FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION (FMCSA)

DEFINITION OF ACCIDENT REQUIRING TESTING: Any accident involving a fatality requires testing. Testing is also required in accidents in which a vehicle is towed from the scene or in which someone is treated medically away from the scene; and a citation is issued to the CMV driver.

REASONABLE-SUSPICION DETERMINATION: One trained supervisor or organization official can make the decision based upon specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of the employee.

PRE-DUTY ALCOHOL USE PROHIBITIONS: Four (4) hours prior to performance of duty.

ACTIONS FOR BACS 0.02 – 0.039: If the employer chooses to return the employee to covered service within 24 hours, the BAC retest must be below 0.02.

REPORTABLE EMPLOYEE DRUG AND ALCOHOL VIOLATIONS: No requirements to report violations to FMCSA.

OTHER: Drivers are prohibited from using alcohol for eight hours following an accident (as described above) or until they have undergone a post-accident alcohol test, which ever occurs first.

FEDERAL RAILROAD ADMINISTRATION (FRA)

DEFINITION OF ACCIDENT REQUIRING TESTING: FRA’s post-accident testing rule goes well beyond normal Part 40 procedures (i.e., urine and blood from surviving employees and also tissue from deceased employees is collected). FRA regulation 49 CFR Part 219 Subpart C, stipulates the level of events requiring testing and who has to be tested. This testing, at FRA’s contract laboratory, provides FRA with accident investigation and usage data.

REASONABLE-SUSPICION DETERMINATION: One trained supervisor can make the decision for alcohol testing based upon specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of
the employee. A decision to conduct a drug test requires two supervisors (only the on-site supervisor must be trained).

REASONABLE-CAUSE DETERMINATION: Employers are authorized to use federal authority to test covered employees after specific operating rule violations and/or accidents which meet the criteria in 49 CFR Part 219 Subpart D.

PRE-DUTY ALCOHOL USE PROHIBITIONS: Four (4) hours prior to performance of duty.

ACTIONS FOR BACS 0.02 – 0.039: The employee cannot be returned to duty until the start of the employee’s next regularly scheduled duty period, but not less than 8 hours following the test.

REPORTABLE EMPLOYEE DRUG AND ALCOHOL VIOLATIONS: No requirements to report violations FRA. Engineers, who are the only certificate holders in the rail industry, will have their certificates reviewed for suspension or revocation by the employer when a violation occurs.

OTHER: Anyone with direct or immediate supervisory authority over an employee may not collect that person’s urine, saliva, or breath.

Employers must provide a voluntary referral program which addresses an employee’s substance abuse rehabilitation needs prior to a violation occurring and a co-worker report program which addresses violations identified by co-workers but before employers identify them. Both of these self-help programs guarantee that employees will retain their jobs if they cooperate and complete the required rehabilitation program. For an engineer who is in a voluntary referral program, the counseling professional must report the engineer’s refusal to cooperate in the recommended course of counseling or treatment to the employer.
FEDERAL AVIATION ADMINISTRATION (FAA)

TYPES OF TESTS FOR DRUGS: Pre-employment, random, reasonable cause, post-accident, returns to duty, and follow-up. Periodic testing for Part 67 medical certificate holders.

TYPES OF TESTS FOR ALCOHOL: Pre-employment (optional), random, reasonable suspicion, post-accident, return to duty, and follow-up.

DEFINITION OF ACCIDENT REQUIRING TESTING: Accident means an occurrence associated with the operation of an aircraft which takes place between the time any person boards the aircraft with the intention of flight and all such persons have disembarked, and in which any person suffers death or serious injury, or in which the aircraft receives substantial damage. Testing must occur if employee’s performance either contributed to the accident or cannot be completely discounted as a contributing factor of the accident. The decision not to test an employee must be based on a determination, using the best information available at the time of the determination that the employee’s performance could not have contributed to the accident.

