

FRA Region 4 Alcohol & Drug Testing Compliance Program

**Melissa K. Van Dermeir
Region 4 Chief Safety Specialist**

Agenda

- **Overview of the Agency**
- **Regional breakdown**
- **Understanding FRA Part 219 and DOT Part 40**
- **Proposed changes to FRA Part 219**
- **Questions**

Federal Railroad Administration

The Federal Railroad Administration (FRA) was established in the Department of Transportation (DOT), by the Department of Transportation Act on October 15, 1966. FRA became operational on April 1, 1967.



Mission Statement - The Federal Railroad Administration (FRA) enables the safe, reliable, and efficient movement of people and goods for a strong America, now and in the future.

Rail – Moving America Forward

Who We Are

- Safety is our number one priority
- A rigorous oversight and inspection program – Traditional Enforcement
- Advancing proactive approaches for early identification and mitigation of risk – Close Call Programs
- Predictable dedicated funding to improve infrastructure through capital investments and robust research and development

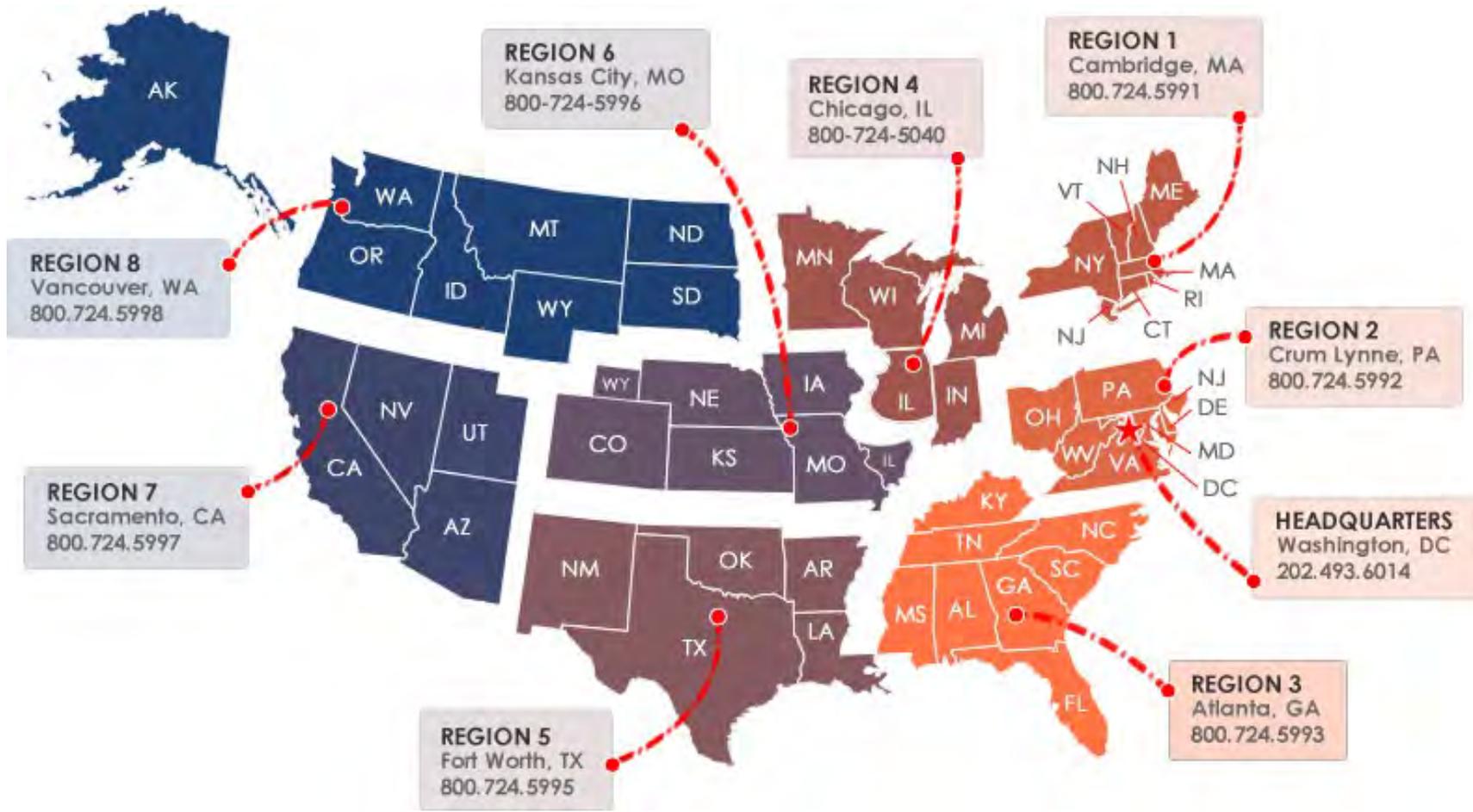
FRA is the Chief Safety Regulator for all Passenger, Freight and some Tourist Railroads Nationwide

