

CONTROLLED SUBSTANCES AND ALCOHOL TESTING COMPLIANCE CHECKLIST

CHP 800F (Revised 07 - 2017) OPI 062

The following checklist and other general information are provided to assist motor carriers subject to inspection by the Department of the California Highway Patrol (CHP) pursuant to Section 34501 of the California Vehicle Code (CVC), specifically with respect to the testing of commercial motor vehicle (CMV) drivers for use of controlled substances and abuse of alcohol. The CHP enforces the federal regulations found in Title 49, Code of Federal Regulations (CFR), Part 382. Section 34520 CVC applies those federal regulations to every driver who is required to maintain a commercial driver license to operate a CMV, and to employers of those drivers, as defined in the federal regulations. See Title 49, CFR, Part 382.103 to determine applicability. Motor carriers can improve their ability to pass such inspections by closely examining their own operations in the light of the following checklist.

DRIVER RECORDS - CONTROLLED SUBSTANCES AND ALCOHOL TESTING

1. Do you ensure that all required controlled substances and alcohol testing (CSAT) requirements of CMV drivers complies with the procedures set forth in Title 49, CFR, Part 40? *Title 49, CFR, Part 382.105*
2. Before performing a controlled substances or alcohol test, is the individual notified that the test is required by the Federal Motor Carrier Safety Administration (FMCSA) and California law? *Title 49, CFR, Part 382.113 and 34520 CVC*
3. Are drivers who refuse to submit to required controlled substances or alcohol tests immediately removed from safety-sensitive functions? *Title 49, CFR, Part 382.211*
4. Do you prohibit drivers who have tested positive for a controlled substance, have a breath alcohol concentration of 0.04, or greater, from performing safety-sensitive functions? *Title 49, CFR, Parts 382.201 and 382.215*
5. Do you advise each of your drivers, at the time of hiring and again annually, of the prohibition against operating a CMV with a breath alcohol concentration of 0.01 or above? *Section 34501.16 CVC*
6. Have you advised each of your drivers of the prohibitions against using alcohol while on duty? *Title 49, CFR, Part 382.205*
7. Have you advised each of your drivers of the prohibitions against performing safety-sensitive functions within four hours of using alcohol? *Title 49, CFR, Part 382.207*
8. Have you advised each of your drivers of the prohibitions against being on duty or operating a CMV while in the possession of unmanifested alcohol that is not being transported as part of the shipment, or is possessed or used by bus passengers? *Title 49, CFR, Part 392.5(a)(3) and Section 34520(a) CVC*
9. If you are conducting your own testing, are at least 10% of your drivers randomly tested each year for prohibited alcohol use? *Title 49, CFR, Part 382.305(b)(1)*
10. If you are conducting your own testing, are at least 25% of your drivers randomly tested each year for controlled substances use? *Title 49, CFR, Part 382.305(b)(2)*
11. Prior to the first time a driver performs a safety-sensitive function, is the driver tested for controlled substances use, and a negative result obtained? *Title 49, CFR, Part 382.301*
12. Do you conduct required post-accident controlled substances and alcohol tests? *Title 49, CFR, Part 382.303*
13. Have you advised each of your drivers of the requirement to remain readily available for a post-accident test? *Title 49, CFR, Part 382.303*
14. Is a driver tested when there is a reasonable suspicion that the driver has violated alcohol or controlled substances prohibitions? *Title 49, CFR, Part 382.307*
15. Prior to returning to a safety-sensitive function following a positive test result for alcohol or controlled substances, did the driver comply with the return-to-duty process? *Title 49, CFR, Parts 382.503 and 40.305*
16. Is each driver who has engaged in prohibited conduct evaluated by a substance abuse professional (SAP) to determine what assistance the employee needs in resolving problems associated with alcohol and controlled substances use? *Title 49, CFR, Parts 382.605 and 40.289*
17. Do you ensure that a driver who has engaged in prohibited conduct and is returned to performing safety-sensitive functions is subject to unannounced follow-up testing at the direction of a SAP? *Title 49, CFR, Parts 382.311 and 40.309*



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TESTING RECORDS

(Note: Testing records may be maintained by the carrier's consortium or third party administrator, provided they can be presented within 48 hours of a CHP request.)

