

Random Testing FAQ's

Q. How are random selections done?

- A.** The selection of employees for random alcohol and controlled substances testing is made by a scientifically valid method, such as a random number table or a computer-based random number generator that is matched with employees' Social Security numbers, payroll identification numbers, or other comparable identifying numbers.

Q. How often can an employee be selected for testing?

- A.** Each employee selected for random alcohol and controlled substances testing shall have an equal chance of being tested each time selections are made. Employees may be selected several times in a row or not selected the entire year.

Q. Can an employee be excused from a random test?

- A.** Each employee selected for testing shall be tested during the selection period. Employees **cannot** be excused from a random test unless an allowable explanation can be documented such as they are no longer employed, they are deceased, or they are on an extended leave of absence during the testing period.

Q. Who (what) determines how many random tests must be completed each calendar year?

- A.** For CDL – this is set by DOT each year – for detailed information, refer to CDL-Only Applicable section located on page 6 of this section.
- A.** For TDP pools – the amount (percentage) of testing is set by each individual agency.

Q. When do you notify the employee of the random test?

- A.** It is the employer's responsibility to ensure that random alcohol and controlled substances tests conducted are unannounced. The employee cannot have advance notice of the test – they should not be notified of the test unless they can report immediately for the test.

Q. How frequently must random testing be done?

- A.** The employer shall ensure that the dates for administering random alcohol and controlled substances tests are spread reasonably throughout the calendar year.

Q. Once they are notified, how much time does the employee have to report for the random test?

- A.** It is required that each employee who is notified of selection for random alcohol and/or controlled substances testing must proceed to the test site immediately.

Q. What if an employee is subject to random testing for both a CDL and a Testing Designated Position (TDP)?

- A. Two separate pools will be established containing covered employees who are subject to the same testing type, thus both a CDL pool and a TDP pool will be established. Covered employees are subject to testing to either or both pools at any time.

Q. What procedures should be followed to keep the random pool list updated?

- A. Any changes to the pool list must be communicated to Midwest Toxicology's scheduling office in Lebanon as soon as any change occurs. Changes consist of new hire employees, terminated employees (voluntary or involuntary) and employees who have transferred in/out of the agency and/or a Testing Designated Position or CDL position.

The "Pool Add/Delete Form" is used to record all changes to the respective pool. These forms can be found in Section 2 of this notebook.

Q. What procedures should be followed if the DER, who normally would be given the random list ahead of time, is subject to and selected for random testing?

- A. Midwest will contact a pre-designated agency contact to facilitate getting the DER tested prior to them having any knowledge of the next random test day. The agency contact should follow the steps below:
- Check the schedule of the DER to make sure they can stop what they are doing and be able to report to the collection site for a test prior to proceeding with the rest of these instructions. If they aren't able to report immediately, do not make the arrangements until you know they can report.
 - Use the eScheduling process to create an authorization form called an ePassport (MTS can assist if needed).
 - Contact the collection site to find out if an appointment is required prior to sending the DER to the collection site.
 - Verbally notify the DER of the random selection and instruct them to report for the test.

Q. What do I do if an employee is not available the day of onsite collections?

- A. If there are only one or two people that were not available to get tested, send them as soon as possible to your local collection sites. Use the eScheduling process to create an ePassport (authorization form) for each person you are sending for testing.

Protocol & Reminders - On-site Services

For all of the situations described below, please follow the suggested protocol.

1. **DERs** (Designated Employer Representatives) are required to be on-site during the collection process and will need to assist with the following:
 - a. Notify the employee, advising them to report to Midwest Toxicology's mobile unit at the designated time the unit is scheduled to be on-site.
 - b. Go over the random list with the collectors before any collections begin. This is to determine if anyone on the list will not be available for testing that day.
 - c. Inform the collectors if other testing is needed, such as pre-employment tests.
 - d. Work with the collectors regarding any problems related to collections issues such as: shy bladders, refusals to test, or observed collections. (See additional information below on these issues.)
 - e. Notify Midwest Toxicology's scheduling office prior to the on-site visit if you will not be available the day we are on-site. Plan to provide the name of an alternate person **who will have the authority to execute DER responsibilities** so the collectors know who to contact upon arrival.

2. **Shy Bladder Situations** – When an employee is unable to provide 45 ml of urine,
 - a. They will be allowed up to three (3) hours to provide the specimen.
 - b. They may have up 40 ounces of fluids during this waiting period.
 - c. They are required to be kept under supervision during the waiting period.
 - d. If, at the end of three (3) hours, they have been unable to provide a valid specimen, the collector will provide instructions on the next steps or you will be directed to call the Indianapolis office for instructions. The employee will need to be referred for a medical evaluation and Midwest can provide a form for this procedure.
 - e. If Midwest's mobile unit is not able to stay the full three (3) hours waiting for the employee to provide a specimen, Midwest will assist you with making arrangements for the collection to be completed at the designated local collection site.

3. **Refusal to Test Situations**
 - a. The following are considered a refusal to test
 1. Failing to appear for any test within a reasonable time after being directed to do so.
 2. Failing to remain at the testing site until the testing process is completed.
 3. Failure to provide a breath sample, saliva sample or urine sample as directed.
 4. Failure to permit, if the situation requires, the observation or monitoring of providing a urine specimen.
 5. Failure to provide a urine, breath or saliva specimen within required time frames may be considered a refusal. If an employee cannot provide a sufficient quantity of urine or breath, he/she will be directed to be evaluated by a physician of employer's choice. If the physician cannot find a legitimate medical explanation for the inability to provide a specimen (either breath or urine), it will be considered a refusal to test. In that circumstance the employee has violated one of the prohibitions of the regulations.

