

Employer Policy on the Misuse of Alcohol and Use of Controlled Substances

GIO & SON EXPRESS LLC

This policy is a GUIDE ONLY! TMFS Corp will NOT be responsible for discrepancy/violations and or penalties associated with the content of this document.

This policy follows Department of Transportation and Federal Motor Carrier Safety Administration regulations found in 49 CFR Parts 40 and 382.601.

If you have questions about this controlled substances and alcohol testing, please contact **DER the designated company official to answer questions.**

All drivers who drive Commercial Motor Vehicles (CMV) which require a Commercial Drivers License (CDL) are subject to controlled substances and alcohol testing.

Definition of driver Safety Sensitive Function is found in 49 CFR Section 382.107.

Safety sensitive function means all time from the time a driver begins to work or is required to be in readiness to work until the time he/she is relieved from work and all responsibility for performing work. Safety sensitive function shall include:

- (1) All time at an employer or shipper plant, terminal, facility, or other property, or on any public property, waiting to be dispatched, unless the driver has been relieved from duty by the employer.
- (2) All time inspecting equipment, as required by 49 CFR Sections 392.7 and 392.8, or otherwise inspecting, servicing, or conditioning any commercial motor vehicle at any time.
- (3) All time spent at the driving controls of a commercial motor vehicle in operation.
- (4) All time, other than driving time, in or upon any commercial motor vehicle except time spent resting in a sleeper berth (a berth conforming to the requirements of 49 CFR Section 393.76).

Driver conduct that is prohibited is found in 49 CFR Part 382 Subpart B.

- (1) No driver shall report for duty requiring the performance of a safety sensitive function with an alcohol concentration of 0.04 or greater.
- (2) No driver shall use alcohol while performing a safety sensitive function.
- (3) No driver shall perform a safety sensitive function within 4 hours after using alcohol.
- (4) No driver required to take a post accident alcohol test under 49 CFR Section 382.209 shall use alcohol for 8 hours following the accident.
- (5) No driver shall refuse to submit to any required alcohol or controlled substances test.
- (6)) No driver shall report for duty requiring the performance of a safety sensitive function when the driver uses controlled substances, except when the use is pursuant to the instructions of a licensed medical practitioner, as defined in 49 CFR Section 382.107. This must not interfere with the driver's ability to perform a safety sensitive function.
- (7)) No driver shall report for duty or remain on duty requiring the performance of a safety sensitive function, if the driver tests positive for controlled substances.

Circumstances in which a driver will be tested are incorporated and found in 49 CFR Part 382 Subpart C.

- (1) Pre-employment testing;
- (2) Random testing, Per the prevailing rate as required by U.S. DOT
- (3) Reasonable Suspicion testing
- (4) Post Accident testing
- (5) Return to duty testing
- (6) Follow up testing

All definitions, regulations, and procedures used to test for controlled substances and alcohol in order to protect the integrity of the testing process, safeguard test validity, and insure results are attributed to the correct driver are found in 49 CFR Parts 40 and 382.

Refusal to submit to an alcohol or controlled substances test is defined in 49 CFR 382.107.

Refusal to submit to an alcohol or controlled substances test means that a driver:

- (1) Failed to appear for any test (except a Pre-employment test) within a reasonable time, as determined by the employer, consistent with applicable DOT agency regulations, after being directed to do so by the employer. This includes the failure of an employee (including an owner operator) to appear for a test when called by a C/TPA.
- (2) Failed to remain at the testing site until the testing proceeds is complete. Provided, that an employee who leaves the testing site before the testing process commences on a pre-employment test is not deemed to have refused to test.
- (3) Failed to provide a urine specimen for any drug test required by this part or DOT agency regulations. Provided, that an employee who does not provide a urine specimen, because he or she has left the testing site before the testing process commences on a pre-employment test is not deemed to have refused to test.
- (4) In the case of a directly observed or monitored collection in a drug test, fails to permit the observation or monitoring of the drivers provision of a specimen.
- (5) Failed to provide a sufficient amount of urine specimen when directed and it has been determined that there was no adequate medical explanation for the failure.
- (6) Failed or declined to take a second test the employer or the collector has directed the driver to take.