1. Do you maintain the following records for a minimum of five years? *Title 49, CFR, Part 382.401(b)(1)*
 - (a) Driver alcohol test results indicating an alcohol concentration of 0.02 or greater.
 - (b) Driver verified positive controlled substances test results.
 - (c) Refusals to take required alcohol or controlled substances tests.
 - (d) Driver evaluations and referrals.
 - (e) Calibration documentation.
 - (f) Administration of the CSAT programs.
 - (g) Each required calendar year summary.
2. Do you maintain records related to the collection process for a minimum of two years? *Title 49, CFR, Part 382.401(b)(2)*
3. Do you maintain records of negative and canceled controlled substances test results and alcohol test results with a concentration of less than 0.02 for a minimum of one year? *Title 49, CFR, Part 382.401(b)(3)*
4. Do you maintain records related to the education and training of breath alcohol technicians, screening test technicians, supervisors, and drivers while the individuals who work in these capacities perform the functions which require the training and for two years after ceasing to perform the function? *Title 49, CFR, Part 382.401(b)(4)*
5. Do you maintain the following types of records? *Title 49, CFR, Part 382.401(c)*
 - (a) Collection book, if used.
 - (b) Documents relating to the random selection process.
 - (c) Calibration documentation for evidential breath testing devices.
 - (d) Documentation of breath alcohol technician training.
 - (e) Documents generated relating to decisions to administer reasonable suspicion controlled substances or alcohol tests.
 - (f) Documents generated in connection with decisions on post-accident tests.
 - (g) Medical explanation of the driver's inability to provide a breath or urine sample.
 - (h) Consolidated annual calendar year summaries.
6. Do you maintain the following records related to a driver's test results? *Title 49, CFR, Part 382.401(c)(2)*
 - (a) Employer's copy of alcohol test forms, including the results of the test.
 - (b) Employer's copy of the controlled substances test chain of custody and control forms.
 - (c) Documents sent by the medical review officer.
 - (d) Documents related to the refusal of any driver to submit to a required controlled substances or alcohol test.
 - (e) Documents presented by a driver to dispute the result of a controlled substances or alcohol test.
 - (f) Documents generated in connection with verifications of prior employers' alcohol or controlled substances results.
7. Do you maintain records pertaining to a determination by a SAP concerning a driver's need for assistance? *Title 49, CFR, Part 382.401(c)(4)(i)*
8. Do you maintain records concerning a driver's compliance with recommendations of the SAP? *Title 49, CFR, Part 382.401(c)(4)(ii)*
9. Do you maintain the following records related to education and training? *Title 49, CFR, Part 382.401(c)(5)*
 - (a) Materials on alcohol misuse and controlled substances awareness, including a copy of the employer's policy.
 - (b) Documentation of compliance with information, training, and referral requirements.
 - (c) Documentation of training provided to supervisors.
 - (d) Documentation of training for breath alcohol technicians.
 - (e) Certification that any training conducted complies with the requirements.
10. Do you maintain the following administrative records related to CSAT? *Title 49, CFR, Part 382.401(c)(6)*
 - (a) Agreements with collection site facilities, labs, breath alcohol technicians, screening test technicians, medical review officers, consortia, and third party service providers.
 - (b) Names and positions of officials and their role in the employer's CSAT program.



