

Drug & Alcohol Testing Regulations

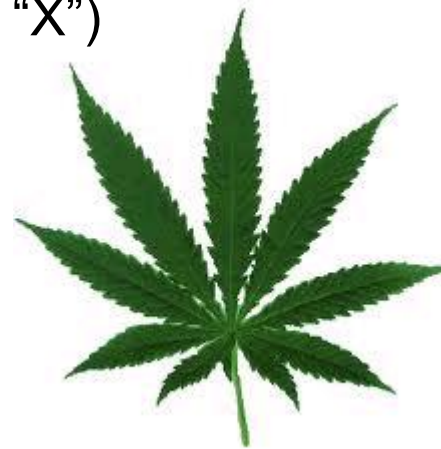
49 CFR Part 219 & Part 40

How tomorrow moves



FRA Drug Panel (Effective October 1, 2010)

- Marijuana
- Cocaine
- Opiates
 - Heroin, Morphine, Codeine
- Amphetamines
 - Adderall, Dexedrine, Speed, Crank
 - MDMA (Ecstasy, “X”)
- Phencyclidine
 - PCP, Angel Dust



Drug & Alcohol Tests

- FRA Optional Reasonable Cause (CSX Policy)
- FRA Reasonable Suspicion
- FRA Mandatory Post Accident
- CSXT Agreement Tests
- FRA Random Tests
- FRA Follow-Up Testing
- FMCSA Testing



FRA Requirements

- FRA tests are administered to “Hours of Service” employees only – as enforced by the federal regulations
- FRA Regulations necessitate that each officer is required to participate in testing situations and must determine which type test is administered based on the situation or events



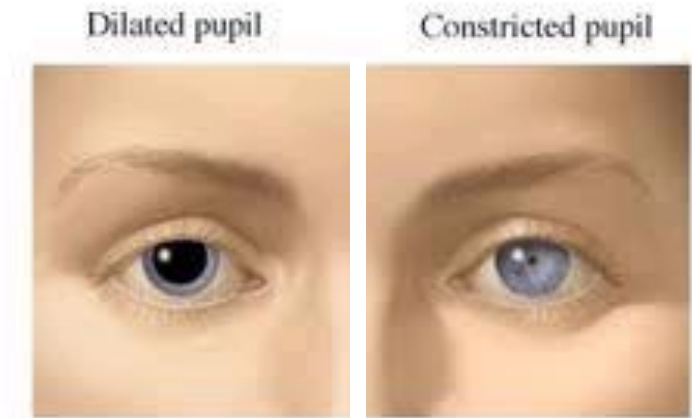
FRA (Optional) Reasonable Cause Testing: CSX Policy

- Accident must be FRA reportable & supervisor has reasonable cause the employee's actions contributed to the accident, OR
- Employee is involved in specific rule violations
- Testing is not federally mandated, it is **CSX Policy**
- Employee(s) to be tested can be held on duty, even in excess of HOS
 - Not more than 8 hours from the first knowledge of triggering event



FRA Mandatory Reasonable Suspicion Testing

- Hours of Service Employees – ONLY
- Employees must be on-duty
- Testing is mandatory
- Officers **MUST** be trained
- Signs and Symptoms must be present and articulated
- Testing should be done within Two Hours
- Employee(s) to be tested can be held on duty, even in excess of the HOS, however not more than 8 hours from discovery of signs/symptoms



FRA Mandatory Post Accident

Categories

1. Major Train Accident:

- a) One Million dollars in damages to railroad property
- b) Hazmat release with evacuation
- c) Hazmat release with reportable injury to any person from release
- d) Fatality to any on duty railroad employee

Minimum reporting threshold must be met for (b), (c), and (d) *All crews involved are to be tested*

2. Impact Accident

- a) Reportable injury (with minimum reporting threshold)
- b) Damage to railroad property of \$150,000

3. Fatal Train Accident.

- a) on duty railroad employee – no reporting threshold requirements. (involved in the movement of on-track equipment)

4. Passenger Train Accident. (minimum threshold and reportable injury to any person)

2, 3, and 4 – employee(s) can be excluded from testing



Additional FRA & DOT Drug and Alcohol Tests

- **Random Drug and Alcohol Testing**
 - Each HOS employee must have an opportunity to be tested under regulations. Current the testing rate for our HOS employees is: 25% - drugs 10% - alcohol
 - CSX's random testing plan to accomplish the testing requirements must be approved by the FRA
 - Employees must be on duty and can not be held beyond the HOS. Exception; if a direct observation becomes necessary
 - CSX must provide an officer to identify each crew member to be tested
- **FRA Follow-up Testing**
 - Employees who have had a FRA Positive test result
- **FMCSA Accident & Reasonable Suspicion Testing**
 - Covers employees that have a CDL driver's license



CSX Agreement Testing

- Effective 1/1/2005 CSX “covered employees” are not tested under this agreement but under FRA Reasonable Cause – which is optional under the regulations
- Agreement testing for personal injury was suspended, September 1, 1999
- CSX Crafts that are covered by an agreement for testing: ATDA – BLE – B of MW – BRS –TCU – (except C&O) and UTU
- Agreement tests follow the FRA guidelines as it relates to prohibitions for testing situations



Shy Bladder

- 3 Hour time limit after failed attempt
- Employee must;
 - Remain in presence of collector
 - Not perform work
- Offer 40 ounces of fluid
- Testing ends with HOS (follow up & random only)

Employee will be permitted to work pending medical evaluation



Shy Lung

- 3 attempts to register a sample
- Employee must;
 - Remain in presence of collector
 - Not perform work
- Testing ends with HOS (follow up & random only)

Employee will be permitted to work pending medical evaluation



D&A Testing Situations

TEST

Assume the employee is at fault



Rule G Bypass

- An employee that has been charged with Rule G will be given an option to stand a board hearing or enroll in the Employee Assistance Program (EAP).
 - As long as the employee enters the program and follows the EAP Counselors advice, they will not be dismissed from service.
 - You will only be offered this option one time in a five year period.
 - **Can not be used on REASONABLE CAUSE**



Co-Worker Bypass

- This will allow an employee to call on a line supervisor's help in dealing with an uncooperative co-worker who is under the influence on duty. The supervisor will assist in getting the impaired employee home safely.
 - No Rule G charges will apply if the employee contacts the EAP Counselor within 5 days.



CFR 49, Part 219 Drug & Alcohol

FRA Proposed Changes

How tomorrow moves



Proposed Changes for NPRM – Part 219

- FRA presently recommending proposed changes to Part 219
 - To be published as a Notice of Proposed Rulemaking (NPRM) expected Q2 2022
- Comment period for RR follows
- FRA will then publish a Part 219 Final Rule with an effective date
- Please note that the following slides are **proposed changes NOT yet in effect** and may change



Proposed Rule – Oral Fluid Testing For Drugs

- Provides employers with a choice that will help combat employee cheating on urine tests.
 - Synthetic urine, vinegar or other masking agents
- Provide a more economical, less intrusive means of achieving the safety goals of the testing program.
 - Oral fluid test can be administered by anyone (managers, existing employee)
 - During a required follow up using direct observation
 - No need for a secure properly prepped testing location



Final Rule – Mechanical Employees Testing

- Mechanical employees have been added to HOS and mandatory Drug and Alcohol Testing
- Notice came in February with an expected start date of March 2022
- Not much has been done with education to date but the craft is already subject to FMCSA testing



Questions?



