**Section § 382.105: Testing procedures.**

## Guidance Q&A

**Question 4: Particularly in light of the coverage of Canadian and Mexican employees, how should Medical Review Officers (MRO) deal, in the verification process, with claims of the use of foreign prescriptions or over-the-counter medication?**

**Guidance:**Possession or use of controlled substances are prohibited when operating a Commercial Motor Vehicle (CMV) under the Federal Motor Carrier Safety Administration (FMCSA) regulations regardless of the source of the substance. A limited exception exists for a substance’s use in accordance with instructions provided by a licensed medical practitioner who knows that the individual is a CMV driver who operates CMVs in a safety-sensitive job and has provided instructions to the CMV driver that the use of the substance will not affect the CMV driver’s ability to safely operate a CMV (see §§382.213, 391.41(b)(12), and 392.4(c)). Individuals entering the United States must properly declare controlled substances with the U.S. Customs Service. 21 CFR 1312.11.

The FMCSA expects MROs to properly investigate the facts concerning a CMV driver’s claim that a positive controlled substance test result was caused by a prescription written by a knowledgeable, licensed medical practitioner or the use of an over-the-counter substance that was obtained in a foreign country without a prescription. This investigation should be documented in the MRO’s files.

If the CMV driver lawfully obtained a substance in a foreign country without a prescription which is a controlled substance in the United States, the MRO must also investigate whether a knowledgeable, licensed medical practitioner provided instructions to the CMV driver that the use of the ‘‘over-the-counter’’ substance would not affect the driver’s ability to safely operate a CMV.

Potential violations of §392.4 must be investigated by the law enforcement officer at the time possession or use is discovered to determine whether the exception applies.

**Contact Info**

Defaults to FMCSA Information Line unless you identify another number

How to set Effective Date

 Use the date the guidance is published as issued date and the effective date of guidance as indicated in any FR publication of the guidance. If there is no effective date, it should be the issued date.

#### Effective Date

April 4, 1997

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| Program Review | Jeff Secrist | 2/20/20 |
| Legal Review | Tracy White | 2/21/20 |
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| Modified from original guidance | Yes, changed FHWA to FMCSA, reference to customs regulations changed from 21 CFR 1311.27 (which does not exist) to 1312.11 |  |
| Other information |  |  |
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