

or more for every 5 hours worked and a rest break of 10 minutes or more for every 4 hours worked.¹⁵ See WAC 296–126–092. The State of Nevada requires employers to provide nonexempt employees a 30-minute meal period when working a continuous eight hours and a 10-minute break for each four (4) hours worked or major fraction thereof.¹⁶ See NRS 608.019; NAC 608.145.

Here, the diversity of State regulation of required meal and rest breaks for CMV drivers has resulted in a patchwork of requirements, and several commenters have described the difficulty navigating them. In this regard, the American Association of Bakers stated that its member companies and drivers who are part of regional distribution networks have had to create “elaborate schedules to remain in compliance with separate meal and rest break rules that are far less flexible” than the Federal HOS regulations. C.R. England provided a map showing the patchwork of State-mandated break laws that a driver could encounter on one or more long-haul trips that span the country, and stated that complying with disparate State laws in this regard was costly and time consuming. The National Association of Wholesaler-Distributors commented that one of its member companies that operates in six States must spend “several thousand dollars annually simply to track the differences in [rest break] rules for the states in which they operate.” Other commenters, such as the Association of American Railroads, Motor Carriers of Montana, New Prime, and the National Association of Small Trucking Companies, also discussed operating procedure adjustments and other administrative burdens that result from varying State requirements which serve to disrupt the flow of interstate commerce.

The International Brotherhood of Teamsters argues that drivers pass through an assortment of State or local regulations throughout their workday, including varying speed limits, tolling facilities, and enforcement zones for distracted driving and DUI; yet those rules do not constitute an unreasonable burden on interstate commerce. The

Agency is not persuaded by this argument. The 1984 Act explicitly prohibits the Agency from “prescrib[ing] traffic safety regulations or preempt[ing] state traffic regulations” such as those described. 49 U.S.C. 31147(a). In addition, issues surrounding State taxation and tolling are well outside the scope of the Agency’s statutory authority. Therefore, the extent to which the “assortment of state or local regulations” cited by the International Brotherhood of Teamsters unreasonably burden interstate commerce, if at all, as compared to the MRB Rules is not part of the Agency’s deliberative process.

The Agency determines that enforcing the MRB Rules decreases productivity and results in increased administrative burden and costs. In addition, the Agency believes it to be an unreasonable burden on interstate commerce for motor carriers to have to cull through the varying State requirements, in addition to Federal HOS rules, to remain in compliance, as commenters have described. As explained above, uniform national regulation is less burdensome than individual State regulations, which are often conflicting. Therefore, the Agency concludes that the MRB Rules place an unreasonable burden on interstate commerce.

Preemption Decision

As described above, the FMCSA concludes that: (1) The MRB Rules are State laws or regulations “on commercial motor vehicle safety,” to the extent they apply to drivers of property-carrying CMVs subject to the FMCSA’s HOS rules; (2) the MRB Rules are additional to or more stringent than the FMCSA’s HOS rules; (3) the MRB Rules have no safety benefit; (4) the MRB Rules are incompatible with the FMCSA’s HOS rules; and (5) enforcement of the MRB Rules would cause an unreasonable burden on interstate commerce. Accordingly, the FMCSA grants the petitions for preemption of the ATA and the SCRA, and determines that the MRB Rules are preempted pursuant to 49 U.S.C. 31141. California may no longer enforce the MRB Rules with respect to drivers of property-carrying CMVs subject to FMCSA’s HOS rules.

Dated: December 21, 2018.

Raymond P. Martinez,

Administrator.

[FR Doc. 2018–28325 Filed 12–21–18; 4:15 pm]

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DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA–2001–11213, Notice No. 23]

Drug and Alcohol Testing: Determination of Minimum Random Testing Rates for 2019

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 2019.

DATES: This determination takes effect December 28, 2018.

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 2019 minimum annual random drug and alcohol testing rates for covered service employees, and the 2019 minimum annual random drug and alcohol testing rates for MOW employees. For calendar year 2019, 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 2016 and 2017. The Administrator has therefore determined the minimum annual random drug testing rate for the period January 1, 2019, through December 31, 2019, will remain at 25 percent for covered service employees. The industry-wide random alcohol testing violation rate for covered service

¹⁵ In Washington, the meal period must commence between two and five hours from the beginning of the shift. The rest break must commence no later than the end of the third hour of the shift. WAC 296–126–092

¹⁶ Nevada requires one 10-minute break if the employee works between 3½ and 7 hours; two 10-minute breaks if the employee works between 7 and 11 hours; three 10-minute breaks if the employee works between 11 and 15 hours; or four 10-minute breaks if the employee works between 15 and 19 hours. See NAC 608.145(a)–(d).

employees remained below 0.5 percent for 2016 and 2017. 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, 2019, through December 31, 2019. 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 since FRA does not yet have MIS data on their industry-wide performance rates. Therefore, for the period January 1, 2019, through December 31, 2019, 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.

