal to submit to a required alcohol or controlled substances test.**

No driver shall refuse to submit to a post-accident alcohol or controlled substances test required under Sec. 382.303, a random alcohol or controlled substances test required under Sec. 382.305, a

reasonable suspicion alcohol or controlled substances test required under Sec. 382.307, or a follow-up alcohol or controlled substances test required under Sec. 382.311. No employer shall permit a driver who refuses to submit to such tests to perform or continue to perform safety-sensitive functions.

Sec. 382.213 Controlled substances use.

- (a) No driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions when the driver uses any controlled substance, except when the use is pursuant to the instructions of a licensed medical practitioner, as defined in Sec. 382.107, who has advised the driver that the substance will not adversely affect the driver's ability to safely operate a commercial motor vehicle.
- (b) No employer having actual knowledge that a driver has used a controlled substance shall permit the driver to perform or continue to perform a safety-sensitive function.
- (c) An employer may require a driver to inform the employer of any therapeutic drug use.

Sec. 382.215 Controlled substances testing.

No driver shall report for duty, remain on duty or perform a safety-sensitive function, if the driver tests positive or has adulterated or substituted a test specimen for controlled substances. No employer having actual knowledge that a driver has tested positive or has adulterated or substituted a test specimen for controlled substances shall permit the driver to perform or continue to perform safety-sensitive functions.

**What documentation is needed for reasonable suspicion testing?**

For DOT purposes, written documentation must be made of the observations leading to a reasonable suspicion test.

- **Form J-DOT** is a reasonable suspicion documentation form. This form may be found in the Forms section of the Drug and Alcohol Testing web pages.
- **Form K** is a Refusal to Test documentation form. There is a greater possibility with reasonable suspicion testing that the employee may refuse to cooperate.
- If reasonable suspicion is observed but a reasonable suspicion test has not yet been administered, a driver shall not perform safety-sensitive functions until:
  - An alcohol test is administered and the driver's alcohol concentration measures less than 0.02, or
  - 24 hours have elapsed following the determination of reasonable suspicion
- The documentation leading to a reasonable suspicion test must be prepared and signed by the witness within 24 hours of the observed behavior, or before the results of the drug test are released, whichever is earlier.