

Part 219—Control of Alcohol and Drug Use Schedule of Penalties

Penalty Schedule 1

Section 2	Violation (Base)	Willful Violation (Base)	Violation (Effective April 1, 2024)	Willful Violation (Effective April 1, 2024)
Subpart A—General				
219.3 Application:				
(a) Railroad or contractor does not have required program	\$5,000	\$7,500	\$10,300	\$15,500
(c) Railroad or contractor improperly tests under subpart E or G of this part	\$2,500	\$5,000	\$5,200	\$10,300
219.9 Responsibility for compliance:				
(b)(1) Host railroad failed to take responsibility for compliance or other railroad or contractor did not take responsive action of direction of host railroad during joint operations	\$5,000	\$7,500	\$10,300	\$15,500
219.11 General conditions for chemical tests:				
(b)(1) Employee unlawfully refuses to participate in testing	\$2,500	\$5,000	\$5,200	\$10,300
(b)(2) Employer fails to give priority to medical treatment	\$3,000	\$8,000	\$6,200	\$16,500
(b)(3) Employee fails to remain available	\$2,500	\$5,000	\$5,200	\$10,300
(d) Employee unlawfully required to execute a waiver of rights	\$2,500	\$5,000	\$5,200	\$10,300
(e)(1) Failure to direct employee to proceed to collection site as soon as possible without affecting safety	\$2,500	\$5,000	\$5,200	\$10,300
(e)(3) Railroad used or authorized the use of coercion to obtain specimens	\$5,000	\$7,500	\$10,300	\$15,500
(g) Failure to meet supervisory training requirements or program of instruction not available or program not complete	\$2,500	\$5,000	\$5,200	\$10,300

(h) Urine or blood specimens provided for Federal testing were used for non-authorized testing	\$2,500	\$5,000	\$5,200	\$10,300
219.12 Hours-of-service laws implications:				
(a)-(d) Failure to exceed Hours of Service to conduct required testing or exceeding HOS when not authorized to conduct testing	\$2,500	\$5,000	\$5,200	\$10,300
219.23 Railroad policies:				
(a) Failure to provide written notice of FRA test	\$1,000	\$4,000	\$2,100	\$8,300
(a)(1) Failure to provide written notice of basis for FRA test	\$1,000	\$4,000	\$2,100	\$8,300
(a)(2) Use of a non-approved FRA form for mandatory post-accident toxicological testing	\$1,000	\$4,000	\$2,100	\$8,300
(b) Improper use of Federal drug or alcohol testing form or use of Subpart C form for other test	\$1,000	\$4,000	\$2,100	\$8,300
(c) Failure to make required educational materials available	\$2,500	\$5,000	\$5,200	\$10,300
(d) Failure to provide required minimum educational content	\$2,500	\$5,000	\$5,200	\$10,300
(e) Non-Federal provisions are not clearly described as independent authority	\$2,500	\$5,000	\$5,200	\$10,300
219.25 Previous employer drug and alcohol checks:				
(a)(1) Failure to conduct previous employer drug and alcohol check or failure to provide response to previous employer when requested	\$2,500	\$5,000	\$5,200	\$10,300
(a)(2) Failure to perform and complete FRA and DOT-required background checks in a timely manner	\$2,500	\$5,000	\$5,200	\$10,300
(a)(3) Failure to document due diligence in completing FRA and DOT-required background checks	\$2,500	\$5,000	\$5,200	\$10,300
(b) Failure to comply with §240.119(c) (for engineers) or §242.115(e) (for conductors) of this chapter regarding the consideration of Federal alcohol and drug violations that occurred within a period of 60 consecutive months prior to the review of the person's records	\$2,500	\$5,000	\$5,200	\$10,300