6. Failure to take an additional drug test the employer or collector has directed the employee to take.
 7. Failure to undergo a medical examination or evaluation, as directed by the MRO as part of the verification process, or as directed by the DER as part of a “shy bladder” or “insufficient breath” situation.
 8. Failure to cooperate with any part of the testing process and/or conduct that would obstruct the proper administration of a test. (e.g., refusing to empty pockets when so directed by the collector, behave in a confrontational way that disrupts the collection process).
 9. For an observed collection, fail to follow the observer’s instruction to raise clothing above the waist, lower clothing and underpants, and to turn around to permit the observer to determine if the employee has any type of prosthetic or other device that could be used to interfere with the collection process.
 10. Possess or wear a prosthetic or other device that could be used to interfere with the collection process.
 11. Admission by the employee to the collector or MRO that they adulterated or substituted the specimen.
 12. A report from the MRO that the employee has a verified adulterated or substituted test result.
 13. Refusing to sign step two (2) of the alcohol testing form.
- b. Any situations that fall under the refusal to test rules need to be documented.
 - c. A Refusal to Test form must be completed and submitted to Midwest’s Indianapolis office.
 - d. A Refusal to Test form can be obtained from Midwest’s collector or the Indianapolis office. Section 2 of this notebook also has a “refusal to test” form in it.

4. Observed Collections

- a. Midwest collectors will follow DOT rules as it pertains to observed collections.
- b. The following situations require observed collections:
 1. The employee provides a specimen that does not meet the correct temperature range.
 2. The employee provides a specimen with unacceptable physical characteristics.
 3. The collector observes behavior clearly indicating an attempt to alter or substitute a specimen.
 4. The MRO has directed another test under direct observation (usually due to an invalid result of the previous test).
 5. DOT return-to-duty and follow-up tests **must** be observed collections.
- c. Direct observation can only be done by a person who is the same gender as the employee.
- d. Under DOT regulations, if the employee provides an unacceptable specimen which requires the employee to provide another specimen under direct observation, both specimens must be sent to the laboratory for testing.

Other DER Reminders

1. ID Requirements – Employees to be tested must have a photo ID in order for Midwest to collect from them. If they do not have one, as the DER, you will be required to identify them prior to the collection.
2. Prescription guidance – Remind employees that they are **not** to provide any prescription (medical) information at the time of collection. The collector is not allowed to document prescriptions or answer questions about their prescriptions. The employee will be contacted by the MRO (Medical Review Officer) and have the opportunity to discuss and provide verification of their prescribed medications should their test result be positive.
3. Complete proper documentation on the Random Report to verify that all of those listed on the report did complete testing within the testing period.
4. Notification period – **How soon can you inform employees of a random selection?** Never inform employees that they are selected for a random until shortly before they need to report for collection. For on-site collections, this should be shortly before Midwest arrives. If the employee will be reporting to a collection site and an appointment needs to be made, you should make the appointment for them and only notify them right before they are to go.
5. For collections done on-site at your facility (not using a mobile unit) – our collector will need assistance with the following:
 - a. A restroom area and a place to complete paperwork. Preferably the two areas will be close together.
 - b. The restroom area will have to be secured during the collection. Other people will not be able to use the restroom during the collections.
 - c. A private area will need to be available for breath alcohol tests.

Procedures to follow if you have employees who are not tested the day the collectors are on-site:

- If there are several people that were not available to get tested, make arrangements for Midwest to return at a later date to test those individuals. Contact the Lebanon scheduling office to make those arrangements.
- If there are only one or two people that were not available to get tested, send them as soon as possible to your local collection site.

CDL-ONLY Applicable

Q. How many random tests must the employer do during a calendar year?

- A.** For CDL testing purposes, the State randomly selects a sufficient number of drivers for testing during each calendar year to equal an annual rate not less than the minimum annual percentage rate for random alcohol and controlled substances testing determined by the FMCSA Administrator.

FMCSA currently requires a 25% rate for drug and a 10% rate for alcohol. These are minimum rates and the employer may test above these if desired.

Q. Once they are notified, how much time does the driver have to report for the random test?

- A.** It is required, that each driver who is notified of selection for random alcohol and/or controlled substances testing proceeds to the test site immediately; provided, however, that if the driver is performing a safety-sensitive function, other than driving a commercial motor vehicle, at the time of notification, the employer shall instead ensure that the driver ceases to perform the safety-sensitive function and proceeds to the testing site as soon as possible.

There are no rules that state a time frame to report for the test – “Immediately” means what ever is deemed reasonable for the employee to report to the collection site once they have been notified.

Q. When can random testing be conducted?

- A. Rule:** A driver shall **only** be tested for alcohol while the driver is performing safety-sensitive functions, just before the driver is to perform safety-sensitive functions, or just after the driver has ceased performing such functions.

The rules do not specify when a drug test can be conducted. It is accepted by the FMCSA that the employer may conduct drug tests at any time.