- (7) Failed to undergo a medical examination or evaluation, as directed by the MRO as part of the verification process, or as directed by the DER under 49 CFR 40.193(d). In the case of a pre-employment drug test, the employee is deemed to have refused to test on this basis only if the pre-employment test is conducted following a contingent offer of employment.
- (8) Failed to cooperate with any part of the testing process (e.g., refuse to empty pockets when so directed by the collector, behave in a confrontational way that disrupts the collection process).
- (9) Is reported by the MRO as having a verified adulterated or substituted test result.

Note: In reference to item 1 for the FMCSA; reasonable time means the employer shall ensure the driver ceases to perform the safety sensitive function and proceeds to the testing site as soon as possible.

Consequences for violators of Subpart B are incorporated and found in 49 CFR Part 382 Subpart E.

- (1) All CDL drivers will be removed from any safety sensitive position.
- (2) The driver must see a Substance Abuse Professional to ever drive again, anywhere.
- (3) The driver must take a Return To Duty test with a Negative result and/or an Alcohol test with results below .02.

Note: The consequences for CDL drivers tested for Alcohol with results at .02 but below .04 are the driver will be removed from any safety sensitive position for 24 hours (49 CFR Part 382.505(a))

COMPANY POLICY

(X) This company has a **ZERO TOLERANCE** for the use of Alcohol or misuse of Controlled Substances. **Any driver found to be in violation of 49 CFR Parts 40/382 will be terminated.**

(O) Any driver found to be in violation of 49 CFR Parts 40/382 may possibly be terminated. **A driver could be retained if he/she successfully meets the requirements of 49 CFR Part 40 Subpart O and 382.503.**

Split Specimen Testing

Split Specimen. When the MRO has verified a result as positive, adulterated, or substituted, the MRO will notify the driver of his right to have the split specimen tested. The driver must notify the MRO within 72 hours of the result being verified in order to have this testing conducted. If the driver requests that the split specimen be tested within the 72-hour period, the MRO will ensure that the split specimen is tested. Testing of the split specimen is only conducted at the request of the driver, and then only after using the MRO as the requesting agent for the driver.

The Company is responsible for making sure that the MRO, first laboratory, and second laboratory perform the functions noted in Part 40 in a timely manner, once the driver has made a timely request for a test of the split specimen (e.g., by establishing appropriate accounts with laboratories for testing split specimens).

The Company must not condition compliance with these requirements on the driver's direct payment to the MRO or laboratory or the driver's agreement for reimbursement of the costs of testing. For example, if the Company's asks the driver to pay for some or all of the cost of testing the split specimen, and the driver is unwilling or unable to do so, the Company must ensure that the test takes place in a timely manner, which means that the Company will pay for the split testing. The Company may seek payment or reimbursement of all or part of the cost of the split specimen from the driver. Part 40 takes no position on who ultimately pays the cost of the test, so long as the Company ensures that the testing is conducted as required and the results released appropriately.

Laboratory. The testing of the split specimen will be conducted at another HHS-certified laboratory, different from the original laboratory. The Company will select the second laboratory. The split specimen will be tested for the same substance or condition that was found in the primary specimen. The MRO will report back to the DER and the driver whether the split reconfirms the primary. If the test of the split does not reconfirm the primary, both tests will be cancelled as if they never occurred.

Medical Marijuana

The DOT and the Company do not accommodate the use of medical marijuana by DOT safety-sensitive employees.

DOT Drug Testing: Part 40 - Employee Notice

This is a reminder that the U.S. Department of Transportation (DOT) drug testing program will soon require testing for **four semi-synthetic opioids** (i.e., hydrocodone, oxycodone, hydromorphone, oxymorphone). ***The change is effective January 1, 2018.***

What does this mean for the employees?

Beginning January 1, 2018, in addition to the existing DOT drug testing panel (that includes marijuana, cocaine, amphetamines, phencyclidine (PCP), and opiates), you will **also** be tested for four semi-synthetic opioids (i.e., hydrocodone, oxycodone, hydromorphone, oxymorphone). Some common names for these semi-synthetic opioids include OxyContin®, Percodan®, Percocet®, Vicodin®, Lortab®, Norco®, Dilaudid®, Exalgo®.

