

exemption does not exempt the individual from meeting the applicable CDL testing requirements. Each exemption will be valid for 2 years unless rescinded earlier by FMCSA. The exemption will be rescinded if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315(b).

#### VI. Preemption

During the period the exemption is in effect, no State shall enforce any law or regulation that conflicts with this exemption with respect to a person operating under the exemption.

#### VII. Conclusion

Based upon its evaluation of the 23 exemption applications, FMCSA renews the exemptions of the aforementioned drivers from the hearing requirement in § 391.41(b)(11). In accordance with 49 U.S.C. 31136(e) and 31315(b), each exemption will be valid for two years unless revoked earlier by FMCSA.

Larry W. Minor,

Associate Administrator for Policy.

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## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

[Docket No. FRA-2001-11213, Notice No. 26]

#### Drug and Alcohol Testing: Determination of Minimum Random Testing Rates for 2022

**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 service and maintenance-of-way (MOW) employees for calendar year 2022.

**DATES:** This determination takes effect December 29, 2021.

**FOR FURTHER INFORMATION CONTACT:** Gerald Powers, FRA Drug and Alcohol Program Manager, by email: [gerald.powers@dot.gov](mailto:gerald.powers@dot.gov) or by telephone: 202-493-6313; or Sam Noe, FRA Drug and Alcohol Program Specialist, by email: [sam.noe@dot.gov](mailto:sam.noe@dot.gov) or by telephone: 615-719-2951.

**SUPPLEMENTARY INFORMATION:** FRA is announcing the 2022 minimum annual random drug and alcohol testing rates for covered service and MOW employees. For calendar year 2022, 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 be lowered to 25 percent for drugs and will continue to be 10 percent for alcohol. Because these rates represent minimums, railroads and railroad contractors may conduct FRA random testing at higher rates.

#### Discussion

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). FRA has also, however, reserved the right to consider factors other than MIS-reported data before deciding whether to lower annual minimum random testing rates. See 85 FR 81265 (Dec. 15, 2020).

#### *Random Testing Rates for Covered Service Employees*

The rail industry's random drug testing positive rate for covered service employees (employees subject to the Federal hours of service laws and regulations) remained below 1.0 percent for 2019 and 2020. The Deputy Administrator has therefore determined the minimum annual random drug testing rate for covered service employees will remain at 25 percent for the period January 1, 2022, through December 31, 2022. The industry-wide random alcohol testing violation rate for covered service employees remained below 0.5 percent for 2019 and 2020. Therefore, the Deputy Administrator has determined the minimum random alcohol testing rate for covered service employees will remain at 10 percent for

the period January 1, 2022, through December 31, 2022.

#### *Random Testing Rates for MOW Employees*

MOW employees became subject to FRA random drug and alcohol testing in June 2017. See 81 FR 37894 (June 10, 2016). Although FRA had MIS data for two full, consecutive years of industry-wide performance rates for MOW employees when announcing the random testing rates for 2021, the Administrator found it was not in the interest of railroad safety to lower the random drug testing rate for MOW employees at that time. The Administrator did, however, lower the random alcohol testing rate for MOW employees to 10 percent. For an explanation of the Administrator's findings and determination, please refer to FRA's notification of determination for calendar year 2021. See 85 FR 81265-81267.

FRA now has MIS data for three full, consecutive years (2018-2020) for the industry-wide performance rates for MOW employees. The random drug testing violation rate for MOW employees has remained below 1.0 percent for the past two consecutive years, and has never been above 1.0 percent. The random drug testing violation rate for MOW employees also trended downwards in 2020, decreasing from 0.8 percent in 2019 to 0.59 percent in 2020, which is the lowest since FRA started collecting MIS data for MOW employees in 2017. Taking these factors into consideration, the Deputy Administrator has determined that the minimum annual drug testing rate for MOW employees will be lowered to 25 percent for the period January 1, 2022, through December 31, 2022. If the random drug testing violation rate for MOW employees increases to 1.0 percent or higher, FRA will raise the minimum annual drug testing rate back to 50 percent. See 49 CFR 219.625(d)(2).

Because the random alcohol testing violation rate for MOW employees remained below 0.5 percent for 2019 and 2020, the Deputy Administrator has determined that the minimum annual random alcohol testing rate for MOW employees will continue to be 10 percent for the period January 1, 2022, through December 31, 2022.

