

FTA and FMCSA Regulatory Comparison

| TOPIC | FTA | FMCSA |
|---|---|---|
| Drug and Alcohol Testing Regulation | 49 CFR Part 655, As Amended | 49 CFR Part 382, As Amended |
| Testing Procedures | 49 CFR Part 40, As Amended | Same |
| Applicability | Recipients of FTA 49 U.S.C. 5307, 5309, 5311, and 23 U.S.C. 103(e)(4) | <ul style="list-style-type: none"> ◆ Employers who require employees to have CDLs ◆ CDL Holders |
| Drugs Prohibited marijuana, cocaine, amphetamines, opiates, phencyclidine | Same | Same |
| Alcohol Prohibited ≥0.04 BAC 0.02 to 0.039 BAC | Remove from duty and refer to SAP for evaluation Remove from duty for 8 hours unless re-test < 0.02 BAC | Same Remove from duty for 24 hours |
| Safety-sensitive Functions | <ul style="list-style-type: none"> ◆ Operating a revenue service vehicle ◆ CDL holders ◆ Dispatch/controlling movement of vehicles ◆ Maintaining a revenue service vehicle or related equipment ◆ Security personnel carrying firearms | CDL holders when: <ul style="list-style-type: none"> ◆ driving/driver |
| Contractors | Applies to all safety-sensitive contractors that “stand in the shoes” of recipient | Each employer is responsible for their own CDL holders |
| Education and Training Display and Distribute Materials Employee Awareness Training on Drugs Reasonable Suspicion Training of Supervisor | Info and Hotline Numbers Required 60 minutes on signs and symptoms of drug use; additional 60 minutes on alcohol | Add effects and consequences of drug use to policy Not required Same |
| Policy Content Governing Board Approval Add information on Controlled Substances Certificate of Receipt from Employees | Minimum requirements specified Required Not Required Recommended | Same Not Required Required Required |

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| Testing Categories Pre-employment - drugs only | Result before assignment of safety-sensitive duty No waiver | Same Waived if certain conditions are met |
| Reasonable Suspicion | Trained supervisor makes specific, contemporaneous observations regarding appearance, speech, behavior, or odor | Same A written record must be prepared within 24 hours of the event Test delays >8 hours result in driver out of service for 24 hours |
| Post Accident - Fatality Test driver | Test driver required Test others that could have contributed | Same Not Required |
| Post Accident - No Fatality Immediate transport to a medical treatment facility or one or more vehicles receives disabling damage | Unless the employee can be completely discounted as a contributing factor | And the CDL holder receives a citation for a moving traffic violation |
| Random | Scientifically valid method Minimum drug test rate 50% Minimum alcohol test rate 10% | Same 50% 10% |
| Return-to-duty/Follow-up | Same | Same |
| Recordkeeping Retention MIS Access to record Previous employer records | 5, 2, and 1 year records Selected reporting - employers randomly selected Controlled Obtain records for previous 2 years with employee consent | Same Same Same Same |
| Compliance Penalties | Suspension of funds | Employer/employee fines and penalties Possibility of issuing an out of service order |
| Compliance Certification | Required | Not Required |

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| Prohibited Behavior - Alcohol BAC ≥ 0.04 ; consumption on duty 4 hours before performance of safety-sensitive duties; 8 hours following an accident | Same No consumption on-call | Same No possession while on duty |
| Prohibited Behavior - Drugs at all times | Same | Same Prescription use when affects ability to perform. These are medical disqualifications. |
| SAP Referral Process | Same | Same |