Subpart B—Prohibitions				
219.101 Alcohol and drug use prohibited:				
(a) Railroad with actual knowledge of use, possession or impairment from alcohol or controlled substances permits employee to go on duty or remain on duty		\$10,000		\$20,600
219.103 Prescribed and over-the-counter drugs:				
(a) Failure to train employee properly on requirements	\$2,500	\$5,000	\$5,200	\$10,300
219.104 Responsive action:				
(a) Failure to remove employee from regulated service immediately	\$5,000	\$7,500	\$10,300	\$15,500
(b) Failure to provide written notice for removal	\$2,500	\$5,000	\$5,200	\$10,300
(c) Failure to provide prompt hearing within 10 calendar days	\$2,500	\$5,000	\$5,200	\$10,300
(d) Employee improperly returned to regulated service	\$5,000	\$7,500	\$10,300	\$15,500
(e) Failure to ensure certified locomotive engineers and conductors received required follow-up testing minimums as per §240.119(d)(2) and §242.115(f)(2) of this chapter	\$2,500	\$5,000	\$5,200	\$10,300
219.105 Railroad's duty to prevent violations:				
(a) Employee improperly permitted to remain in regulated service	\$7,500	\$10,000	\$15,500	\$20,600
(b) Failure to exercise due diligence to assure compliance with prohibition	\$5,000	\$7,500	\$10,300	\$15,500
(d) Failure to conduct and record minimum number of Rule G observations	\$2,500	\$5,000	\$5,200	\$10,300
219.107 Consequences of unlawful refusal:				
(a) Failure to disqualify an employee for nine months following a refusal	\$5,000	\$7,500	\$10,300	\$15,500
(b) Fail to provide written notice of withdrawal to employee	\$2,500	\$5,000	\$5,200	\$10,300
(c) Employee unlawfully returned to service	\$5,000	\$7,500	\$10,300	\$15,500

Subpart C—Post-Accident Toxicological Testing				
219.201 Events for which testing is required:				
(a) Failure to test after qualifying event (each regulated employee not tested is a violation)	\$5,000	\$7,500	\$10,300	\$15,500
(c)(1)(i) Failure to make good faith determination	\$5,000	\$7,500	\$10,300	\$15,500
(c)(1)(ii) Failure to provide requested decision report to FRA	\$2,500	\$5,000	\$5,200	\$10,300
(c)(2) Testing performed after non-qualifying event	\$5,000	\$10,000	\$10,300	\$20,600
219.203 Responsibilities of railroads and employees:				
(a)(1)(i) and (a)(2)(i) Failure to properly test/exclude from testing	\$5,000	\$7,500	\$10,300	\$15,500
(a)(1)(ii) and (a)(2)(ii) Non-regulated service employee tested	\$5,000	\$7,500	\$10,300	\$15,500
(b)(1) Delay in obtaining specimens due to failure to make every reasonable effort	\$2,500	\$5,000	\$5,200	\$10,300
(c) Independent medical facility not utilized	\$2,500	\$5,000	\$5,200	\$10,300
(d) Failure to report event or contact FRA when intervention required	\$1,000	\$3,000	\$2,100	\$6,200
(d)(1) Failure to collect specimens in a timely manner	\$2,500	\$5,000	\$5,200	\$10,300
(e)(2) Failure to recall employee for testing when conditions met	\$2,500	\$5,000	\$5,200	\$10,300
(e)(5) Failure to document why employee could not be recalled	\$2,500	\$5,000	\$5,200	\$10,300
(f)(1) Specimen collection not completed at an independent medical facility	\$2,500	\$5,000	\$5,200	\$10,300
219.205 Specimen collection and handling:				
(a) Failure to observe requirements with respect to specimen collection, marking and handling	\$2,500	\$5,000	\$5,200	\$10,300
(b) Failure to provide properly prepared forms with specimens	\$2,500	\$5,000	\$5,200	\$10,300
(d) Failure to promptly or properly forward specimens	\$2,500	\$5,000	\$5,200	\$10,300
219.207 Fatality:				
(a) Failure to collect specimens	\$5,000	\$7,500	\$10,300	\$15,500
(a)(1) Failure to ensure timely collection and shipment of required specimens	\$2,500	\$5,000	\$5,200	\$10,300

