Guidance on whether non-DOT covered employees may be placed in the DOT random testing pool.

## Question

Testing Pool Inclusions: Can an employer include in the DOT random testing pool non-CDL drivers who operate motor vehicles weighing less than 26,001 pounds?

## Answer

No, an employer may not include non-CDL drivers in the DOT random testing pool. See 49 CFR §382.103,  [§40.347(b)(2)](http://www.dot.gov/odapc/part40/40_347) The DOT and FMCSA drug and alcohol testing regulations apply to any person who is subject to the CDL requirements of 49 CFR [part 383](http://www.fmcsa.dot.gov/regulations/title49/part/383) and who operates a CMV, as defined in §[382.107](http://www.fmcsa.dot.gov/regulations/title49/section/382.107), in commerce.  An employer may perform testing beyond that required by the DOT rules, but the employer may not represent such testing as a DOT test and must place non-DOT covered employees in a random drug and alcohol testing pool that is completely separate from the random testing pool for DOT-covered employees.  See [§382.305, question15.](http://www.fmcsa.dot.gov/regulations/title49/section/382.305?guidance)