

NTA Inc

The Leader in Nationwide Drug Testing for the Transportation Industry

The ONLY Association with a Nationally Accredited Drug and Alcohol Program Designed for Small Business

If you are not familiar with Title 49, Code of Federal Regulations and the Federal Motor Carrier Safety Regulations on Controlled Substance Abuse, and are currently doing drug testing through a local medical clinic, you maybe doing drug testing but, **MAY NOT have a FULL Drug Testing Program** as mandated by the Federal Regulations.

The Federal Register Vol. 59, No 31 clearly states," ***This section also specifies that persons who are both an employer and a driver, that is, the person who owns a business and also drives a commercial motor vehicle for that business (generally called an owner-operator), must comply with both the driver and the employer requirements contained in Part 382. This section also stipulates that an employer with only one driver may not have an independent random testing program. Such employers must join a group of other DOT regulated employers, generally known as a consortium, to conduct random testing for alcohol and drug testing. This requirement is necessary to ensure a truly random selection, since it is impossible to randomly select from a pool that contains only one person.***"

" It has been the FHWA's view and will continue to be the view that owner-operators cannot conduct their own random testing program. Owner-operators must meet the conditions of random testing, which include that the random selection process must provide for testing to be unannounced and the timing of such test unpredictable. The FHWA believes that the requirement of unannounced testing requires that an owner-operator must join a consortium or testing pool that includes at least two or more drivers. Owner-operators are expected to join consortiums that have at least two or more covered employees."

Your Drug and Alcohol Testing Program MUST contain the following minimum elements to be a valid program under 49 CFR

- 1) If you use a Third Party, a written contract. Sec 382.401(c)(6)(i)
- 2) Proof of education training materials. Sec 382.601
- 3) A written Company policy given to each driver. Sec 382.601
- 4) A written Employee Assistance Plan given to each driver. Sec. 391.119 & 121
- 5) Proof of two hours of training for each driver and supervisor. Sec. 382.601(11) & 382.603
- 6) Proof of Supervisor's Reasonable Suspicion Training. Sec.382.603
- 7) All drug tests (pre employment, random, post-accident & reasonable cause) through a NIDA certified lab in the same program. Sec. 382.301, 303, 305, 307
- 8) Mandatory list of qualified Substance Abuse Professionals. Sec. 382.605, Guidance 4.
- 9) Return-to-Duty testing by the same NIDA lab Sec. 302.309 & 311
- 10) Appoint a program administrator, who is familiar with all the drug and alcohol regulations. Sec. 391.87(d)
- 11) Submit Bi-Annual Summary reports. Sec. 391.80 (c)
- 12) Submit Annual Summary reports. Sec. 391.87 (h)
- 13) Know which records (40) you must keep for 1 year (11), 2 years (13) and 5 years (16). Sec. 382.401
- 14) Be able to submit report results in 78 drug categories & 54 alcohol categories. Sec. 382.401
- 15) Periodically be able to submit spiked samples (Blind Testing) to test your program. 49 CFR Part 40.103

Failure to have ALL of these elements in your program constitutes NOT having a program according to the law (49 CFR). You could face a fine but also an unsatisfactory rating by either or both the applicable state and/or federal agency.