(b) Failure to request assistance when necessary	\$2,500	\$5,000	\$5,200	\$10,300
219.209 Reports of tests and refusals:				
(a)(1) Failure to provide telephonic report	\$1,000	\$2,000	\$2,100	\$4,100
(b) Failure to provide written report of refusal to test	\$1,000	\$2,000	\$2,100	\$4,100
(c) Failure to maintain report explaining why test not conducted within 4 hours	\$1,000	\$2,000	\$2,100	\$4,100
219.211 Analysis and follow-up:				
(c) Failure of the MRO to report MRO downgrades and/or verified non-negative results to FRA in a timely manner	\$2,500	\$5,000	\$5,200	\$10,300
(g)(3) Unauthorized withholding of regulated employee out of regulated service pending receipt of PAT testing results	\$2,500	\$5,000	\$5,200	\$10,300
Subpart D—Reasonable Suspicion Testing				
219.301 Mandatory reasonable suspicion testing:				
(a) Failure to conduct breath alcohol test when reasonable suspicion testing criteria met or conduct breath alcohol test under reasonable suspicion when criteria not met	\$5,000	\$7,500	\$10,300	\$15,500
(b) Failure to conduct drug test when reasonable suspicion testing criteria met or conduct drug test under reasonable suspicion when criteria not met	\$5,000	\$7,500	\$10,300	\$15,500
219.303 Testing when reasonable suspicion criteria not met:				
(a) Failure to use a trained supervisor when conducting a reasonable suspicion determination for alcohol	\$2,500	\$5,000	\$5,200	\$10,300
(b) Failure to use two supervisors, one of which must have been trained, when conducting a reasonable suspicion determination for drugs	\$2,500	\$5,000	\$5,200	\$10,300
(c) Improperly holding employee out of service	\$2,500	\$5,000	\$5,200	\$10,300
(d) Failure to provide adequate written documentation for the	\$2,500	\$5,000	\$5,200	\$10,300

reasons for a reasonable suspicion test				
219.305 Prompt specimen collections; time limitations:				
(a) Fail to promptly conduct test	\$2,500	\$5,000	\$5,200	\$10,300
(b) Failure to document why test not administered within time limits	\$2,500	\$5,000	\$5,200	\$10,300
(c) Improper recall of employee	\$2,500	\$5,000	\$5,200	\$10,300
Subpart E—Reasonable Cause Testing				
219.401 Authorization for reasonable cause testing:				
(a) Failure to declare which authority (Federal or company) is being used for reasonable cause testing	\$2,500	\$5,000	\$5,200	\$10,300
(b) Testing conducted after regulated employee is released from duty	\$2,500	\$5,000	\$5,200	\$10,300
219.403 Requirements for reasonable cause testing:				
(a) Testing when event did not meet the criteria for train accident or train incident	\$2,500	\$5,000	\$5,200	\$10,300
(b) Testing when event did not meet the criteria for rule violation	\$2,500	\$5,000	\$5,200	\$10,300
219.405 Documentation requirements:				
(a) Failure to provide adequate written documentation for the reasons for a reasonable cause test	\$1,000	\$2,500	\$2,100	\$5,200
(b) Failure to document specific type of rule violation and the involvement of each tested regulated employee	\$1,000	\$2,500	\$2,100	\$5,200
219.407 Prompt Specimen Collection; Time Limitations:				
(a) Failure to perform a test in a timely	\$2,500	\$5,000	\$5,200	\$10,300
(b) Failure to document why test not administered within time limits	\$1,000	\$2,500	\$2,100	\$5,200
(c) Improper recall of employee	\$2,500	\$5,000	\$5,200	\$10,300
219.409 Limitations on authority:				
(b) Improper withholding of regulated employee from regulated service pending test results	\$2,500	\$5,000	\$5,200	\$10,300
Subpart F—Pre-Employment Tests				

