Reasonable Suspicion Policy Section

Paste this section into your written alcohol and controlled substances policy, fill in the blanks, and keep every sentence that goes beyond the federal minimum inside the shaded "independent authority" block, clearly labeled as the company's own rule (382.601(c)). Citations are to 49 CFR.

1. Purpose and authority

_____ ("the Company") requires reasonable suspicion alcohol and controlled substances testing of drivers as provided in 382.307. This section states when a test is required, who may require it, what the driver must do, and what happens afterward.

2. Who may make the determination

Only a supervisor or company official who has completed the training required by 382.603 (at least 60 minutes on alcohol misuse and at least 60 minutes on controlled substances use) may determine that reasonable suspicion exists. The current list of trained persons is kept by _____, the Designated Employer Representative (DER), who can be reached at _____. The person who makes an alcohol determination will not conduct the alcohol test. 382.307(c), 382.603

3. Basis for the determination

A determination is based on specific, contemporaneous, articulable observations concerning the driver's appearance, behavior, speech, or body odors. For controlled substances, the observations may include indications of chronic and withdrawal effects. A report from a coworker or dispatcher may prompt a trained supervisor to observe the driver; it is not by itself a basis for testing. 382.307(a)–(b)

4. When alcohol testing may be directed

Alcohol testing under this section is directed only when the observations are made during, just before, or just after the period of the workday in which the driver performs safety-sensitive functions. 382.307(d)

5. Driver obligations

A driver directed to test must stop performing safety-sensitive functions, proceed to the collection site as instructed, and complete the test. Refusing, failing to appear, leaving the site before the collection is complete, failing to provide a sufficient specimen without a medical explanation, or any other conduct listed in 40.191 or 40.261 is a refusal and is treated as a violation. 382.211, 40.191, 40.261

6. Procedure

- The supervisor tells the driver that a reasonable suspicion test is required and removes the driver from safety-sensitive functions.
- The Company arranges transportation to the collection site at _____. The driver does not drive.
- The alcohol test is administered within two hours of the determination. If it is not, the reasons are recorded and attempts continue; after eight hours, attempts stop and the reasons are recorded. 382.307(e)(1)
- The controlled substances collection takes place as soon as practicable, and any delay is recorded.
- The supervisor signs a written record of the observations within 24 hours of the observed behavior or before the test results are released, whichever is earlier, and gives it to the DER. 382.307(f)

7. While results are pending

The driver will not perform safety-sensitive functions until an alcohol test shows a concentration below 0.02 or 24 hours have passed since the determination, whichever comes first. 382.307(e)(2)

8. Results and consequences

- **Alcohol below 0.02 and a negative controlled substances result:** the driver returns to duty. No action is taken under Part 382 on the basis of the observations alone. 382.307(e)(3)
- **Alcohol 0.02 to 0.039:** not a violation; the driver does not perform safety-sensitive functions until the start of the next regularly scheduled duty period, and not less than 24 hours after the test. 382.505
- **Alcohol 0.04 or greater, a verified positive, adulterated, or substituted result, or a refusal:** a violation. The driver is removed from safety-sensitive functions immediately, must complete a substance abuse professional evaluation and the return-to-duty process before resuming, is subject to follow-up testing, and the violation is reported to the FMCSA Clearinghouse. 382.501, 40.23, 40.285, 382.705

9. Records

Observation records and test documents are kept in a secure location with controlled access. Documents behind a decision to test are kept at least two years, refusal documentation at least five years, and supervisor training records for the supervisor's tenure plus two years. 382.401

10. Company rules based on independent authority (382.601(c))

The following rules are based on the Company's authority independent of Part 382 and are not federal requirements:

☐ The driver will not perform safety-sensitive functions until the MRO reports the controlled substances result.

☐ Other: _____

_____

_____

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Does the policy cover the 12 required topics?

Check each topic your written materials discuss in detail. The third column says where the reasonable suspicion section does part of the work.

	Required topic (382.601(b))	Where reasonable suspicion fits
☐	(1) The person designated to answer driver questions about the materials	Name the DER here; the same person keeps the list of trained supervisors (clause 2).
☐	(2) The categories of drivers subject to Part 382	Who can be sent for a reasonable suspicion test.
☐	(3) Enough about safety-sensitive functions to show when the driver must be in compliance	Defines the window for alcohol observations (clause 4).
☐	(4) Driver conduct prohibited by Part 382	0.04 or greater (382.201), on-duty use (382.205), use within four hours before duty (382.207), use within eight hours after an accident needing a test (382.209), controlled substances use (382.213), positive or tampered tests (382.215).
☐	(5) The circumstances under which drivers are tested, including post-accident	Reasonable suspicion is one of six: pre-employment, random, post-accident, reasonable suspicion, return-to-duty, follow-up.
☐	(6) Testing procedures that protect the driver and the integrity of the test	Clause 6: transport, the two-hour and eight-hour alcohol windows, the written record.
☐	(7) The requirement that the driver submit to the tests	Clause 5.
☐	(8) What constitutes a refusal and its consequences	Clause 5 and clause 8.
☐	(9) Consequences of a violation, including immediate removal and Part 40 subpart O	Clause 8.
☐	(10) Consequences of an alcohol result of 0.02 to 0.039	Clause 8.
☐	(11) Effects of alcohol and drugs; signs and symptoms; how to intervene (confrontation, EAP, referral to management)	The driver-facing side of what supervisors are trained to observe.
☐	(12) What is reported to the Clearinghouse	Clause 8: positives, 0.04 or greater, refusals, actual-knowledge reports, SAP completion, negative return-to-duty, follow-up completion.

Optional company rules may be included, but each must be clearly and obviously described as based on the Company's independent authority (382.601(c)). Give written notice of the materials to representatives of employee organizations (382.601(a)(2)).

Certificate of receipt (382.601(d))

I certify that I have received a copy of the Company's alcohol and controlled substances policy materials, including the reasonable suspicion section.

Driver name (print) _____ CDL number and state _____

Driver signature _____ Date _____

Employer representative _____ Date materials provided _____

Provide the materials before testing begins and to each driver hired or transferred into a driving position. Keep the signed certificate; a copy may go to the driver (382.601(a)(1), (d)).

Program contacts

Designated Employer Representative (DER) and phone _____

Collection site and after-hours arrangement _____

Medical Review Officer (MRO) _____

Consortium / third-party administrator (C/TPA) _____

Substance abuse professional (SAP) referral list kept at _____

Employee assistance program, if any _____

A C/TPA coordinates services; it cannot act as the DER (40.3).

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