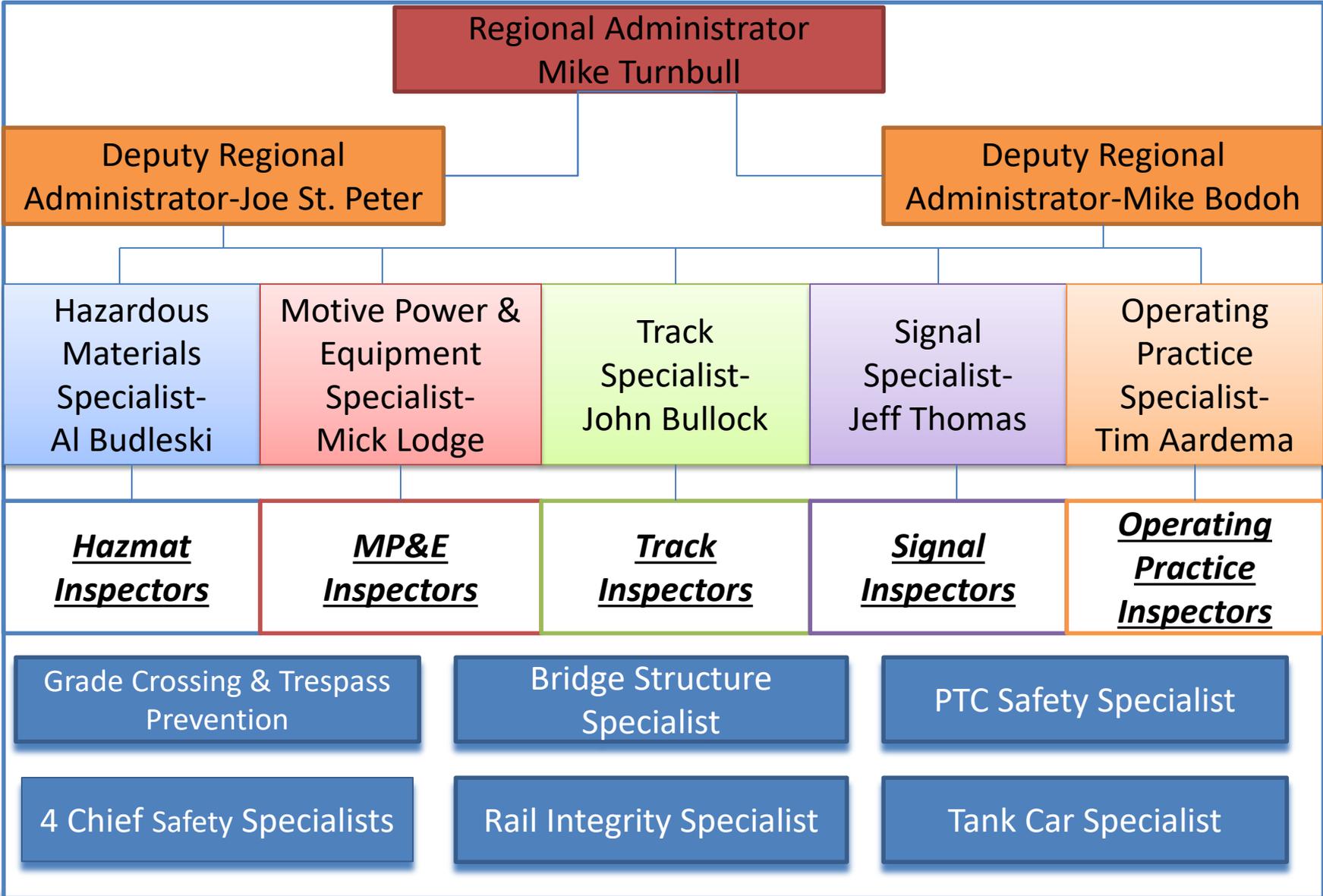


Moving America Forward



U.S. Department
of Transportation
**Federal Railroad
Administration**





Region 4 Rail Composition

- All seven North American Class I Railroads operate in Region 4
- CSX, Norfolk Southern, Burlington Northern Santa Fe, Union Pacific, Canadian Pacific, Canadian National and Kansas City Southern
- 102 Short-line Railroads
- Approximately 50 inter-city Amtrak weekday passenger trains
- Two Regional Terminal Railroads
- Three Commuter Lines
- 19 Tourist/Steam Railroads