219.501 Pre-employment drug testing:				
(a) Failure to conduct a Federal pre-employment test before a final applicant or employee transfer performs regulated service	\$2,500	\$5,000	\$5,200	\$10,300
(b) Failure to conduct a Federal pre-employment test before an employee of a contractor performs regulated service	\$2,500	\$5,000	\$5,200	\$10,300
(e) Pre-employment testing of grandfathered regulated employee	\$1,000	\$2,500	\$2,100	\$5,200
219.502 Pre-employment alcohol testing:				
(a)(1) Failure to conduct alcohol testing of a regulated employee after choosing to perform Federal pre-employment alcohol testing	\$2,500	\$5,000	\$5,200	\$10,300
(a)(2) Failure to treat all regulated employees the same for purposes of Federal pre-employment alcohol testing	\$2,500	\$5,000	\$5,200	\$10,300
219.503 Notification; records:				
Failure to notify the applicant in writing of non-negative test results or refusal	\$1,000	\$2,500	\$2,100	\$5,200
Subpart G—Random Alcohol and Drug Testing Programs				
219.601 Purpose and scope of random testing programs:				
(b) Failure to ensure regulated employee is subject to random testing	\$2,500	\$5,000	\$5,200	\$10,300
(c) Contractor or volunteer not included in random testing while subject to performing regulated service	\$2,500	\$5,000	\$5,200	\$10,300
(d)(1) Regulated employee not subject to random testing at minimum rate set by agency covering more than 50% of employee's regulated functions	\$2,500	\$5,000	\$5,200	\$10,300
219.605 Submission and approval of random testing plans:				
(a)(1) Failure to obtain FRA approval of random testing program	\$2,500	\$5,000	\$5,200	\$10,300
(c) Failure to implement random testing plan within 30 days of notification of FRA approval	\$2,500	\$5,000	\$5,200	\$10,300

(d)(1) Failure to implement substantive plan amendment within 30 days of notification of FRA approval, or failure to obtain FRA approval before implementing substantive plan amendment before implementation	\$2,500	\$5,000	\$5,200	\$10,300
(d)(2) Failure to submit non-substantive plan amendment before implementation	\$2,500	\$5,000	\$5,200	\$10,300
219.607 Requirements for random testing plans:				
(a) Railroad implementation failed to comply with approved plan	\$2,500	\$5,000	\$5,200	\$10,300
(c) Failure to contain required plan elements	\$2,500	\$5,000	\$5,200	\$10,300
219.609 Inclusion of contractor employees and volunteers in random testing plans:				
(a) Failure to demonstrate that regulated service contractor employees and volunteers are subject to random testing	\$2,500	\$5,000	\$5,200	\$10,300
(c) Failure to ensure regulated service contractor and volunteers are tested in accordance with this subpart	\$2,500	\$5,000	\$5,200	\$10,300
219.611 Random drug and alcohol and drug testing pools:				
(a) Failure of railroad to ensure that all regulated employees including contractors and volunteers are included in random testing pools	\$2,500	\$5,000	\$5,200	\$10,300
(b)(2) Improper criteria for pool entries which allows for employer discretion over who is to be tested	\$2,500	\$5,000	\$5,200	\$10,300
(b)(3) Failure to construct and maintain pool entries that will ensure regulated employees have an equal chance of being selected randomly for each draw	\$2,500	\$5,000	\$5,200	\$10,300
(c) Maintaining a random testing pool with less than four pool entries	\$2,500	\$5,000	\$5,200	\$10,300
(d)(1) Failure to ensure that pools do not contain non-regulated employees	\$2,500	\$5,000	\$5,200	\$10,300
(d)(2) Regulated employee included in more than one DOT random pool	\$2,500	\$5,000	\$5,200	\$10,300

