

Drug and alcohol Q & A— off the clock, and more

.....
by Pat Weaver
.....

The Federal Transit Administration's Drug and Alcohol Testing web site provides some good assistance in interpreting some of the drug and alcohol testing regulations.

The following scenarios are two samples of questions recently posed to FTA for interpretation.

Does "off the clock" mean no drug testing?

Scenario: A driver is returning to the garage at the end of the day. She has completed her route and there are no passengers on board. In fact, she is even off the clock (the driver's pay ends at the last drop off). En route back to the shop she is in an accident that results in the vehicles being towed from the scene. The driver states that since she was not "on the clock" getting paid, she should not receive a post accident drug test. Is the driver correct?

Response from FTA's Mike Redington: No, the driver is incorrect and should have been post-accident tested.

Being "on-the-clock" is not a condition for post-accident testing; the performance of a safety-sensitive functions is a condition for post-accident testing. The definition of Part 655.4 states: "Safety-sensitive function means"... "(1) Operating a revenue service vehicle, including when not in revenue service."

Random testing on a scheduled day off

Scenario: On Thursday in a given week, the supervisor of a safety sen-

sitive employee selected for testing is notified that the employee has been randomly selected for a drug test tomorrow (Friday). The supervisor indicates that the employee will not be available that it is his/her regular day off. If the employee is allowed to and can work on his/her regular day off (Friday), should he or she be sent for the random drug test?

Response from FTA's Mike Redington: A valid excusal from random drug testing can result if an employee is not on duty (has a regular day off) the day of the scheduled test. Excused employees must be drug-tested when they are on duty provided the employee returns before the next random selection list is generated.

If a safety-sensitive employee is on duty (even on a day that would typically be a day off) and is notified of selection for random drug test, that employee must proceed immediately to the collection site. However, in order to ensure that the random testing process is "unannounced and unpredictable" an employee should not be required to report for duty on what would otherwise be a regular day off, solely for the purpose of being randomly drug tested.

Part 655.45 on random testing states: "(g) Each employer shall

ensure that random drug and alcohol tests conducted under this part are unannounced and unpredictable, and that the dates for administering random tests are spread reasonably throughout the calendar year.

Random testing must be conducted at all times of day when safety-sensitive functions are performed. (h) Each employer shall require that each covered employee who is notified of selection for random drug or random alcohol testing proceed to the test site immediately.

If the employee is performing a safety-sensitive function at the time of the notification, the employer shall instead ensure that the employee ceases to perform the safety-sensitive function and proceeds to the testing site immediately."

For questions specific to the Kansas Transit Drug and Alcohol Testing Program, contact Sandy Flickinger, KDOT Drug and Alcohol Testing Coordinator at (785) 368-7091 or email sandyf@ksdot.org.

Source: Federal Transit Administration Drug and Alcohol Testing Website: <http://transit-safety.volpe.dot.gov/Safety/DATesting.asp> ▲