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- (c) Semi-annual laboratory statistical summaries of urinalysis.
- (d) A policy that covers CSAT procedures.
- 11. Do you prepare and maintain a summary of the results of CSAT programs during the previous calendar year when requested? *Title 49, CFR, Part 382.403(a)*
- 12. Do you contact a new driver's previous employers within 30 days of hiring to determine if during the previous two years the employee has had any of the following: *Title 49, CFR, Parts 382.413 and 40.25*
 - (a) An alcohol test with a result of 0.04 alcohol concentration or greater.
 - (b) A verified positive controlled substances test result.
 - (c) A refusal to test.
 - (d) Any other violation of a Department of Transportation (DOT) agency CSAT regulation.
 - (e) Documentation of the successful completion of DOT return-to-duty requirements for an employee who has violated a DOT drug and alcohol regulation.
- 13. Do you make records of a former employee's required controlled substances and alcohol test results available to the subsequent employers? *Title 49, CFR, Part 382.405(f)*
- 14. Do you provide a copy of educational and training materials that explain the requirements of CSAT and your company's policies and procedures regarding testing requirements to every employee that is, or may be, called upon to perform a safety-sensitive function? *Title 49, CFR, Part 382.601(a)*
- 15. Do you provide written notice to employee organizations of the availability of testing information? *Title 49, CFR, Part 382.601(a)(2)*
- 16. Do the materials made available to drivers include detailed discussions of at least the following: *Title 49, CFR, Part 382.601(b)*
 - (a) The identity of the person designated to answer driver questions about the materials.
 - (b) The categories of drivers who are subject to testing.
 - (c) Sufficient information about the safety-sensitive functions performed by drivers.
 - (d) Specific information concerning prohibited driver conduct.
 - (e) The circumstances under which a driver will be tested.
 - (f) The procedures used to test for the presence of alcohol or controlled substances, protect the driver and the integrity of the testing process, safeguard the validity of the test results, and ensure that those results are attributed to the correct driver.
 - (g) The requirement that a driver submit to a test.
 - (h) An explanation of what constitutes a refusal to submit to an alcohol or controlled substances test and the attendant consequences.
 - (i) The consequences for drivers found in violation.
 - (j) Information on the effects of controlled substances and alcohol use on an individual's health, work, and personal life; signs and symptoms of an alcohol or a controlled substances problem; and available methods of intervening when an alcohol or a controlled substances problem is suspected, including confrontation, referral to any employee assistance program and/or referral to management.
- 17. Do you maintain the original signed statement from each driver certifying they have received a copy of the CSAT education and training materials? *Title 49, CFR, Part 382.601(d)*
- 18. Do you ensure that each driver who has engaged in prohibited conduct concerning alcohol or controlled substances is advised of the resources available for evaluating and resolving problems associated with the misuse of alcohol or controlled substances, including the names, addresses, and telephone numbers of SAPs and counseling and treatment programs? *Title 49, CFR, Parts 382.605 and 40.287*
(Note: Question #19 pertains only to employers of drivers who operate school buses, school pupil activity buses, youth buses, and general public paratransit vehicles.)
- 19. Do you report the name of each driver whose required controlled substances or alcohol test resulted in a finding of positive to the Department of Motor Vehicles within five days? *Section 13376(b)(3) CVC*



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SATISFACTORY RATING

A carrier whose compliance with the CSAT regulations is rated satisfactory is one that is in substantial compliance with those regulations as determined during the most recent inspection of that program by the CHP. Minor deficiencies will not preclude assignment of a satisfactory compliance rating. Criteria for assignment of a satisfactory rating include:

- Drivers are tested for alcohol and controlled substances use in the manner specified by federal regulations.
- The CSAT records are kept as required, summary is produced upon request as required, and records are made available for inspection as required.

UNSATISFACTORY RATING

A carrier whose compliance is rated unsatisfactory is one showing evidence of widespread noncompliance or significantly declining compliance with statutory or regulatory requirements. An unsatisfactory compliance rating will be assigned for any condition described below:

- Drivers are not tested for alcohol and controlled substances use in the manner specified by federal regulations.
- The CSAT records are not kept as required, records are not produced upon request as required, or records are not made available for inspection as required.
- Use of drivers who have a confirmed positive test result or have not complied with the requirements of Title 49, CFR, Part 40 Subpart O.

CONDITIONAL RATING

A carrier whose compliance is rated conditional is one in which the carrier's previous rating was unsatisfactory, and a reinspection has indicated that compliance is no longer manifestly unsatisfactory, but full compliance has not been demonstrated. In this case, the CHP will return for a follow-up inspection in approximately six months to assign a new rating. The new rating will not be conditional; it will be either satisfactory or unsatisfactory. Under certain circumstances, when reinspecting a carrier currently assigned an unsatisfactory compliance rating, the CHP may be unable to determine that all required corrections have been fully accomplished by the motor carrier. Examples would be a carrier who had instituted corrective measures such as discontinuing practices that corrupt the randomness of driver selection, or had increased the rate at which drivers are randomly tested to meet the minimum rate prescribed in federal regulations. These are corrections whose true effects will not be known for some time, and until that time passes, cannot be fully evaluated. However, the CHP may be able to determine that the corrective measures taken by the carrier, if sustained throughout the coming year, would result in satisfactory compliance. Under such circumstances, the CHP will normally assign a conditional rating to that carrier, and return later to reevaluate compliance and assign a new rating accordingly.

