Random Testing Requirements

Selection and Notification

Itemized below are the major requirements concerning the selection and notification of drivers for random testing.

1. **Selection of drivers shall be made by a scientifically valid method, such as a random number table or a computer–based random number generator that is matched with drivers' Social Security numbers, payroll identification numbers, or other comparable identifying numbers.**

Under the selection process used, each driver shall have an equal chance of being tested each time selections are made.

2. **The employer shall ensure that random tests are unannounced and spread reasonably throughout the year.**

Employers need to establish a program that will ensure that there is no period of time during which employees know testing "is done for the year." For example, if an employer is required to conduct only two tests and that number of tests are completed by mid–summer, the employer's program must ensure that more tests could be conducted before the end of the calendar year. Another alternative is for employers to join a consortium with testing pools large enough so that their drivers are always subject to random testing.

3. **The employer shall ensure that drivers selected for random tests proceed immediately to the testing site upon notification of being selected.**

Employers are expected to notify and conduct tests on drivers as soon as possible after a selection of drivers is made. This means that when a selection of drivers has been made, the employer shall require all drivers selected to submit to testing at their first available time in the terminal or other appropriate location.

Employers shall not delay testing for drivers until just before the next selection of drivers names. Although the FMCSA has allowed this practice in the past, the FMCSA believes that some employers may use such an interpretation to perform quasi–reasonable suspicion tests of drivers by manipulating the timing of such tests, rather than conducting random testing that is not based on individualized suspicion. In addition, employers may have been delaying testing to move freight or allow a driver with a problem to "clean up" prior to taking the test.

4. **Employers may pool interstate and intrastate drivers together for random testing.**

Since the rule applies to all drivers with CDLs, there will be no need for the separation. However, the FMCSA will prohibit the inclusion in the random selection pools of any employees not subject to any of the DOT agency testing rules.

If a driver works for two or more employers subject to FMCSA or DOT agency regulations, the driver must be in all of the employers' random testing programs.
Random Testing Requirements

5. **Drug and alcohol testing is allowed from a single pool.**

For example, an employer needs to randomly choose eight names for a drug test and four names for an alcohol test. The employer could establish a procedure to accomplish this in a way such as the following:

- the first four names drawn would be tested for drugs and alcohol and the last four names drawn would only be tested for drugs, or
- 12 names could be drawn, the first 8 names would be tested for drugs and the last 4 names would be tested for alcohol.

6. **If a driver who is selected for a random test is on vacation, is laid off, or is on an extended medical absence, the employer can keep the selection confidential until the driver returns, provided the driver is notified and gets tested before the end of the cycle. If the driver will not be available for testing during the selection period, an alternate may be selected.**

The selection of alternates is only permissible if the primary driver selected will not be available for testing during the selection period because of long-term absence due to layoff, illness, injury, vacation, or other circumstances. If an alternate will be selected, the employer and/or C/TPA must document the reason why an alternate driver was tested, and the documentation must be maintained and available for DOT inspection.

If a driver’s name is skipped entirely, the employer must keep documentation that the driver was ill, injured, laid off, or on vacation and that the driver was in the random selection pool for that cycle. An additional driver should be selected during the next testing cycle to achieve the annual testing rate. Employers are not allowed to notify any drivers to submit to a test while the driver is off work due to these circumstances.

An individual’s name should not be removed from the random pool as long as there is a reasonable expectation of the employee’s return. In the event a driver’s name is out of the random testing program for more than 30 days, the pre-employment drug testing provisions of the regulations would apply when the driver returns.

If an employer notifies its C/TPA that a selected employee is not available for testing and will not be available before the end of the testing cycle, the C/TPA may select another random employee from that employer, instead of selecting the next name on the random selection list. The DOT has deemed this a scientifically valid method for selecting driver names.

7. **If an employer is required to conduct random testing under the rules of more than one DOT agency, the employer may either:**

- establish separate pools for random selection, with each pool containing the DOT-covered employees who are subject to testing at the same required minimum annual percentage rate, or
- randomly select such employees for testing at the highest minimum annual percentage rate established for the calendar year by any DOT agency to which the employer is subject.

Although multi-modal pools will be permitted, other specific DOT agency requirements will have to be met, such as the FAA requirement for prior approval of consortium-operated random testing pools.
Random Testing Requirements

Consortia

If the employer conducts random alcohol testing through a consortium, the number of drivers to be tested may be calculated for each individual employer, or may be based on the total number of subject drivers covered by the consortium. This will mean that a consortium member could have less than its required number of random tests conducted if the overall consortium rate equals the required rate. Thus, if Employer A has 10 drivers and the consortium has 500 drivers in the pool covering Employer A, and a 25% rate applies, if Employer A chooses to have the rate based on the consortium, the consortium must conduct at least 125 tests even if only four or fewer drivers of Employer A are tested.

A consortium that performs selection and/or testing services as agents for the employer must prepare and provide to the employer complete and comprehensive descriptions of the procedures used by the consortium. An employer must have this information readily available for inspection. The consortium, and an employer who does not use a consortium, must include in these descriptions: how the random selection pool is assembled; the method of selection and notification of drivers; the location of collection sites (at terminals, clinics, "on the road," etc.); methods of reporting the test results on each driver; and summary reports of the consortium's program.

Also, documentation must be provided that the consortium is testing at the prescribed minimum annual percentage rate for alcohol and/or controlled substances. Each employer is at no time relieved of the duty to comply with each requirement of this rule.

Owner–Operators

An employer who employs only himself/herself as a driver, must implement an alcohol and controlled substances testing program that includes more persons than himself/herself as covered employees in the random testing pool. Thus an owner–operator essentially must join a consortium.