

Publications

FMCSA Publishes Updated Drug and Alcohol Testing Guidance

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In the present climate, motor carriers have voiced concern about their ability to fulfill their drug and alcohol testing obligations. On Wednesday, the Federal Motor Carrier Safety Association (FMCSA) issued updated guidance on drug and alcohol testing. A summary of some of that guidance is set forth below, and [it can be viewed in its entirety here](#).

Awareness of this updated guidance may prove helpful to 3PLs as they work with their carrier partners.

Random Testing

First, if a carrier is unable to perform random testing and meet its required testing rate due to the COVID-19 outbreak, it must make it up by the end of the year. The carrier will, however, have to document in writing the specific reasons why it was unable to conduct tests on drivers randomly selected, and any actions taken to locate an alternative collection site or other testing resources.

Pre-employment Testing

Second, If the carrier is unable to conduct a pre-employment controlled substances test, in accordance with 49 CFR 382.301(a), it cannot allow a prospective employee to perform DOT safety sensitive functions until it receives a negative pre-employment test result, unless the exception in 49 CFR 382.301(b) applies.

Post-Accident Testing

Third, while 49 CFR 382.303 requires post-accident testing as soon as practicable after an accident, if the carrier is unable to administer an alcohol test within 8 hours following the accident, or a controlled substance test within 32 hours following the accident, due to disruptions caused by the COVID-19 outbreak, it must document in writing the specific reasons why the test could not be conducted, as currently required.

Reasonable Suspicion Testing

The carrier should document in writing the specific reasons why the test could not be conducted as required and include any efforts it made to mitigate the effect of the disruption, such as trying to locate an alternative collection site.

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Vorys attorneys and professionals are counseling our clients in the myriad issues related to the coronavirus (COVID-19) outbreak. We have also established a comprehensive COVID-19 Task Force, which includes attorneys with deep experience in the niche disciplines that we have been and expect to continue receiving questions regarding coronavirus. Learn more and see the latest updates from the task force at [vorys.com/coronavirus](https://www.vorys.com/coronavirus).