

FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION

POST-ACCIDENT TESTING CRITERIA

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

There are ***only three*** circumstances under which a post-accident drug and alcohol test MUST be conducted per FMCSA regulations.

- ✚ 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.
- ✚ 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.
- ✚ 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.

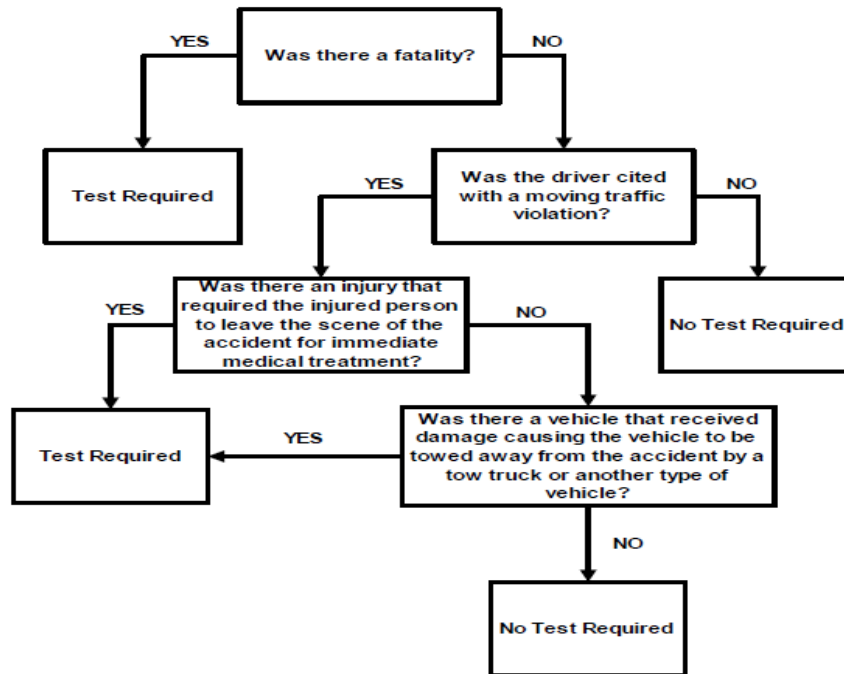
What are the time limits for conducting these tests?

- ✚ Alcohol test should be conducted within **two hours** of the accident
 - If the alcohol test is not conducted within two hours, the employer should continue to try to have the driver tested for up to eight hours and prepare and maintain, on file, a record why the test was not administered.
- ✚ Drug test within 32 hours of the accident
 - 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?

Yes, with one exception. A urine specimen must be submitted for a drug test and a breath specimen for the alcohol test. The exception is, 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 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. *The above summarizes the basic criteria for Post Accident Testing required under 49 CFR, Part 382.303.*

POST-ACCIDENT DECISION TREE



Now, for some WHAT IFs:

- ✚ What if one of my drivers is stopped at a stop sign and is hit from behind by a passenger vehicle. 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 required.
- ✚ 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 because more than eight hours and 32 hours, respectively, have passed since the accident happened.
- ✚ What, if in the above situation the citation is issued 24 hours after the accident?
 - There is no need to conduct an alcohol test, but you 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?
 - Only if you do not document and maintain, on file, a record 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