



4910-06-P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 219

[Docket No. FRA-2001-11213, Notice No. 21]

Drug and Alcohol Testing: Determination of Minimum Random Testing Rates for 2017

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of determination.

SUMMARY: This notice of determination provides the FRA Administrator's minimum annual random drug and alcohol testing rates for calendar year 2017.

DATES: Effective **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

FOR FURTHER INFORMATION CONTACT: Jerry Powers, FRA Drug and Alcohol Program Manager, W33-310, Federal Railroad Administration, 1200 New Jersey Avenue, S.E., Washington, D.C. 20590 (telephone 202-493-6313); or Sam Noe, FRA Drug and Alcohol Program Specialist (telephone 615-719-2951).

SUPPLEMENTARY INFORMATION: For the next calendar year, FRA determines the minimum annual random drug testing rate and the minimum annual random alcohol testing rate for railroad employees covered by hours of service laws and regulations (covered service employees) based on the railroad industry data available for the two previous calendar years (for this Notice, calendar years 2014 and 2015). Railroad industry data submitted to FRA's Management Information System (MIS) shows the rail industry's random drug testing positive

rate for covered service employees has continued to be below 1.0 percent for the applicable two calendar years. FRA's Administrator has therefore determined the minimum annual random drug testing rate for the period January 1, 2017, through December 31, 2017, will remain at 25 percent of covered service employees under § 219.602 of FRA's drug and alcohol rule (49 CFR part 219). In addition, because the industry-wide random alcohol testing violation rate for covered service employees has continued to be below 0.5 percent for the applicable two calendar years, the Administrator has determined the minimum random alcohol testing rate will remain at 10 percent of covered service employees for the period January 1, 2017, through December 31, 2017, under § 219.608. Because these rates represent minimums, railroads may conduct FRA random testing at higher rates.

In a June 10, 2016, final rule, FRA expanded the scope of part 219 to cover maintenance-of-way (MOW) employees (81 FR 37894). MOW employees will become subject to FRA random drug and alcohol testing on June 12, 2017, when the final rule takes effect. In 1994, when FRA, in concert with the other DOT modes, established a drug MIS system, (58 FR 68232, December 23, 1993), FRA set its initial minimum random drug testing rate at 50 percent for covered employees because of the lack of data to gauge the extent of the drug abuse problem at that time. FRA set its minimum random alcohol testing rate for covered employees at 25 percent for the same reason. As its MIS data continued to show consistently low industry-wide drug and alcohol positive rates among covered employees, FRA lowered its minimum annual random drug and alcohol testing rates to their current respective rates of 25 and 10 percent.

Similarly, because FRA has no MIS data for MOW employees yet, the Administrator has determined that for the period June 12, 2017, through December 31, 2017, the minimum annual

random drug testing rate will be set at 50 percent of MOW employees, and the minimum annual random alcohol testing rate will be set at 25 percent of MOW employees. As with covered employees, because these rates represent minimums, railroads may conduct FRA random testing of MOW employees at higher rates.

Issued in Washington, D.C. on December 20, 2016

Sarah E. Feinberg,

Administrator.

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