Guidance clarifying that a driver shall only be tested for alcohol while, just before, or just after the driver performs safety-sensitive functions.

## Question

Requirements While Not Performing Safety-Sensitive Functions: A CDL driver is selected for a random drug test and the employer directs the driver to be tested when he was (off duty) not performing a safety-sensitive function. The collection site instructs the driver to submit to a random drug test and a random alcohol test. The driver tests positive for the random alcohol test. Is the driver required to undergo the return-to-duty process before performing safety sensitive duties again as a result of the positive alcohol test?

## Answer

No, 49 CFR 382.305(m) states that “A driver shall only be tested for alcohol while the driver is performing safety-sensitive functions, just before the driver is to perform safety-sensitive functions, or just after the driver has ceased performing such functions.” As such, the test was improper. The driver does not have to complete the return-to-duty process. The employer must cancel the improper alcohol test, documenting for the record the circumstances resulting in the cancellation.