(d)(3) Failure to maintain pools and/or pool entries that meet FRA/DOT regulations	\$2,500	\$5,000	\$5,200	\$10,300
(d)(5) Failure to add or remove regulated employees to or from the proper random pool in a timely manner	\$2,500	\$5,000	\$5,200	\$10,300
(e)(2) Failure to remove employees who perform de minimis service from pools which include employees who perform regulated service on a regular basis	\$2,500	\$5,000	\$5,200	\$10,300
(f) Failure to have an effective mechanism to update and maintain pools	\$2,500	\$5,000	\$5,200	\$10,300
219.613 Random testing selections:				
(b)(1) Failure to use an FRA-acceptable selection procedure	\$2,500	\$5,000	\$5,200	\$10,300
(b)(2) Failure to ensure every regulated employee has an equal chance at being selected at each draw	\$2,500	\$5,000	\$5,200	\$10,300
(b)(3) Failure to have necessary documentation verifying the selection process for testing window	\$2,500	\$5,000	\$5,200	\$10,300
(c)(1) Failure to select pool entries at a rate which ensures compliance with FRA required random rates or fail to reasonably distribute selections throughout the selection year	\$2,500	\$5,000	\$5,200	\$10,300
(d) Railroad failed to select at least one entry from each of its random testing pools every three months	\$2,500	\$5,000	\$5,200	\$10,300
(e) Railroad discarded selection draws without an acceptable explanation	\$2,500	\$5,000	\$5,200	\$10,300
(g) Failure to capture and maintain electronic or hard copy snapshot of each random testing pool at the time it makes a testing selection	\$2,500	\$5,000	\$5,200	\$10,300
219.615 Random testing collections:				
(a) Failure to comply with minimum annual random collection testing rates	\$2,500	\$5,000	\$5,200	\$10,300
(b) Failure to test selections within the approved testing window	\$2,500	\$5,000	\$5,200	\$10,300

(c)(1) Testing a regulated employee while not on duty or testing a regulated employee not randomly selected or testing a non-regulated employee	\$2,500	\$5,000	\$5,200	\$10,300
(c)(2) Failure to distribute collections reasonably throughout all shifts, days of the week, weeks of the month, and months of the year	\$2,500	\$5,000	\$5,200	\$10,300
(c)(3) Failure to perform at least 10% of its random alcohol tests at the beginning of shifts and at least 10% of random alcohol tests at the end of shifts	\$2,500	\$5,000	\$5,200	\$10,300
(e)(1) Advance notification given to employees selected for testing	\$2,500	\$5,000	\$5,200	\$10,300
(e)(2) Fail to begin collection within two hours of notice of random selection without an acceptable reason for the delay	\$2,500	\$5,000	\$5,200	\$10,300
(f) Failure to test a selection without an FRA-acceptable reason	\$2,500	\$5,000	\$5,200	\$10,300
(g)(1) Fail to immediately terminate random collection due to hours of service expiration	\$2,500	\$5,000	\$5,200	\$10,300
219.617 Participation in random alcohol and drug testing:				
(a)(1) Failure to test regulated employee when properly selected for random test	\$2,500	\$5,000	\$5,200	\$10,300
(a)(2) Failure to restrict regulated employee from performing regulated service prior to completion of random testing	\$2,500	\$5,000	\$5,200	\$10,300
(a)(3) Improperly excused without substantiated medical emergency	\$2,500	\$5,000	\$5,200	\$10,300
219.621 Use of Service Agents:				
(g) Improper use a service agent to notify a regulated employee that they have been selected for random testing	\$2,500	\$5,000	\$5,200	\$10,300
219.623 Records				
(a) Failure of railroads to meet recordkeeping requirements	\$2,500	\$5,000	\$5,200	\$10,300
(g) Failure of contractors and service agents to provide required random testing records when requested by the contracting railroad or FRA	\$2,500	\$5,000	\$5,200	\$10,300

