

Line should be granted, subject to compliance with the environmental mitigation set forth in the Final EA, for either the Green Alternative (Option A or B) or the Blue Alternative (Option A or B).<sup>6</sup> The Board will also grant the unopposed Crossing Petition.

This action, as conditioned, will not significantly impact the quality of the human environment or the conservation of energy resources.

*It is ordered:*

1. TREX's petition for an exemption under 49 U.S.C. 10502 from the prior approval requirements of 49 U.S.C. 10901 to construct and operate the Line is granted as discussed above.

2. TREX's request for a conditional grant of the petition is denied as moot.

3. The Board adopts the environmental mitigation measures set forth in the Final EA and imposes them as conditions to the exemption granted here.

4. TREX's petition for issuance of a crossing order pursuant to 49 U.S.C. 10901(d) is granted.

5. Notice will be published in the **Federal Register** on January 23, 2020.

6. Petitions for reconsideration must be filed by February 6, 2020.

7. This decision is effective on the date of service.

Decided: January 16, 2020.

By the Board, Board Members Begeman, Fuchs, and Oberman.

**Brendetta Jones,**  
*Clearance Clerk.*

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**BILLING CODE 4915-01-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

[Docket No. FRA-2001-11213, Notice No. 24]

#### Drug and Alcohol Testing: Determination of Minimum Random Testing Rates for 2020

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

**ACTION:** Notification of determination.

**SUMMARY:** This notification of determination announces FRA's minimum annual random drug and minimum annual random alcohol testing rates for covered employees and

for maintenance-of-way (MOW) employees for calendar year 2020.

**DATES:** This determination takes effect January 23, 2020.

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

**SUPPLEMENTARY INFORMATION:** FRA is announcing the 2020 minimum annual random drug and alcohol testing rates for covered service employees, and the 2020 minimum annual random drug and alcohol testing rates for MOW employees. For calendar year 2020, the minimum annual random testing rates for covered service employees will continue to be 25 percent for drugs and 10 percent for alcohol, while the minimum annual random testing rates for MOW employees will continue to be 50 percent for drugs and 25 percent for alcohol.

To set its minimum annual random testing rates for each year, FRA examines the last two complete calendar years of railroad industry drug and alcohol program data submitted to its Management Information System (MIS). The rail industry's random drug testing positive rate for covered service employees (employees subject to the hours of service laws and regulations) remained below 1.0 percent for 2017 and 2018. The Administrator has therefore determined the minimum annual random drug testing rate for the period January 1, 2020, through December 31, 2020, will remain at 25 percent for covered service employees. The industry-wide random alcohol testing violation rate for covered service employees remained below 0.5 percent for 2017 and 2018. Therefore, the Administrator has determined the minimum random alcohol testing rate will remain at 10 percent for covered service employees for the period January 1, 2020, through December 31, 2020. Because these rates represent minimums, railroads may conduct FRA random testing at higher rates.

MOW employees became subject to FRA random drug and alcohol testing in June 2017. The Administrator has determined that the minimum annual random testing rates initially established for MOW employees will remain in effect because FRA does not have MIS data for two consecutive years that represents their industry-wide performance rates. Specifically, MOW

employees became subject to FRA random testing effective June 12, 2017, and the resulting 2017 MIS data FRA received reflected industry-wide MOW random testing rates that were below the annual minimum rates of 50 percent (drugs) and 25 percent (alcohol) for MOW employees. Therefore, for the period January 1, 2020, through December 31, 2020, the minimum annual random drug testing rate will continue to be 50 percent for MOW employees, and the minimum annual random alcohol testing rate will continue to be 25 percent for MOW employees. As with covered service employees, because these rates represent minimums, railroads may conduct FRA random testing of MOW employees at higher rates.

Issued in Washington, DC.

**Ronald L. Batory,**  
*Administrator, Federal Railroad  
Administration.*

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## DEPARTMENT OF TRANSPORTATION

### Federal Transit Administration

#### Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations

**AGENCY:** Federal Transit Administration (FTA), DOT.

**ACTION:** Notice of calendar year 2020 random drug and alcohol testing rates.

**SUMMARY:** This notice announces the calendar year 2020 drug and alcohol random testing rates for employer's subject to 49 CFR part 655. The minimum random drug testing rate will remain at 50 percent and the random alcohol rate will remain at 10 percent.

**DATES:** Applicable Date: January 1, 2020.

**FOR FURTHER INFORMATION CONTACT:** Iyon Rosario, Drug and Alcohol Program Manager in the Office of Transit Safety and Oversight, 1200 New Jersey Avenue SE, Washington, DC 20590 (telephone: 202-366-2010 or email: [Iyon.Rosario@dot.gov](mailto:Iyon.Rosario@dot.gov)).

**SUPPLEMENTARY INFORMATION:** On January 1, 1995, FTA required large transit employers to begin drug and alcohol testing employees performing safety-sensitive functions, and submit annual reports by March 15 of each year beginning in 1996 pursuant to drug and alcohol regulations adopted by FTA at 49 CFR parts 653 and 654 in February 1994. The annual report includes the number of employees who had a verified positive for the use of

<sup>6</sup>The mitigation conditions apply both to the construction and operation of the Line and the proposed crossing over UP's tracks. As previously noted, OEA considered the potential impacts from both the Line and the possible crossing in the Draft and Final EA.