

New England Freight Presentation – Responses to Queries

Question: When does the 32/8 hour clock start when post-accident drug/alcohol testing is required?

Response: If the driver receives a citation within 32 hours of the crash, drug testing must be conducted as soon as practicable. For alcohol testing, the same applies if the citation is received within 8 hours of the crash. According to regulatory guidance issued by the Federal Motor Carrier Safety Administration (FMCSA), if a drug test is not administered within 32 hours of the crash, or for alcohol testing, within 8 hours of the crash, “the employer must cease attempts to administer the test.” In both cases the employer must “prepare and maintain a record stating the reason(s) the test(s) were not promptly administered.

Therefore, if the driver is cited at a time period that exceeds the 32/8 hours respectively, the employer cannot conduct drug/alcohol testing per the FMCSA regulations.

Question 2: Does Reasonable Suspicion testing have to be conducted while the driver is “on the clock”?

Response: A driver may be required to submit to Reasonable Suspicion testing immediately before, during, or immediately after performing safety sensitive job tasks, e.g., operating a commercial motor vehicle, regardless of whether or not the driver is “on the clock” or has officially ended his/her work shift. It should be noted, however, if the driver is required to submit to such testing before or after his/her work shift, the time spent during the testing process is “on duty time”.