

East Lake Tarpon Special Fire Control District		
	<i>SOP 128 Reasonable Suspicion Condition</i>	
	Implementation Date: 11/2000	Revision Date(s): 05/2003
	Reviewed Date(s):	
	Forms or Attachments: None	

DEFINING ACCIDENTS FOR PURPOSES OF ORDERING REASONABLE SUSPICION TESTING UNDER FLORIDA’S RULES FOR WORKERS’ COMPENSATION DRUG TESTING

The Florida Rules for Workers’ Compensation Drug Testing require participating employers to perform Reasonable Suspicion drug and/or alcohol tests on employees under conditions described by 38F-9.004, when an employer has a sincere belief that an employee is using or has used drugs, drawn from specific objective facts and reasonable inferences based on those facts in light of practical experience.

A commonly applied condition requiring Reasonable Suspicion testing states the following:

“...reasonable suspicion may be based upon evidence that an employee has caused, or contributed to or been involved in an accident while at work.”

Unfortunately, the 38F-0 Rules do not clearly define “accident” with the result that some employees aren’t being tested when indicated and others are being tested inconsistently and often inappropriately. To avoid possible future claims by employees alleging they have been unfairly discriminated against, employers are encouraged to adopt a fair and impartial written policy regarding post-accident testing.

In addition to stipulating that incidents must have occurred at work (including off-premises worksites), employers often define “accidents” as incidents which include one or more of the following conditions. Check the applicable conditions and provide all managers and supervisors with copies to assure uniformity.

X Vehicle Accidents of \$3,000.00 damage as approximated by the investigating law enforcement agency.

 X Personal injury requiring the employee to be off duty over four (4) hours.

In addition to communicating criteria for triggering post-accident reasonable suspicion testing to all supervisors, employers must also decide for which drugs to test. A 10-panel drug test is recommended under all Reasonable Suspicion conditions, including post-accident. However, alcohol, which must be tested for on blood under the 38F-9 Rules, should only be ordered when there is actual suspicion of use (odor of alcohol, slurring of speech, staggering, etc.).

Remember that post-accident testing under the 38F-9 Rules are Reasonable Suspicion tests. To preclude employer liability for accidents attributable to driver impairment which might occur enroute, whenever possible Donors should be taken to the collection site rather than being permitted to transport themselves.

TESTING CENTER

The approved testing center for East Lake Tarpon Special Fire Control District is

LabCorp, 5610 LaSalle St., Tampa, FL 33607 (813) 278-5227

The lab will stock forms on-site for ASAP clients. They will need the following information.

Picture ID

Company name

Test to be performed (10 Panel Drug Test)

Purpose of Test: Post Accident