



Many transportation companies that are not following the DOT regulations related to Pre-Employment drug testing. Many companies are being fined or even shut down due to either ignoring the testing rules or just thinking they can disregard them. Well you can't.

Part 382, section 382.301(a) states: Prior to the first time a driver performs safety-sensitive functions for an employer, the driver shall undergo testing for controlled substances as a condition prior to being used, unless the employer uses the exception in paragraph (b) of this section. No employer shall allow a driver, who the employer intends to hire or use, to perform safety-sensitive functions unless the employer has received a controlled substances test result from the MRO or C/TPA indicating a verified negative test result for that driver (unless you choose the exception listed below).

**OPTION 1** – If any of these apply, the driver must perform a pre-employment Test. A driver is required to perform a pre-employment drug test if:

1. The driver is new to the industry, or
2. It has been more than 30 days since the driver has participated in a Drug & Alcohol Testing Program, or
3. The driver has been enrolled in a program less than 12 months, and has not tested within the past 6 months.

In the case of a company driver, the Designated Employer Representative (DER) needs to instruct the driver to proceed to an authorized collection site with the enclosed "Form 111, Clinic Passport". The same applies to an owner-operator regarding the collection site instructions.

**OPTION 2** – Exception to the pre-employment test, only if all requirements listed below are completed.

1. The driver has been enrolled in a program within the past 30 days and has tested within the past 6 months and has no violations, or
2. The driver has participated in a program for the past 12 months and has no violations, and
  - a) The employer ensures that no prior employer of the driver of whom the employer has knowledge has records of a violation of this part or the controlled substances use rule of another DOT agency within the previous six months.
  - b) b. After receiving the driver's written consent, the DER or Owner-Operator must request the following information for the driver's past drug and alcohol testing records from previous employer(s) or consortium:
    - (i) Name and address(es) of the program(s).
    - (ii) Verification that the driver participates or participated in the program(s).
    - (iii) Verification that the program(s) conforms to FMCSA 49 CFR Part 40.
    - (iv) Verification that the driver is qualified under the rules of this part, including that the driver has not refused to be tested for controlled substances.
    - (v) The date the driver was last tested for controlled substances.
    - (vi) The results of any tests taken within the previous 6 months & any other violations of Part 382 Subpart B.

Per Part 40, section 40.25 All Employers are required to check the drug and alcohol testing record of employees it is intending to use to perform safety-sensitive duty. Again the Form 114 can be used for that purpose; the bottom of the form only needs to be completed again if you are choosing to waive the pre-employment option under the exemption.

Please use "Request from Previous Employer" to obtain past drug testing information from a previous employer.