

The drug testing regulations are found in 49 CFR Part 655. The regulations require that employers who are recipients of federal funds implement a drug and alcohol testing program for all employees who perform a safety sensitive function. A safety sensitive function includes operating a revenue service vehicle, even when not in service. For the purposes of these regulations, a contractor, defined as a person or organization that provides a safety sensitive function for an employer consistent with a specific understanding, is an employer.

Thus, contractors who perform safety sensitive functions on behalf of PSTA are covered by the drug and alcohol testing regulations.

The FTA has issued a number of interpretations discussing the applicability of the drug testing rules to taxi drivers performing services, including paratransit services, on behalf of a transit agency, under the drug and alcohol testing regulations that preceded Part 655. While these interpretations were released under a previous codification of the FTA drug testing regulations, the FTA has stated that the prior interpretations would continue to be the way it applies the new regulations. See [Federal Register Vol. 66, No. 154, pg. 41997-41998.](#)

In [FTA interpretation dated June 11, 1997](#) , the FTA opined that since a patron with a voucher may choose between a number of different taxi companies to receive the service, the drug testing regulations do not apply. This is in part because of the practical difficulties in administering a drug testing program for all taxi companies used by the patrons. However, as noted in [FTA Interpretation dated February, 1, 1999](#), when a patron is required to use a specific taxi company resulting from an agreement between the transit agency and the taxi company, the drug testing regulations do apply.

Thus, if PSTA were to enter into one or more contracts with providers whereby the patrons did not have the option to choose which provider to use, the drivers would be regulated by the drug testing regulations. However, if PSTA were to create a voucher program, where the patrons would be able to choose from more than 2 providers, the drivers would not be subject to FTA drug testing regulations.