

“How do I comply with FRA’s final rule on Coverage of Maintenance of Way (MOW) Employees (rule) in FRA’s drug and alcohol regulations in 49 CFR part 219, which became effective on June 12, 2017?”

The Federal Railroad Administration’s (FRA) final rule on Coverage of Maintenance of Way (MOW) Employees (rule) in FRA’s drug and alcohol regulations in 49 CFR part 219, became effective on June 12, 2017. The rule requires railroads and MOW contractors to submit new and revised random testing plans to FRA for review and approval or acceptance. (See § 219.605(e)). However, because of the volume of random testing plans received, FRA will not complete its review of plan submissions by June 12, 2017.

Several railroads and contractors have asked FRA if they must start conducting random testing for MOW employees on June 12, 2017, even if FRA has not approved or accepted their random testing plan. The answer to this question is no. You and your MOW employees are in compliance with the rule’s new random testing requirements in part 219 if you submitted your random testing plan to FRA by June 12, 2017, even if you have not received written notice from FRA of your plan’s approval or acceptance.

You may not, however, implement your random testing plan until FRA notifies you of its approval or acceptance of your submitted plan. (See § 219.605(a)). If FRA previously notified you that your plan requires revisions for approval or acceptance, you remain responsible for resubmitting your plan with the required revisions within 30 days of FRA’s notification. (See § 219.605(b)).

You must implement your random testing plan within 30 days of notice of FRA’s approval or acceptance. (See § 219.605(c)).

This clarification applies only to random testing plans submitted to FRA by June 12, 2017. Starting on June 12, 2017, the revised rule still requires you to perform other types of FRA drug and alcohol testing, such as pre-employment drug testing and reasonable suspicion testing, for all regulated employees. You must also, if an accident qualifies as a Human-factor highway-rail grade crossing accident, perform FRA post-accident toxicological testing on a MOW employee who meets the testing criteria. (See § 219.201(a)(5)).

If you have not submitted your random testing plan to FRA, please refer to the technical information below.

Random testing plans should be submitted to Gerald.Powers@dot.gov and/or Sam.Noel@dot.gov.

FRA’s model contractor and small railroad policy templates can be found at the following link: <https://www.fra.dot.gov/Page/P0345>

In addition, the complete part 219 regulation as revised by the MOW rule can be found at the following link: [2017 49 CFR Part 219 eff Jun 12 2017](#)

Please contact FRA Drug and Alcohol Program Manager Jerry Powers or Drug and Alcohol Specialist Sam Noe at the above email addresses for any clarifications or questions.