

Certain Municipal Employees Must Be Drug Tested in 1996

After January 1, 1996, All Commercially Licensed Drivers Are Subject to Testing

Municipalities with less than fifty employees with a commercial drivers license (CDL) will remain exempt from federal alcohol and drug testing programs through calendar year 1995. After January 1, 1996, municipalities will no longer be exempt. The information below is intended to help local road managers and other municipal officials develop their alcohol and drug testing programs.

The Law

Federal law established the overall requirements in 1991; the Federal Highway Administration (FHWA) published the current regulations on February 15, 1994. They require CDL drivers to be tested for alcohol and the following controlled substances: marijuana, cocaine, amphetamines, opiates (including heroin), and phencyclidine (PCP).

A "positive" test result is a concentration of 0.02 for alcohol, or evidence of any unauthorized use of a controlled substance. Individuals who test positive are prohibited from driving equipment rated as commercial. Tests must be conducted at the following times:

Pre-employment. Before applicants or new hires drive equipment requiring a CDL.

Post-accident. After an accident when a driver's performance could have contributed to the accident. Also, after all fatal accidents even if the driver is not cited for a moving traffic violation.

Reasonable suspicion. When a trained supervisor or official observes behavior or appearance that is characteristic of alcohol or drug misuse.

Random. When randomly selected from a pool of drivers subject to testing. Currently 25% of the drivers in a pool are to be tested for alcohol each year, and 50% for drugs.

Return-to-duty and follow-up. When a person who has failed a test returns to duty, he or she must be tested at least 6 times in the next 12 months.

The Testing Procedures

Alcohol Testing. A person trained in the use of specific equipment, and designated the Breath Alcohol Technician (BAT), first conducts a screening test. A result less than 0.02 is considered a "negative" test. The BAT conducts a second test if the first result is 0.02 or greater. For the confirmation test the BAT must use a device which prints out the results.

Drug Testing. Conducted by laboratory analysis of a driver's urine specimen, the drug testing regulations call for a set of operations, each requiring individuals with specialized training.

- Trained collectors conduct sample collection, and package, label, and document the samples.
- Certified laboratories -- there are about 90 in the U. S. -- perform screening tests on all samples. Positive samples are analyzed using gas chromatography/mass spectrometry (GC/MS) equipment to minimize reporting incorrect positives.
- A physician, called a "Medical Review Officer" (MRO), reviews all test results. The MRO interviews each individual who had positive results to determine if there is an alternate medical explanation.

Related Policy Matters

Even though contractors are responsible for their CDL-licensed employees, a municipality should ensure that it has a written contract which designates the contractor as the "motor carrier." Some liability insurers recommend language that specifies the contractor as being responsible for compliance for its employees.

In addition to the testing procedures, federal regulations require a comprehensive alcohol and drug misuse program. Employers must provide employees with detailed information about alcohol and drug misuse, their policies, and how and

where drivers can get help for alcohol or drug abuse. Supervisors must attend at least one hour of training on alcohol misuse symptoms, and another for drug use. When an employee fails any test, current regulations require the employer to refer the employee for treatment, if they choose to retain him or her.

Because the FHWA enforces the regulations by inspections and audits of records, municipalities must have detailed records of every aspect of their program. The records which contain test results must be maintained in a way which ensures confidentiality.

Assistance Available

Rarely would a municipality employ any of the specialists needed for an alcohol and drug testing program; only a few would want to coordinate the specialists and maintain the records. The most feasible alternative is to contract for the total service -- sample collection, testing, medical review, training, documentation, and overall management. Because most businesses have had to comply for several years, a number of occupational health clinics, medical centers, and other organizations have developed these services.

The UNH T²Center is maintaining a list of service providers, and a library of materials to help municipal officials become familiar with the regulations and their ramifications. Call or fax the UNH T²Center with any questions.

Two agents of the FHWA Office of Motor Carrier Safety, Larry Abruzzese and Steve Piwowarski, have assisted in preparation of this article. They also indicated they would be pleased to assist municipal officials. Call 225-1626.

**8th Annual Mountain
of Demonstrations**
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