If you test positive for any of the semi-synthetic opioid drugs, then as with any other drug test result that is confirmed by the laboratory, the Medical Review Officer (MRO) will conduct an interview with you to determine if there is a legitimate medical explanation for the result. If you have a valid prescription, you should provide it to the MRO, who will determine if the prescription is valid. If a legitimate medical explanation is established, the MRO will report the result to your employer as a 'negative'. If not, the MRO will report the result to your employer as 'positive'.

As it has been the requirement in the past, when your employer receives a 'positive' drug test result, your employer is to immediately remove you from performing safety-sensitive functions and provide you with a list of qualified Substance Abuse Professionals (SAP) available in your area. In order to return to performing safety-sensitive functions for any DOT-regulated employer, you must complete the return-to-duty process that will include an evaluation by a SAP, who will require education and/or treatment. The SAP will determine if you successfully completed the prescribed education and/or treatment. Before an employer could return you to safety-sensitive work, the employer must get a negative result on a directly observed return-to-duty drug test. After you return to safety-sensitive work, you must be subject to directly observed follow-up testing for 12-60 months depending on the SAP's recommendations.

Do I need to tell anyone about my prescribed medications?

Your employer may have a policy that requires you to report your prescribed medications to them. So check with your employer. If your job function has DOT-regulated medical standards (truck/bus driver, airline pilot, mariner), the DOT agency regulation may require you to report your prescribed medications to those who approved your medical qualifications. [Submit Feedback >](#)

What should I tell my prescribing physician?

If you are taking any prescription medications, consider this to be a reminder to have a conversation with your prescribing physician to discuss your safety-sensitive work. Be proactive in ensuring that your prescribing physician knows what type of transportation-related safety-sensitive work you currently perform. For example, don't just provide a job title but describe your exact job function(s) or ask your employer for a detailed description of your job function that you can give to your prescribing physician. This is important information for your prescribing physician to consider when deciding whether and what medication to prescribe for you. It is important for you to know whether your medications could impact your ability to safely perform your transportation-related work.

Will the MRO report my prescribed medication use/medical information to a third party?

Historically, the DOT's regulation required the MRO to report your medication use/medical information to a third party (e.g. your employer, health care provider responsible for your medical qualifications, etc.), if the MRO determines in his/her reasonable medical judgement that you may be medically unqualified according to DOT Agency regulations, or if your continued performance is likely to pose a significant safety risk. The MRO may report this information even if the MRO verifies your drug test result as 'negative'.

As of January 1, 2018, prior to the MRO reporting your information to a third party you will have up to five days to have your prescribing physician contact the MRO. You are responsible for facilitating the contact between the MRO and your prescribing physician. Your prescribing physician should be willing to state to the MRO that you can safely perform your safety-sensitive functions while taking the medication(s), or consider changing your medication to one that does not make you medically unqualified or does not pose a significant safety risk.

NOTE: This document informally summarizes some of the effects of recent changes to the Procedures for Transportation Workplace Drug and Alcohol Testing Programs that are important for transportation employees, but it should not be relied upon to determine legal compliance with those procedures.

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Contact Us

Office of Drug & Alcohol Policy & Compliance

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Eric Miller | Staff Reporter

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DOT to Require Testing for Synthetic Opioids Beginning Jan. 1



TT File Photo

For the first time, beginning Jan. 1, truck drivers being administered random pre-employment and post-accident drug tests will be screened for four additional synthetic opioids, the highly addictive drugs that likely will require medical experts to consider prescriptions that balance pain mitigation with safety performance.

While indications are that most of the private drug-testing labs are ready to conduct the four additional Department of Transportation-mandated tests, the new requirement likely will slow down the process for medical review officers to screen an increasing number of positive test results, according to Barry Sample, senior director of science and technology for Quest Diagnostics, a leading U.S. drug test provider.

Testing for hydrocodone, hydromorphone, oxycodone and oxycodone could result in drivers — even with prescriptions for the pain killers — failing their tests and those positive test results being referred to a medical review officer to determine if a driver should be allowed to get behind the wheel.

The primary responsibility of a medical review officer is to verify if an employee has an alternative medical explanation for a lab-confirmed positive test result.

A lab sends all test results, positive or negative, to an MRO, Sample said.

“We fully expect to have more laboratory positives,” Sample told Transport Topics. “And, I would expect there will be more medical review officer positives as well. There will be additional specimens that screen positive that in the past would have been verified negatives. So those will have a longer turnaround time.”



