

§ 382.107 Actual knowledge – What is actual knowledge?

For the purpose of subpart B of this part, 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.
 - Direct observation as used in this definition 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.
- 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.
 - As used in this section, "traffic citation" means a ticket, complaint, or other document charging driving a CMV while under the influence of alcohol or controlled substances.
- An employee's admission of alcohol or controlled substance use, except as provided in § 382.121.

Alcohol means the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols including methyl and isopropyl alcohol.

Alcohol concentration (or *content*) means the alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by an evidential breath test under this part.

Alcohol use means the drinking or swallowing of any beverage, liquid mixture or preparation (including any medication and candy), containing alcohol.