

IX. Testing Requirements

A. General

The University of Wisconsin-Madison will conduct (1) pre-employment, (2) post-accident, (3) random, (4) reasonable suspicion, (5) return to duty, and (6) follow up testing of drivers for the misuse of alcohol or use of controlled substances in compliance with the requirements of 49 CFR Part 382. All alcohol and controlled substances testing will comply with the procedures of Title 49 CFR Part 40.

1. Except for pre-employment and return-to-duty testing, drivers shall be subject to alcohol testing only while the driver is performing a safety-sensitive function, just before the driver is to perform a safety-sensitive function, or just after the driver has ceased performing a safety-sensitive function.
2. Controlled substances tests required to be administered to drivers may be administered at any time while the driver is at work for the University of Wisconsin.

B. Pre-employment testing (Earliest effective date for pre-employment alcohol testing will be May 1, 1995.)

1. Upon the conditional offer of a position requiring a CDL, and prior to being assigned to perform any safety-sensitive functions, the prospective employee will be scheduled for a controlled substances test. The term prospective employee includes applicants for positions requiring a CDL and current University employees who move from a position not requiring a CDL to one which requires such a license. Employees who return to work after a layoff period during which they are not subject to random testing will also be required to undergo controlled substances testing before beginning work.
2. No driver shall perform a safety-sensitive function unless the driver has received a controlled substances test result from the MRO indicating a verified negative test result.
3. As a condition of employment, an individual applying for a position requiring a CDL shall provide the University of Wisconsin-Madison with written authorization for previous employers to release to the University all records from the previous two years of alcohol tests results of 0.04 or greater, positive controlled substances test results, and records of the individual's refusal to test, administered in accordance with the FHWA's regulations regarding alcohol use and drug testing. If this information is not received by the University within 14 days following the first time the driver performs a safety-sensitive function for the University, the driver shall be prohibited from performing safety-sensitive functions.

C. Post-accident testing

As soon as practicable following an accident involving a commercial motor vehicle, each surviving driver shall undergo alcohol and controlled substance testing if:

1. the driver was performing a safety-sensitive function with respect to the vehicle, if the accident involved the loss of human life; or
2. the driver receives a citation under state or local law for a moving traffic violation arising from the accident; and (a) a person is injured and, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or (b) one or more vehicles received disabling damage as a result of the accident, requiring the vehicle(s) to be towed from the scene of the accident; or
3. the supervisor determines that the use of alcohol or controlled substances may have contributed to the accident and requests the driver to undergo testing based on "reasonable suspicion".

D. Random testing

1. No fewer than 25% of the average number of positions required to have a CDL shall undergo random alcohol testing each calendar year.
2. No fewer than 50% of the average number of positions required to have a CDL shall undergo random controlled substance testing each calendar year. [Note: The minimum annual percentage rates for alcohol and controlled substance testing may be adjusted annually by the Administrator of the Federal Highway Administration (FHWA). If the minimum percentage rates are changed, the University of Wisconsin-Madison will adjust its testing program to comply with the federal requirements.]
3. The selection of drivers for random testing, the timing and frequency of random tests, and the number of drivers to be tested on any given day shall be determined by the University of Wisconsin-Madison through the University's vendor, General Medical Laboratories. The selection of drivers for random testing shall be made by a scientifically valid method. Each driver shall have an equal chance of being selected for testing each time selections are made.
4. The testing will be unannounced and will be dispersed throughout the calendar year.
5. When randomly selected, an employee may be required to submit to either an alcohol or controlled substance test, or both.
6. Drivers who are notified of selection for random alcohol and/or controlled substances testing shall be required to proceed to the test site immediately after being notified.

E. Reasonable suspicion testing

1. A driver may be required to undergo alcohol and/or controlled substance testing if the employing department has reasonable suspicion that he/she has violated the prohibitions of these rules, or if the employee's behavior and appearance indicate alcohol misuse or use of controlled substances.

2. A determination that a reasonable suspicion exists that a driver has violated the alcohol prohibitions must be based on observations made during, just preceding, or just after the period of the work day that the driver is required to be in compliance with this policy.
3. No driver shall be subject to reasonable suspicion alcohol testing later than 8 hours following the determination that reasonable suspicion exists to require the driver to undergo such test.
4. The trained supervisor or trained management official who makes the determination that reasonable suspicion exists to conduct an alcohol test shall not conduct the alcohol test of the driver.
5. A written record shall be made of the observations leading to a controlled substances reasonable suspicion test and shall be signed by the trained supervisor or trained management official who made the observations. The written record shall be made within 24 hours of the observed behavior or before the results of the controlled substances test are released, whichever is earlier.

F. Return-to-duty testing

1. If a driver has an alcohol test result indicating an alcohol concentration of 0.02 or greater, but less than 0.04, the driver shall be prohibited from performing a safety-sensitive function for a minimum of 24 hours.
2. A driver who has undergone an alcohol test with a result of 0.04 or greater or who has a confirmed positive test for controlled substances, shall not be permitted to perform a safety-sensitive function unless:
 - a. The driver has been evaluated by a substance abuse professional (SAP) who shall determine what assistance, if any, the driver needs in resolving problems associated with alcohol misuse and controlled substances use: and
 - b. Following a determination by a substance abuse professional that the driver is in need of assistance in resolving problems associated with alcohol misuse and/or use of controlled substances, the driver has complied and remains in compliance with any and all prescribed or recommended rehabilitation and/or treatment programs.
 - c. When appropriate, the driver has undergone a return-to-duty alcohol test with a result indicating an alcohol concentration of less than 0.02 if the driver has violated the alcohol prohibitions; and
 - d. When appropriate, the driver has undergone a return-to-duty controlled substances test with a result indicating a verified negative result if the driver has violated the controlled substances prohibitions.
 - e. The driver shall be subject to such return-to-duty testing for both alcohol misuse and use of controlled substances if the substance abuse professional determines testing for both alcohol and controlled substances is recommended.

G. Follow-up testing

A driver who has undergone an alcohol test with a result of 0.04 or greater or who has a confirmed positive test for controlled substances, who is subject to, and has complied with the return-to-duty testing provisions, and who has been permitted to return to work shall be subject to the following:

1. The driver must have been evaluated by a substance abuse professional who will have determined what assistance, if any, the driver needs in resolving problems associated with alcohol misuse and controlled substances use; and
2. The driver shall be subject to unannounced follow-up testing.
3. The number and frequency of such tests shall be determined by the substance abuse professional, and shall consist of at least six (6) tests in the first 12 months following the driver's return to duty.
4. The substance abuse professional may terminate such tests at any time after the first six tests has been administered if he or she determines the tests are no longer necessary. Follow-up testing shall not exceed 60 months after the driver's return to work.
5. The driver shall be subject to such follow-up testing for both alcohol misuse and use of controlled substances if the substance abuse professional determines testing for both alcohol and controlled substances is recommended.