Sample

Abigail Potter, manager, safety and occupational health policy at American Trucking Associations said, “If someone gets dinged as positive, an MRO reviews it, and if the MRO finds that the person had a legitimate prescription under the controlled substance act, then it will most likely be marked negative.

“But someone who has a valid prescription for one of these drugs may not be considered medically qualified by the medical review officer. He might be able to pass a DOT test, but he may not be medically certified to drive.”

She added, “These are very potent drugs, and some of them have addiction qualities similar to heroin. They are very, very dangerous. We as an industry are focused on preventing these drugs being used by drivers.”

The DOT final rule, announced Nov. 9, would continue to make medical review officers the ultimate decision-makers of whether a driver, with or without a legal opioid prescription, is fit to drive. If the driver with a prescription for an opioid passes the drug test but still is not deemed fit to drive, the medical review officer can still forward a “safety concern” letter to the driver’s employer, but only after a five-day waiting period, Sample said. The waiting period would allow the driver’s physician to further discuss the matter with the officer.

During the comment period for the proposed rule earlier this year, several commenters expressed concerns that adding the opioid tests will increase circumstances in which drivers innocently using opioids would be unfairly treated as drug abusers, with consequent positive tests harming their careers.

In response, DOT said it added language in the final rule to prohibit an MRO from denying a legitimate explanation based on whether the officer thinks the prescribing physician should not have prescribed the medication to the driver.

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Yet, the agency said in its final rule that it's important to note that when there is a valid concern about whether the employee can continue performing safely, the prescribing physician still may be asked to reconsider the employee's use of the prescription. And, even when a prescription is legitimate, the MRO can forward a "safety concern" letter to the driver's employer.

Sample said the odds of failing an opioid test with a valid prescription are "very dependent" on the pattern of use, dosage, frequency of use and an individual's metabolism.

The detection window for the new opioid tests is shorter than for many other drugs, Sample said.

"We generally say that most drugs on the [opioid] urine screen will be able to detect use within the last 72 hours," he added.

Sample said opioids are sedating, may cause decreased reaction time and increase sleepiness.

"But, for some individuals, they may actually be more effective in carrying out their duties if they are not debilitated by pain," he said. "So it's somewhat of a balancing act in trying to ensure that the individual is being treated for their pain, but might impact their ability to work."

LIST OF SUBSTANCES ABUSE PROFESIONALS
Please refer to www.SAPLIST.com for a local SAP in your area.

This is to certify that I have received a copy of the company Alcohol and Controlled Substances policy and understand its' stance on Zero Tolerance or Second Chance (as indicated in the Policy you read and are signing for).

Driver Signature _____

Date Signed _____

Printed Name _____

Company Name: GIO & SON EXPRESS LLC

Employer: Please keep a copy of *this page* in the drivers' file for proof of having provided this policy to this driver. It is a requirement for DOT Compliance.

Information Concerning the Effects of Alcohol and Drug Use on an Individual's Health, Work and Personal Life

The impact of drug use and alcohol misuse in the workplace is more than just causing harm to the health and safety of the affected individual. Drug use and alcohol misuse decrease an individual's performance and the performance of co-workers who rely on him/her. Impaired judgment, carelessness, and lack of coordination cause more accidents, which put the safety and lives of the affected individual and co-workers at risk. Co-workers may become frustrated trying to help the affected individual by covering up, taking on additional work, or lending him/her money. The result of this frustration can be decreased morale and distrust as coworkers become tired of trying to help and supervisors become suspicious of increased absenteeism,

tardiness, lowered job efficiency, etc.

Alcohol and its Effects

Alcohol is a legal substance that is widely used and, unfortunately, misused. While it is important for your safety, the safety of your co-workers and the general public to continue to be very concerned about the significant dangers of controlled substances, the abuse of alcohol has a major impact on the safety of those individuals as well. The most common substance found in drivers of commercial vehicles involved in fatal accidents is alcohol (the second most prevalent substance is marijuana).

The significance of alcohol misuse among the American population is borne out by statistics:

- It is estimated that 3-10% of all Americans have an alcohol related problem, depending upon how alcoholism is defined.
- 25% of all hospital admissions in the United States are related to alcohol misuse.
- 2-3% of the driving population is legally drunk at any one time. This rate doubles at night and on weekends.
- 40% of family court cases involve an alcohol problem.
- 2/3 of all homicides are committed by people who drink prior to the crime.
- More than 60% of burns, 40% of falls, 69% of boating accidents, and 76% of private aircraft accidents are alcohol related.