§219.3 Application: All Railroads Except:

- Railroads that operate only on track inside an installation that is not part of the general railroad system of transportation (i.e. plant railroads, as defined in § 219.5);
- Tourist, scenic, historic, or excursion operations that are not part of the general railroad system of transportation, as defined in § 219.5; or
- Rapid transit operations in an urban area that are not connected to the general railroad system of transportation.

Part 219 – Control of Alcohol & Drug Use

- Subpart B (Prohibitions)
- Subpart C (Post-Accident Toxicological Testing)
- Subpart D (Reasonable Suspicion Testing)
- Subpart E (Reasonable Cause Testing)
- Subpart F (Pre-employment Testing)
- Subpart G (Random Testing)
- Subpart H (Drug & Alcohol Testing Procedures)
- Subpart K (Referral Programs)

Small Railroad Exception

- Subparts E, G and K of this part do not apply to small railroads, and a small railroad may not perform the Federal alcohol and drug testing authorized by these subparts. For purposes of this part, a small railroad means a railroad that:
 - Has a total of 15 or fewer employees who are covered by the hours of service laws at 49 U.S.C. 21103, 21104, or 21105, or who would be subject to the hours of service laws at 49 U.S.C. 21103, 21104, or 21105 if their services were performed in the United States; and
 - Does not have joint operations, as defined in §219.5, with another railroad that operates in the United States, except as necessary for purposes of interchange.

DOT-regulated employee means any person who is designated in a DOT agency regulation as subject to drug testing and/or alcohol testing. The term includes individuals currently performing DOT safety-sensitive functions designated in DOT agency regulations and applicants for employment subject to pre-employment testing. For purposes of drug testing conducted under the provisions of 49 CFR part 40, the term employee has the same meaning as the term “donor” as found on the Custody and Control Form and related guidance materials produced by the Department of Health and Human Services.

FRA Designated DOT-Regulated Employees

- **Covered Service Employee**; an employee (to include an employee, volunteer, or probationary employee performing activities for a railroad or a contractor to a railroad) who is performing covered service under the hours of service laws, or who is subject to performing covered service. This means service in the United States as a train employee, a dispatching service employee, or a signal employee

Roadway Worker; any employee of a railroad, or a contractor to the railroad, whose duties include inspection, construction, maintenance or repair of railroad track, bridges, roadway, signal/communication systems, electric traction systems, roadway facilities or roadway maintenance machinery, on or near track or with the potential of fouling a track. This includes flagmen, watchmen, and lookouts

Railroads must create and maintain *separate* random testing pools for its Roadway Worker employees, and the Hours of Service employees.

- The minimum Federal Random testing rate for the Railroad's Roadway Worker Employee testing pool will be 50% annual minimum for drugs; 25% for alcohol.
- For "Covered Service" employees, the annual minimum testing rates will remain at 25% for drugs; 10% for alcohol.

- FRA Part 219 establishes when testing is required and can be conducted, who is to be tested, and the actions which must be taken when an applicant or employee passes or fails a required test.
- DOT Part 40 provides technical/scientific/medical detail on how all DOT drug and alcohol specimens are to be collected, analyzed, reviewed, and reported. DOT Part 40 also encompasses the process by which an applicant or covered employee becomes eligible again for regulated service after having failed or refused a required drug or alcohol test or has otherwise been disqualified from covered service for violating FRA prohibitions.

Proposed Changes to the FRA Part 219 Regulation

- In response to the SUPPORT Act of 2018, FRA is proposing to add mechanical (MECH) employees to the scope of its alcohol and drug regulation. FRA's drug and alcohol requirements had applied only to covered service employees until 2016, when FRA expanded its coverage to include maintenance-of-way (MOW) employees, a non-covered service craft. FRA is proposing to expand the scope of its rule to include another non-covered service craft (MECH employees), who test or inspect railroad rolling equipment

Questions