[FR Doc. 2018-28290 Filed 12-27-18; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA-2010-0029]

National Railroad Passenger Corporation's Request for Positive Train Control Safety Plan Approval and System Certification

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

ACTION: Notice of availability and request for comments.

SUMMARY: This document provides the public with notice that on August 9, 2018, the National Railroad Passenger Corporation (Amtrak) submitted its Positive Train Control Safety Plan (PTCSP) Revision 0, dated July 17, 2018, to FRA via the Secure Information Repository. Amtrak asks FRA to approve its PTCSP and issue a Positive Train Control System Certification for Amtrak's Interoperable Electronic Train Management System (I-ETMS).

DATES: FRA will consider comments received by January 28, 2019 before

taking final action on the PTCSP. FRA may consider comments received after that date if practicable.

ADDRESSES: All comments concerning this proceeding should identify Docket Number FRA-2010-0029 and may be submitted by any of the following methods:

- **Website:** <http://www.regulations.gov>. Follow the online instructions for submitting comments.
- **Fax:** 202-493-2251.
- **Mail:** Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE, W12-140, Washington, DC 20590.
- **Hand Delivery:** 1200 New Jersey Avenue SE, Room W12-140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

FOR FURTHER INFORMATION CONTACT: Ms. Carolyn Hayward-Williams, Staff Director, Positive Train Control/Signal & Train Control Division, at 202-493-6399 or c.hayward-williams@dot.gov.

SUPPLEMENTARY INFORMATION: In its PTCSP, Amtrak asserts that the I-ETMS system it is implementing is designed as an overlay PTC system as defined in Title 49 Code of Federal Regulations (CFR) 236.1015(e). The PTCSP describes Amtrak's I-ETMS implementation and the associated I-ETMS safety processes, safety analyses, and test, validation, and verification processes used during the development of I-ETMS. The PTCSP also contains Amtrak's operational and support requirements and procedures.

Amtrak's PTCSP and the accompanying request for approval and system certification are available for review online at www.regulations.gov (Docket Number FRA-2010-0029) and in person at DOT's Docket Operations Facility, 1200 New Jersey Avenue SE, W12-140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

Interested parties are invited to comment on the PTCSP by submitting written comments or data. During its review of the PTCSP, FRA will consider any comments or data submitted. 49 CFR 236.1011(e). However, FRA may elect not to respond to any particular comment and, under 49 CFR 236.1009(d)(3), FRA maintains the authority to approve or disapprove the PTCSP at its sole discretion.

Privacy Act Notice

In accordance with 49 CFR 211.3, FRA solicits comments from the public to better inform its decisions. DOT posts these comments, without edit, including any personal information the

commenter provides, to www.regulations.gov, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at <https://www.transportation.gov/privacy>. See <https://www.regulations.gov/privacy> Notice for the privacy notice of www.regulations.gov. In order to facilitate comment tracking, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. If you wish to provide comments containing proprietary or confidential information, please contact FRA for alternate submission instructions.

Issued in Washington, DC, on December 21, 2018.

Robert C. Lauby,
Associate Administrator for Railroad Safety,
Chief Safety Officer.

[FR Doc. 2018-28317 Filed 12-27-18; 8:45 am]

BILLING CODE 4910-06-P

DEPARTMENT OF TRANSPORTATION

Notice of Final Federal Agency Actions on Proposed Highway Projects in Texas

AGENCY: Texas Department of Transportation (TxDOT), Federal Highway Administration (FHWA), U.S. Department of Transportation.

ACTION: Notice of limitation on claims for judicial review of actions by TxDOT and Federal agencies.

SUMMARY: This notice announces actions taken by TxDOT and Federal agencies that are final. The environmental review, consultation, and other actions required by applicable Federal environmental laws for this project are being, or have been, carried-out by TxDOT and a Memorandum of Understanding dated December 16, 2014, and executed by FHWA and TxDOT. The actions relate to various proposed highway in the State of Texas. These actions grant licenses, permits, and approvals for the projects.

DATES: By this notice, TxDOT is advising the public of final agency actions subject to 23 U.S.C. 139(l)(1). A claim seeking judicial review of TxDOT and Federal agency actions on the highway project will be barred unless the claim is filed on or before May 27, 2019. If the Federal law that authorizes judicial review of a claim provides a time period of less than 150 days for filing such a claim, then that shorter time period still applies.

FOR FURTHER INFORMATION CONTACT: Carlos Swonke, Environmental Affairs Division, Texas Department of