Alcohol abusers are costing companies, health care organizations and the general public tens of thousands of dollars each year in poor quality products, health care costs, workers compensation costs, and unemployment costs. More importantly, these abusers are costing innocent lives.

The National Institute on Alcohol Abuse and Alcoholism has estimated that 50% of the people with job performance problems suffer from alcohol-related problems. The rationale underlying an employer's approach to alcohol abuse in the workplace is that any alcohol abuser, even one in the early stages of abuse, will tend to exhibit a pattern of deteriorating job performance that will eventually effect not only the abuser, but his or her co-workers, and the general public.

Unless detected early on, alcohol use in the workplace can lead to a series of costly and potentially dangerous situations, including:

- Non-drinking co-workers often see alcohol users as Absenteeism — Tardiness and excessive use of sick
- Lower Productivity — Studies have shown that an alcohol abuser works at only two-thirds of his/her actual work potential.
- Poor Work Quality — Shoddy work, rework and material waste may be evident. For drivers it means decreased mental and physical agility and concentration. • Poor Morale — Chronic alcohol misuse often creates wide mood swings, anxiety, depression and anger. poor team work<ers and safety hazards.

- **Increased Number of Accidents and Near Misses**— Impaired individuals are 3-6 times more likely to be involved in on-the-job accidents or near miss incidents. A person who is legally intoxicated is six times more likely to have an accident than a sober person is.
- **Equipment Problems Due to Negligence** — Alcohol misuse often leads to inadequate maintenance of machinery or equipment because the driver has lost interest or is hoping their equipment will not work to avoid working themselves.

Substance abusers are 3.6 times more likely to be involved in an accident. Even small quantities of controlled substances in the system can cause a deterioration of alertness, clear-mindedness and reaction time.

Controlled Substances And Their Effects

Substance abuse is a national problem that negatively impacts every American. It not only affects individual users and their families, but it also presents new and increasing dangers in the workplace. One in six working Americans has a drug related problem. Employees who use controlled substances are 33% less productive, 500% more likely to be involved in an on-the-job accident, 500% more likely to file a worker's compensation claim, 250% more likely to have an absence exceeding eight days, significantly more likely to be involved in employee theft, and 360% more likely to injure themselves or another person in the workplace.

As with alcohol abuse, drug use can lead to a series of costly and potentially dangerous problems in the workplace, including.

- **Absenteeism** — Tardiness and excessive use of sick leave.
- **Staff Turnover** — Substance-abusing employees have disorganized lives. Many quit rather than face detection. Others transfer or are fired because of poor or unsafe performance.
- **Lower Productivity and Work Quality** — As with alcohol abusers, substance-abusing employees perform at about two-thirds of their actual work potential. Shoddy work, rework and material waste may be evident. For drivers, decreased mental and physical agility and concentration causes increased cargo damage or passenger complaints, missed schedules, incomplete or lost shipments and more traffic accidents.
- **Equipment Breakdown** — Again, substance-abusing employees often do not maintain their equipment/ either because they have lost interest in their job, or look forward to having equipment declared out of service as a means of avoiding work.
- **Poor Morale** — Chronic substance abusers create the same atmosphere as alcohol abusers in the workplace. Non-drug using employees often view them as poor team workers and a hazard to the safety of others.
- **Increased Accidents and Near Misses** —



Controlled Substances

The regulations require 5-panel testing for the following classes of substances:

- Marijuana
- Cocaine
- Opiates — opium and codeine derivatives
- Amphetamines and methamphetamines
- Phencyclidine — PCP

For more information, visit:

<https://www.transportation.gov/odapc/part-40-dot-5-panel-notice/>



Consequences

- ✓ A positive drug test result, an alcohol concentration of .04 or more or a refusal requires the driver to be immediately removed from operating any CMV on public roadways. The employer must provide the driver with a list of acceptable SAPs from which to choose to begin the “return-to-duty” process. This process must be completed before a driver who has tested positive, or refused a drug test, can legally return to driving CMVs for any employer, including an owner operator.
- ✓ The impact of testing positive or refusing to test can be devastating for the driver’s family. It often results in extended periods of unemployment, due to the time necessary to complete the “return-to-duty” process with a qualified SAP and the tendency of employers not to hire drivers with drug or alcohol histories.
- ✓ Even after completing the “return-to-duty” process and finding employment, the additional return-to-duty and follow-up testing often adds increased stress and financial strain on the driver.

