**Section § 382.103: Applicability.**

**Question 3: Are part 382 alcohol and drug testing requirements applicable to firefighters in a State which gives them the option of obtaining a CDL or a non-commercial class A or B license restricted to operating fire equipment only?**

**Guidance:**No. The applicability of part 382 is coextensive with part 383—the general CDL requirements. Only those persons required to obtain a CDL under Federal law and who actually perform safety-sensitive duties, are required to be tested for drugs and alcohol.

The FHWA, exercising its waiver authority, granted the States the option of waiving firefighters from CDL requirements. A State which gives fire fighters the choice of obtaining either a CDL or a non-commercial license has exercised the option not to require CDLs. Therefore, because a CDL is not required, by extension part 382 is not applicable.

A firefighter in the State would not be required under Federal law to be tested for drugs and alcohol regardless of the type of license which the employer required as a condition of employment or the driver actually obtained. It is the Federal requirement to obtain a CDL, nonexistent in the State, that entails drug and alcohol testing, not the fact of actually holding a CDL.