#### Appendix

Appendix

Figure 1. Random Drug Testing Violation Rates for Covered Service and MOW Employees

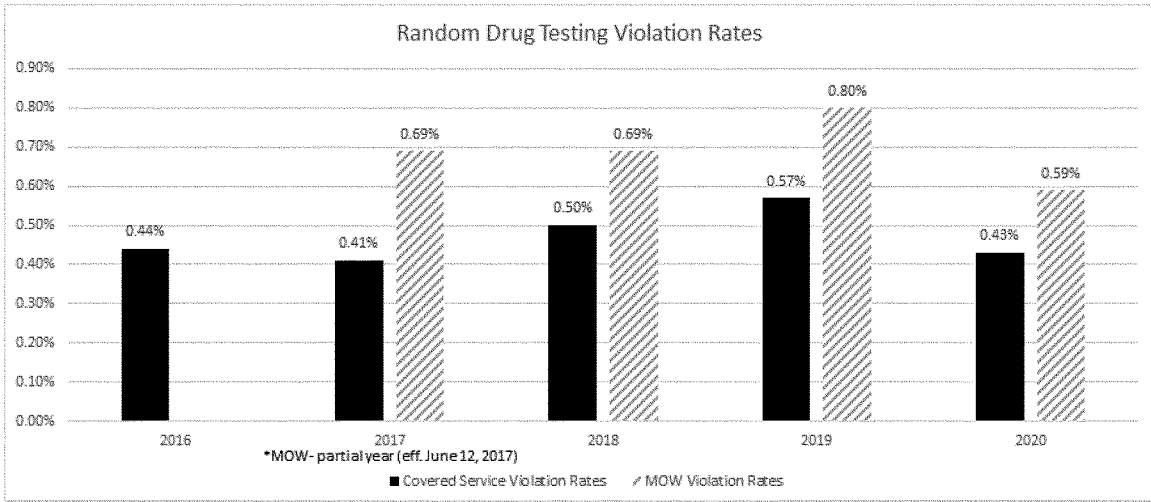
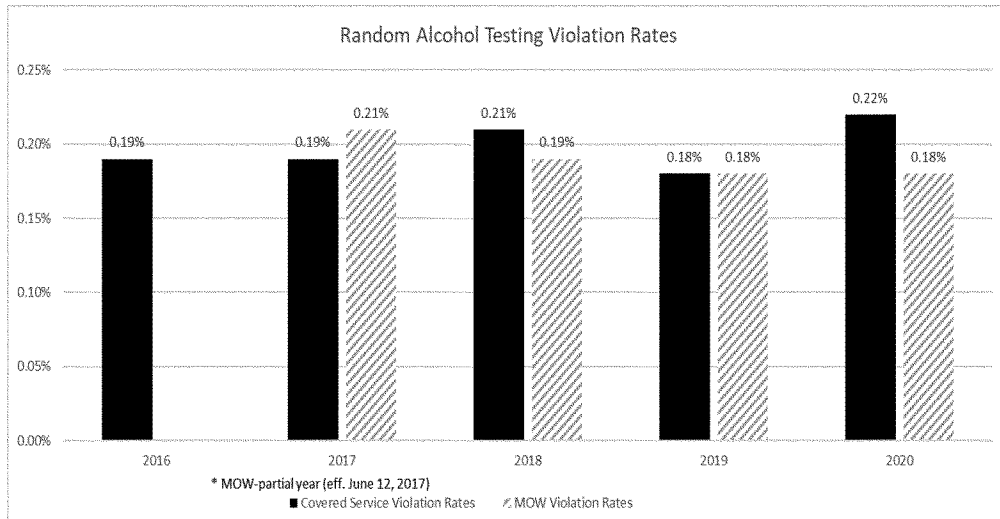


Figure 2. Random Alcohol Testing Violation Rates for Covered Service and MOW Employees



Issued in Washington, DC

Amitabha Bose,

Deputy Administrator.

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## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

[Docket No. NHTSA-2021-0070]

#### Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Incident Reporting for Automated Driving Systems (ADS) and Level 2 Advanced Driver Assistance Systems (ADAS)

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

**ACTION:** Notice and request for comments on a request for extension of a currently approved information collection.

**SUMMARY:** In compliance with the Paperwork Reduction Act of 1995 (PRA), this notice announces that the Information Collection Request (ICR) summarized below will be submitted to the Office of Management and Budget (OMB) for review and approval. This ICR describes NHTSA's information collection for incident reporting requirements for Automated Driving Systems (ADS) and Level 2 Advanced Driver Assistance Systems (ADAS) and its expected burden. NHTSA recently requested emergency review of its request for approval of this information collection and received a six-month approval. To start the normal clearance procedures and request OMB's approval for a three-year extension of this currently approved information collection, NHTSA published a **Federal Register** notice with a 60-day comment period soliciting comments on the information collection on September 30, 2021. NHTSA received 14 comments on the notice, as well as four letters regarding the information collection that were submitted directly to NHTSA.

