



SAFETY DIRECTOR BULLETIN



CDL – DESIGNATED EMPLOYER REPRESENTATIVE (DER) BEST PRACTICES

Federal regulations established by the United States Department of Transportation (DOT) require organizations with one or more employees who perform safety-sensitive functions requiring a Commercial Driver's License (CDL) to maintain a compliant drug and alcohol testing program. As part of that program, each employer must designate at least one individual to serve as the **Designated Employer Representative (DER)**.

The DER is the employer's authorized representative responsible for receiving communications related to the drug and alcohol testing program and taking immediate action when required by regulation or employer policy.

Most importantly, the DER must be authorized (i.e., empowered) to take immediate action to remove employees from 'Safety-Sensitive Duties' if test results warrant that action in compliance with federal laws.

SELECTING

The DER must be an employee of the agency or organization and should be someone who:

- Has the authority to make employment-related decisions involving CDL drivers
- Can act immediately when a driver must be removed from safety-sensitive duties
- Understands confidentiality requirements
- Is available during normal business operations
- Can communicate effectively with supervisors, drivers, collection sites, and third-party administrators

Each agency should appoint both:

- **Primary DER**
- **Backup DER** (to ensure coverage during absences, leave, vacations, or emergencies)

Each agency will need to decide which employee is available and best suited to fulfill the responsibilities outlined above. It's recommended that the agency officially appoint a principal DER and a backup DER. Ideally, it would be preferable to appoint a supervisory employee from the department with CDL drivers as the principal DER and an employee from the Human Resources or Administrative area as the backup. We are aware that for many smaller agencies, this may not be feasible. Given potential conflicts of interest that may arise if enforcement action is taken, we do not recommend appointing the business administrator or a superior officer in the Police Department to serve as the DER or as backup.

Core Responsibilities of the DER

The DER plays a critical role in maintaining compliance and protecting public safety. Responsibilities may include:

- Receiving confidential drug and alcohol test results
- Taking immediate action to remove employees from safety-sensitive duties when required
- Coordinating pre-employment, random, post-accident, reasonable suspicion, return-to-duty, and follow-up testing
- Working with supervisors when reasonable suspicion concerns arise
- Ensuring post-accident testing determinations are made promptly and documented properly
- Coordinating with collection sites, laboratories, Medical Review Officers (MROs), and third-party administrators (TPAs)
- Maintaining required records and documentation
- Protecting the confidentiality of testing information
- Ensuring agency policies remain current and compliant

Training Recommendations

It is strongly encouraged that both the principal and backup DER attend one of the MSI DER training sessions to prepare them to fulfill this role with the knowledge and tools necessary to perform this function proficiently. Course content includes:

- What it means to be a DER.
- The roles and responsibilities of a DER.
- The DOT regulations of a Controlled Substance & Alcohol Testing Program.
- How to manage a controlled substance and alcohol-free workplace program for DOT-covered employees.
- The controlled-substance and alcohol testing process, and how to handle testing problems.
- How to handle refused, adulterated, or failed drug and alcohol tests
- How to select and monitor service agents.
- Training requirements for employees and supervisors.
- Documentation and record retention.

Best Practices

To maintain an effective program, agencies should:

- Review policies regularly and update as needed
- Maintain current contact information for vendors and testing providers
- Ensure backup DER coverage at all times
- Keep records organized and secure
- Respond promptly to testing notifications and deadlines
- Provide periodic refresher training for supervisors and DER staff

Final Reminder

The DER position carries significant responsibility. Properly selecting, training, and supporting this role helps ensure regulatory compliance, workplace safety, and public protection.