For additional research and reading on the Federal Motor Carrier Safety Administration’s Drug and Alcohol Testing Regulations, please visit:

www.fmcsa.dot.gov/regulations/drug-alcohol-testing/overview-drug-and-alcohol-rules

FEDERAL Drug & Alcohol Testing REGULATIONS



Be a Driver in the Know...



The U.S. Department of Transportation (DOT) drug and alcohol testing regulations for Commercial Driver Licensed (CDL) employees are contained in 49 CFR Part 382, and 49 CFR Part 40. These regulations can be found at:

www.fmcsa.dot.gov

This brochure summarizes the regulations as they apply to CDL drivers, and is intended to better educate drivers about their rights and obligations as participants in a DOT drug and alcohol testing program.

Who Must Be Tested?

All CDL drivers operating commercial motor vehicles (CMVs) (greater than 26,000 GVWR, or transporting more than 16 passengers, including the driver, or placarded hazardous materials) on public roadways must be DOT drug and alcohol tested. This applies to any driver required to possess a CDL, including those employed by Federal, State, and local government agencies, "owner operators," and equivalently licensed drivers from foreign countries. Part-time drivers must also be included in an employer's drug and alcohol testing program. Drivers who only operate CMVs on private property not open to the public do not require testing.

Required Tests

CDL drivers are subject to each of the following types of tests:

Pre-Employment – New drivers must be drug tested with a negative result before an employer can permit them to operate a CMV on a public road. Alcohol testing is permitted only if it applies to all CDL drivers. If a driver is removed from a random testing pool for more than 30 days, the driver must again be pre-employment tested.

Post-Accident
– CDL drivers must be drug and alcohol tested whenever they are involved in a fatal accident, or receive a traffic citation resulting from an injury or

vehicle-disabling accident. The alcohol test must occur within 8 hours, and the drug test must occur within 32 hours.

Random Testing – CDL drivers are subject to unannounced random testing. A driver may be directed to take a drug test even when at home in an off-duty status. Random alcohol testing may only occur when the driver is on-duty or immediately before or after. Once notified to report for random testing, the driver must immediately report to the testing location. A delayed arrival may be considered a refusal (see 49 CFR 40.191), which is equivalent to testing positive.

Reasonable Suspicion – DOT-trained supervisors can direct a driver to be drug or alcohol tested whenever he or she exhibit signs of drug or alcohol abuse. The decision must be based on observations concerning the appearance, behavior, speech, or body odors of the driver.

Return-to-Duty – Return-to-duty tests require "direct observation" as prescribed in 49 CFR 40.67. They are only required after an employee has completed the "return-to-duty" process, before returning to perform a safety sensitive function (i.e., driving CMVs). They may replace the pre-employment test for "positive" tested and "refusal" drivers.

Follow-Up – Follow-up drug and alcohol tests are required as prescribed by the substance abuse professional (SAP) who signs the return-to-duty report. They consist of a minimum of at least

six unannounced directly observed tests conducted during the first 12 months following the return-to-duty test. The SAP can prescribe follow-up testing for a maximum of 5 years for drivers who have tested "positive" or "refused to test." Follow-up testing is in addition to any selections for random testing.

Testing Procedures

- Once notified to report for testing, a CDL driver must report to the collection site immediately (For additional information on the collection, please refer to: www.transportation.gov/odapc).
- DOT drug testing only recognizes urinalysis as a valid means for drug testing. If problems are identified, a driver may be required to retest under direct observation. A driver is only permitted three hours to produce a urine specimen. Leaving the collection site before the process has been completed may be declared a "refusal." In addition, if unable to provide a specimen as required, a driver is subject to the "shy bladder" evaluation that can result as a refusal due to the absence of a medical condition as deemed by the medical review officer (MRO).
- Once tested, the laboratory will report the analysis to a MRO. If the analysis indicates a positive result, the MRO will contact the driver to determine whether there are circumstances that would explain the positive result. If there are none, the MRO will report a positive result to the employer.