**DATES:** Comments must be submitted on or before January 28, 2022.

**ADDRESSES:** Written comments and recommendations for the proposed information collection, including suggestions for reducing burden, should be submitted to the Office of Management and Budget at [www.reginfo.gov/public/do/PRAMain](http://www.reginfo.gov/public/do/PRAMain). To find this particular information collection, select "Currently under

Review—Open for Public Comment" or use the search function.

**FOR FURTHER INFORMATION CONTACT:** For additional information or access to background documents, contact Jeff Eyres, Office of Chief Counsel, telephone (202) 913-4307, or email at [jeffrey.eyres@dot.gov](mailto:jeffrey.eyres@dot.gov), U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590.

**SUPPLEMENTARY INFORMATION:** Under the PRA (44 U.S.C. 3501 *et seq.*), a Federal agency must receive approval from the Office of Management and Budget (OMB) before it collects certain information from the public, and a person is not required to respond to a collection of information by a Federal agency unless the collection displays a valid OMB control number. In compliance with these requirements, this notice announces that the following information collection request will be submitted to OMB.

*Title:* Incident Reporting for Automated Driving Systems (ADS) and Level 2 Advanced Driver Assistance Systems (ADAS).

*OMB Control Number:* 2127-0754.

*Form Number(s):* Form 1612.

*Type of Request:* Approval of an extension with modification of a currently approved collection of information.

*Type of Review Requested:* Regular.

*Requested Expiration Date of Approval:* 3 years from date of approval.

*Summary of the Collection of Information:*

NHTSA requested and received emergency review and approval of this information collection. NHTSA submitted the request on June 29, 2021. On June 30, 2021, OMB granted NHTSA a six-month approval for this information collection and assigned the collection the OMB control number 2127-0754. NHTSA is publishing this document to seek an extension of this information collection.

NHTSA is seeking approval to extend its currently approved information collection requiring certain manufacturers of motor vehicles and equipment and operators of motor vehicles to submit incident reports for certain crashes involving Automated Driving Systems (ADS) and Level 2 Advanced Driver Assistance Systems (ADAS). These crash reporting obligations are set forth in NHTSA's Standing General Order 2021-01 (General Order) (as amended on August 5, 2021), which requires those manufacturers and operators named in and served with the General Order to

report crashes that meet specified criteria to NHTSA.<sup>1</sup>

Specifically, the General Order requires the named manufacturers and operators (the reporting entities) to submit reports if they receive notice of certain crashes involving an ADS or Level 2 ADAS equipped vehicle that occur on publicly accessible roads in the United States. To be reportable, the vehicle, the ADS, or the Level 2 ADAS must have been manufactured by the reporting entity or the vehicle must have been operated by a reporting entity at the time of the crash, and the ADS or Level 2 ADAS must have been engaged at the time of or immediately before (≤30 seconds) the crash. In the event that a reporting entity receives notice of a reportable crash, the General Order requires the reporting entity to submit an incident report electronically to NHTSA. The required report includes basic information sufficient for NHTSA to identify those crashes that warrant follow-up. The reporting obligations are limited to those entities named in and served with the General Order. The General Order imposes no reporting obligations on any other companies and likewise imposes no reporting obligations on any individual consumers.

The agency has received incident reports for the past five months under its 6-month emergency clearance. Based on the agency's experience in reviewing these reports, and on the public comments received in response to the notice it published in the **Federal Register**, NHTSA has decided to amend the General Order. These changes, as well as a more detailed explanation of the information collection, is provided below in the section discussing the 60-day notice.

#### Description of the Need for the Information and Proposed Use of the Information

Under the National Traffic and Motor Vehicle Safety Act, as amended (the Safety Act), 49 U.S.C. Chapter 301, NHTSA is charged with authority "to reduce traffic accidents and deaths and injuries resulting from traffic accidents." To carry out this statutory mandate, NHTSA has broad information gathering authority, including authority to obtain information on vehicle crashes, potential defects related to motor vehicle safety, and compliance with legal requirements to timely identify and conduct recalls for safety

<sup>1</sup> A copy of the General Order is available on NHTSA's website at <https://www.nhtsa.gov/laws-regulations/standing-general-order-crash-reporting-levels-driving-automation-2-5>.