DRUG AND ALCOHOL CLEARINGHOUSE

On December 5, 2016, the FMCSA amended the Federal Motor Carrier Safety Regulations to establish requirements for the Commercial Driver License Drug and Alcohol Clearinghouse (Clearinghouse), with an effective date of January 14, 2017, and a mandatory compliance date of January 6, 2020. The Clearinghouse is a database which will contain information about violations of the FMCSA CSAT program for motor carriers and the holders of commercial driver licenses. Specifically, Title 49, CFR, Part 382 Subpart G, contains requirements associated with the Clearinghouse and are summarized below:

1. Do you conduct a pre-employment and annual query of the Clearinghouse to obtain information about whether the driver has engaged in prohibited conduct and retain records of the queries for three years?
Title 49, CFR, Part 382.701
2. Do you prohibit a driver from performing a safety-sensitive function if the results of a Clearinghouse query demonstrate that the driver has engaged in prohibited conduct? *Title 49, CFR, Part 382.701*
3. Do you obtain the driver's consent prior to querying the Clearinghouse for driver's information?
Title 49, CFR, Part 382.703
4. Do you prohibit drivers who refused to grant the consent for query of the Clearinghouse from performing a sensitive-sensitive function? *Title 49, CFR, Part 382*



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5. Does the Medical Review Officer report information about a driver with a verified positive test result; adulterated or substituted controlled substances test; or refusal-to-test determination to the Clearinghouse within two business days? *Title 49, CFR, Part 382.705*
6. Do you report information about a driver with an alcohol confirmation test result with an alcohol concentration of 0.04 or greater; a negative return-to-duty test result; a refusal to take an alcohol test pursuant to Title 49, CFR, Part 40.261; or a refusal to test determination made in accordance with Title 49, CFR, Part 40.191 to the Clearinghouse within three business days? *Title 49, CFR, Part 382.705*
7. Do SAPs report the completed return-to-duty process for each driver to the Clearinghouse as required? *Title 49, CFR, Part 382.705*
8. Did you register with the Clearinghouse before accessing or reporting information in the Clearinghouse? *Title 49, CFR, Part 382.711*

ABOUT THIS CHECKLIST

This checklist, while detailed, cannot list all possible items where compliance with the referenced federal regulations could be an issue, nor can it explore all possible applications of CHP policy in the assignment of ratings. A motor carrier who examines their operations using this checklist as a guide can identify areas where compliance may be weak, and take action to improve those areas. The federal regulations are amended occasionally, and staying current with those amendments is one of the keys to success for anyone who operates or directs the operation of CMVs. This checklist is intended only to assist motor carriers in achieving success in the area of highway safety. It does not bind the CHP to a particular determination regarding the compliance of any motor carrier with laws and regulations in existence at any given moment. Any conflict between this checklist and a law or regulation, or future change in CHP policy, will be resolved in favor of the law, regulation, and policy, as appropriate. This checklist will be revised to reflect significant changes in these areas as soon as possible after they occur.

CHP MOTOR CARRIER SAFETY UNITS

Questions regarding any of the information outlined above may be directed to your nearest CHP Motor Carrier Safety Unit listed below:

Northern Division
2485 Sonoma Street
Redding, CA 96001-3026
(530) 242-4357
(530) 246-1264 Fax

Southern Division
437 North Vermont Avenue
Los Angeles, CA 90004-3512
(323) 644-9557
(323) 953-4827 Fax

Valley Division
2555 First Avenue
Sacramento, CA 95818-2608
(916) 731-6350
(916) 227-0111 Fax

Border Division
9330 Farnham Street
San Diego, CA 92123-1216
(858) 650-3655
(858) 637-7159 Fax

Golden Gate Division
1551 Benicia Road
Vallejo, CA 94591-7568
(707) 648-4180
(707) 649-4766 Fax

Coastal Division
4115 Broad Street, Suite B-10
San Luis Obispo, CA 93401-7963
(805) 549-3261
(805) 541-2871 Fax

Central Division
5435 East Olive Avenue
Fresno, CA 93727-2541
(559) 453-3130
(559) 452-1251 Fax

Inland Division
847 East Brier Drive
San Bernardino, CA 92408-2820
(909) 806-2414
(909) 885-0981 Fax



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