Guidance on what constitutes actual knowledge.

## Question:

Actual Knowledge: What is “actual knowledge” as used in 49 CFR part 382, subpart B?

## Answer

“Actual knowledge” is defined in §382.107 and means actual knowledge by an employer that a driver has used alcohol or controlled substances based on the employer's direct observation of the employee, information provided by the driver's previous employer(s), a traffic citation for driving a CMV while under the influence of alcohol or controlled substances, or an employee's admission of alcohol or controlled substance use, except as provided in § 382.121. Direct observation means observation of alcohol or controlled substances use and does not include observation of employee behavior or physical characteristics sufficient to warrant reasonable suspicion testing under § 382.307. “Traffic citation” means a ticket, complaint, or other document charging driving a CMV while under the influence of alcohol or controlled substances.