

# Post Accident Testing – What Does FMCSA/DOT Require?

## FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION (FMCSA)

### What are the circumstances that would require an employer to conduct a FMCSA/DOT post-accident drug and alcohol test?

There are only three circumstances under which a post-accident drug and alcohol test **must** be conducted according to FMCSA/DOT regulations.

1. A test must always be conducted on a surviving driver when an accident involving a commercial motor vehicle results in a fatality. The driver does not need to be cited for a moving traffic violation nor does the driver need to be deemed at fault. If a fatality occurs, the driver is tested.
2. A test must be conducted if the driver receives a citation for a moving traffic violation **AND** one or more of the vehicles involved in the accident is towed from the scene of the accident.
3. The driver receives a citation for a moving traffic violation **AND** one or more persons involved in the accident immediately receive medical treatment away from the scene of the accident.

Under the last two circumstances, a driver must submit to a drug and alcohol test **ONLY IF THE DRIVER IS CITED FOR A MOVING TRAFFIC VIOLATION!!**

### What are the time limits for conducting these post accident tests?

The drug test must be conducted within 32 hours of the accident, the alcohol test within two hours of the accident. If the alcohol test is not conducted within two hours, the employer should continue to make an effort to have the driver tested for up to eight hours and prepare and maintain, on file, a record why the test was not administered. If a drug test is not conducted within 32 hours of the accident, the employer shall cease any attempt to administer a drug test and prepare and maintain, on file, a record stating the reasons why the test was not administered.

### Must these tests be conducted under the procedures outlined in the 49 CFR, Part 40 (DOT regulations)?

Yes, with one exception. A urine specimen must be submitted for a drug test and a breath specimen for the alcohol test. There is an exception if a law enforcement official investigating the accident has reasonable suspicion to believe that a driver is under the influence of drugs and/or alcohol, the law enforcement official may require the driver to submit to a breath or blood alcohol test and/or a urine test for drugs. The employer may use the results of these tests as the post-accident test if the employer can obtain them through law enforcement channels.

### Reference Chart for FMCSA Regulations for Post-Accident Drug and Alcohol Tests

Type of accident involved	Citation issued to the CMV driver	Test must be performed by employer
Human fatality	Yes	Yes
	No	Yes
Bodily injury with immediate medical treatment away from the scene	Yes	Yes
	No	No
Disabling damage to any motor vehicle requiring tow away	Yes	Yes
	No	No

**What if a driver is involved in an accident in which a vehicle is towed and he/she receives a citation a week later?**

There is no need to conduct an alcohol or a drug test if more than eight hours and 32 hours, respectively, have passed since the accident happened.

**What if the citation is issued 24 hours after the accident in the above situation?**

There is no need to conduct an alcohol test, but you would still have eight hours left to administer a drug test.

**What if an alcohol and drug test cannot be performed within the allotted times? Am I in violation of the regulations?**

You are in violation only if you do not document and maintain a record on file of why the tests were not able to be conducted.

**What if I have an accident situation in which an alcohol and drug test must be performed but the evidential breath-testing device at the collection site is non-operational. Can I require the driver to submit to a blood test?**

No.

**What if one of my drivers is stopped at a stop sign and is hit from behind by a passenger vehicle and the driver of the passenger vehicle dies at the scene?**

Your driver must submit to a drug and alcohol test.

**What if the driver of the passenger vehicle in the above situation is only moderately injured and receives immediate treatment away from the scene of the accident?**

Your driver would require a drug and alcohol test **ONLY** if he/she received a citation for a moving traffic violation which is unlikely since he/she was stopped at a stop sign.

**What if one of my drivers has an accident, receives a citation for a moving traffic violation, but no one receives immediate treatment away from the scene of the accident nor is any vehicle towed from the scene?**

No tests are required.