REASONABLE CAUSE DETERMINATION (DRUGS): Two of the employee’s supervisors, one of whom is trained, shall substantiate and concur in the decision to test the employee. If the employer has 50 or fewer employees, a single trained supervisor can make the determination.

REASONABLE SUSPICION DETERMINATION (ALCOHOL): A trained supervisor shall make the determination based upon specific, contemporaneous, articulable observations concerning the employee’s appearance, behavior, speech, or body orders.

PRE-DUTY ALCOHOL USE PROHIBITIONS: Eight (8) hours prior to performance of flight crewmember duties, flight attendant duties, and air traffic controller duties. Four (4) hours prior to performance of other duties.

ACTIONS FOR BACS 0.02 - 0.039: If the employer chooses to return the employee to covered services within 8 hours, the BAC retest must be below 0.02.
Medical Review Officers must notify the FAA of any employee or applicant who is required to hold a medical certificate issued under 14 CFR Part 67 and has a positive drug test result.

An employer cannot permit an employee who is required to hold a medical certificate under part 67 to perform a safety-sensitive function to resume that duty until the employee has received a medical certificate or a special issuance certificate issued by the FAA Federal Air Surgeon and the employer has ensured that the employee meets the return to duty requirements in accordance with Part 40. (Medical certificates are not operating certificates) but employees cannot continue to perform airman duties without a medical certificate or a special issuance medical certificate.)

Employers must notify the FAA Federal Air Surgeon of any safety-sensitive employee who is required to hold an airman medical certificate issued under 14 CFR Part 67 and has any alcohol violation. An employer cannot permit an employee who is required to hold a medical certificate under part 67 to perform a safety-sensitive function to resume that duty until the employee has received a medical certificate or a special issuance certificate issued by the FAA Federal Air Surgeon and the employer has ensured that the employee meets the return to duty requirements in accordance with Part 40.
FEDERAL TRANSIT ADMINISTRATION (FTA)

DEFINITION OF ACCIDENT REQUIRING TESTING: Any accident involving a fatality requires testing. Testing following a non-fatal accident is discretionary: If the employer can show the employee’s performance could not have contributed to the accident, no test is needed.

REASONABLE-SUSPICION DETERMINATION: One trained supervisor can make the decision based upon specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of the employee.

PRE-DUTY ALCOHOL USE PROHIBITIONS: Four (4) hours prior to the performance of duty.

ACTIONS FOR BACS 0.02 – 0.039: If the employer chooses to return the employee to covered service within 8 hours, the BAC retest must be below 0.02.

REPORTABLE EMPLOYEE DRUG AND ALCOHOL VIOLATIONS: No requirements to report violations to FTA.

OTHER: Anyone with direct or immediate supervisory authority over an employee may not collect that person’s urine, saliva, or breath.
UNITED STATES COAST GUARD (USCG)

Covered employee: A person who is on board a vessel acting under the authority of a license, certificate of registry, or merchant mariner's document. Also, a person engaged or employed on board a U.S. owned vessel and such vessel is required to engage, employ or be operated by a person holding a license, certificate of registry, or merchant mariner's document.

TYPES OF TESTS FOR DRUGS: Pre-employment, periodic, random, reasonable cause, and post-serious marine incident (SMI), return-to-duty, and follow-up.

TYPES OF TESTS FOR ALCOHOL: 49 CFR Part 40 alcohol-testing requirements do not apply to the Maritime Industry. 46 CFR Part 4.06 requires post-SMI chemical testing for alcohol use. 33 CFR Part 95.035 allows for a marine employer or a law enforcement officer to direct an individual to undergo a chemical test for intoxicants when reasonable cause exists or an accident has occurred.