219.625 FRA Administrator's determination of random alcohol and drug rates				
(d) Failure to meet the required FRA random testing rate for drugs	\$2,500	\$5,000	\$5,200	\$10,300
(e) Failure to meet the required FRA random testing rate for alcohol	\$2,500	\$5,000	\$5,200	\$10,300
Subpart H—Drug and Alcohol Testing Procedures				
219.701 Standards for drug and alcohol testing:				
(a) Failure to comply with part 40 procedures in subpart B, D, E, F, G and K testing	\$5,000	\$7,500	\$10,300	\$15,500
Subpart I—Annual Report				
219.800 Annual Reports:				
(a) Failure to submit MIS report on time	\$2,500	\$5,000	\$5,200	\$10,300
(c) Failure to submit accurate MIS report	\$2,500	\$5,000	\$5,200	\$10,300
(d) Failure to include required data	\$2,500	\$5,000	\$5,200	\$10,300
Subpart J—Recordkeeping Requirements				
219.901 Retention of alcohol and drug testing records:				
(a) Failure to maintain records required to be kept by part 40 of this chapter	\$2,500	\$5,000	\$5,200	\$10,300
(b) Failure to maintain records required to be kept for five years	\$2,500	\$5,000	\$5,200	\$10,300
(c) Failure to maintain records required to be kept for two years	\$2,500	\$5,000	\$5,200	\$10,300
219.903 Access to facilities and records:				
(a) Failure to release records in this subpart in accordance with part 40 of this chapter	\$2,500	\$5,000	\$5,200	\$10,300
(b) Failure to permit access to facilities	\$2,500	\$5,000	\$5,200	\$10,300
(c) Failure to provide access to results of railroad alcohol and drug testing programs	\$2,500	\$5,000	\$5,200	\$10,300
Subpart K—Referral Programs				
219.1001 Requirement for referral programs:				
(b)(1) Failure to adopt or implement required self-referral program or alternate program that meets the requirements of this subpart	\$2,500	\$5,000	\$5,200	\$10,300

(b)(2) Failure to adopt or implement required co-worker referral program or alternate program that meets the requirements of subpart K of this part	\$2,500	\$5,000	\$5,200	\$10,300
(d) Violation of referral program prohibitions	\$2,500	\$5,000	\$5,200	\$10,300
219.1003 Referral program conditions:				
(a) Failure to comply with referral program conditions	\$2,500	\$5,000	\$5,200	\$10,300
(b) Failure to maintain employment	\$2,500	\$5,000	\$5,200	\$10,300
(c) Failure to disqualify regulated employee when referral conditions not met	\$2,500	\$5,000	\$5,200	\$10,300
(d) Use of unqualified DAC	\$2,500	\$5,000	\$5,200	\$10,300
(e) Allowing person evaluated as having active substance abuse disorder to perform regulated service	\$2,500	\$5,000	\$5,200	\$10,300
(f) Breach of confidentiality	\$2,500	\$5,000	\$5,200	\$10,300
(g) Failure to allow recommended leave of absence	\$2,500	\$5,000	\$5,200	\$10,300
(h)(1)-(3) Failure to meet return to service conditions	\$2,500	\$5,000	\$5,200	\$10,300
(h)(4) Failure to return to service when conditions met	\$2,500	\$5,000	\$5,200	\$10,300
(i) Improper modification to rehabilitation plan	\$2,500	\$5,000	\$5,200	\$10,300
(l) Failure to complete DAC evaluation within time limit	\$2,500	\$5,000	\$5,200	\$10,300
(m) Exceeding 24 month time limit on aftercare when not associated with a substantiated part 219 violation	\$2,500	\$5,000	\$5,200	\$10,300
219.1007 Alternate programs:				
(c) Failure to obtain FRA approval of alternate program	\$2,500	\$5,000	\$5,200	\$10,300

¹A penalty may be assessed against an individual only for a willful violation. The FRA Administrator reserves the right to assess a penalty of up to the statutory maximum amount for any violation, including ones not listed in this penalty schedule, where circumstances warrant. See 49 CFR part 209, appendix A.

²The penalty schedule uses section numbers from 49 CFR part 219; and if more than one item is listed as a type of violation of a given section, each item is also designated by a "penalty code," which is used to facilitate assessment of civil penalties. For convenience, penalty citations will cite the CFR section and the penalty code, if any. FRA reserves the right, should litigation become necessary, to substitute in its complaint the CFR citation in place of the combined CFR and penalty code citation.