To facilitate recovery from the economic consequences of the COVID-19 public health emergency, for the period June 5, 2020 through September 30, 2020, the Federal Motor Carrier Safety Administration (FMCSA) is waiving the pre-employment controlled substance testing requirements specified in 49 CFR 382.301 for certain drivers. [1]

FMCSA recognizes that employers may have imposed layoffs, furloughs, or otherwise temporarily removed driver employees from performing safety sensitive functions (see definition in 49 CFR 382.107) due to the change in demand for motor carrier services resulting from COVID-19. These actions may have resulted in the drivers being removed from the random pool for controlled substances and alcohol testing for a period of more than 30 days. Ordinarily, per 49 CFR 382.301(a), employers would need to subject those drivers to pre-employment controlled substances testing before allowing them to return to work.

To prevent companies from incurring the additional cost and administrative burden associated with such testing at a time when many companies are attempting to ramp up operations, FMCSA is expanding the regulatory exception provided in 49 CFR
382.301(b) through this waiver.

To qualify for the relief, the driver in question must have participated in a controlled substances testing program meeting the requirements of 49 CFR Part 382 within the previous 90 days, as compared to the 30-day limit specified in 49 CFR 382.301(b)(1).

In addition, employers must:

1. Verify the driver participated in the initial controlled substances testing specified in § 382.301(b)(2)(i) and (ii) and had no recorded violations of another DOT agency’s-controlled substances use regulations within the previous six months;

2. Comply with the Clearinghouse pre-employment query requirement set forth in 49 CFR 382.701(a).

3. Not allow a driver to perform any safety-sensitive functions if the results of the pre-employment query through the Clearinghouse demonstrate a prohibition is required per 49 CFR 382.701(d);

4. Complete the investigations and inquiries required by 49 CFR §§ 40.25, 382.413, and 391.23;

5. Notify FMCSA within five business days of an accident (as defined in 49 CFR 390.5), involving any driver operating under the terms of this waiver (see the waiver for additional details regarding the required reporting).


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