DEFINITION OF INCIDENT REQUIRING TESTING: An SMI is defined in 46 CFR 4.03-2. In general, an SMI is: A discharge of 10,000 gallons or more of oil into the navigable waters of the United States, whether or not resulting from a marine casualty; a discharge of a reportable quantity of a hazardous substance into the navigable waters or into the environment of the United States, whether or not resulting from a marine casualty; or a marine casualty or accident required to be reported to the Coast Guard, involving a vessel in commercial service, and resulting in any of the following:

One or more deaths; an injury to any person (including passengers) which requires professional medical treatment beyond first aid, and, in the case of a person employed on board a commercial vessel, which renders the person unable to perform routine vessel duties; damage to property in excess of $100,000; actual or constructive total loss of any inspected vessel; or actual or constructive total loss of any uninspected, self-propelled vessel of 100 gross tons or more.
UNITED STATES COAST GUARD (USCG) continued

REASONABLE-CAUSE DETERMINATION (DRUGS): The marine employer must have a reasonable and articulable belief that the individual has used a dangerous drug. This belief should be based on the direct observation of specific, contemporaneous physical, behavioral, or performance indicators of probable use and where practicable based on the observation of two persons in supervisory positions.

REASONABLE-CAUSE DETERMINATION (ALCOHOL): The employee was directly involved in the occurrence of a marine casualty or the individual operated a vessel and the effect of the intoxicant(s) consumed by the individual on the person’s manner, disposition, speech, muscular movement, general appearance or behavior is apparent by observation.

PRE-DUTY ALCOHOL USE PROHIBITIONS: Four (4) hours prior to performance of scheduled duty.

EMPLOYEE TRAINING: Employer must provide education with display and distribution of informational materials and a community service hot-line telephone number. Distribution to each employee of the employer's policy regarding the use of drugs and alcohol is mandatory. Training must include the effects of drugs and alcohol on personal health, safety, and work environment; and manifestations and behavioral cues that may indicate drug and alcohol use and abuse.

Supervisor training: One-hour training is required on the effects of drugs and alcohol on personal health, safety, and work environment; and manifestations and behavioral cues that may indicate drug and alcohol use and abuse.

Reportable employee drug and alcohol violations: Results of all post-SMI tests and positive drug test results for all mariners who hold a license, certificate of registry or merchant mariner’s document must be reported to the nearest Coast Guard Officer in Charge, Marine Inspection.
Pipeline and Hazardous Materials Safety Administration
(PHMSA)

**Covered employee:** A person who performs on a pipeline or liquefied natural gas (LNG) facility an *operation, maintenance, or emergency-response* function.

**Types of tests for drugs:** Pre-employment, random, reasonable cause, post-accident, return-to-duty, and follow-up.

**Types of tests for alcohol:** Post-accident, reasonable suspicion, return-to-duty, and follow-up.

**Definition of accident requiring testing:** An accident is one involving gas pipeline facilities or LNG facilities or involving hazardous liquid or carbon dioxide pipeline facilities.

**Reasonable-suspicion determination:** One trained supervisor can make the decision based upon signs and symptoms.

**Reasonable-cause determination:** One trained supervisor can make the decision based upon reasonable and articulable belief that the employee is using prohibited drugs on the basis of specific, contemporaneous physical, behavioral, or performance indicators of probable drug use.

**Pre-duty alcohol use prohibitions:** Four (4) hours prior to performance of duty.

**Actions for BACs 0.02 – 0.039:** If the employer chooses to return the employee to covered service within 8 hours, the BAC retest must be below 0.02.

**Employee training (Drugs):** Employer must provide EAP education with display and distribution of informational materials; display and distribution of a community service hot-line telephone number; and display and distribution of the employer’s policy regarding the use of prohibited drugs.

**Employee Training (Alcohol):** Employer must develop materials that explain policies and procedures (as well as names of those who can answer questions about the program) and distribute them to each covered employee.

**Supervisor training:** One-hour of training is required on the specific, contemporaneous physical, behavioral, and performance indicators of probable drug use. One-hour of training is also required on the specific, contemporaneous physical, behavioral, and performance indicators of probable alcohol use.

**Reportable employee drug and alcohol violations:** No requirements to report violations to PHMSA.