## 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—Gene	eral			
219.3 Application:				
(a) Railroad or contractor does not	\$5,000	\$7,500	\$10,300	\$15,500
have required program	ψ0,000	\$7,500	\$10,500	\$13,500
(c) Railroad or contractor				
improperly tests under subpart E	\$2,500	\$5,000	\$5,200	\$10,300
or G of this part				
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	\$2,500	\$5,000	\$5,200	\$10,300
used for non-authorized testing				
219.12 Hours-of-service laws				
implications:				
(a)-(d) Failure to exceed Hours of				
Service to conduct required testing				
or exceeding HOS when not	\$2,500	\$5,000	\$5,200	\$10,300
authorized to conduct testing				
219.23 Railroad policies:				
(a) Failure to provide written notice	\$1,000	\$4,000	\$2,100	\$8,300
of FRA test	+ - ,	+	+ - , ·	+ - /
(a)(1) Failure to provide written	\$1,000	\$4,000	\$2,100	\$8,300
notice of basis for FRA test	Ψ1,000	<del>.</del> ,000	ΨΖ,100	ψ0,500
(a)(2) Use of a non-approved FRA				
form for mandatory post-accident	\$1,000	\$4,000	\$2,100	\$8,300
toxicological testing				
(b) Improper use of Federal drug or				
alcohol testing form or use of	\$1,000	\$4,000	\$2,100	\$8,300
Subpart C form for other test	\$1,000	<i>ф</i> 1,000	Ψ2,100	<i><b>40,000</b></i>
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(c) Failure to make required	\$2,500	\$5,000	\$5,200	\$10,300
educational materials available		-		-
(d) Failure to provide required	\$2,500	\$5,000	\$5,200	\$10,300
minimum educational content	+ - 1	+ - /	+ - 1	+
(e) Non-Federal provisions are not				
clearly described as independent	\$2,500	\$5,000	\$5,200	\$10,300
authority				
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	\$2,500	\$5,000	\$5,200	\$10,300
previous employer when	Ψ2,000	<i>\$0,000</i>	<i>\$0,200</i>	<i><i><b></b></i></i>
requested				
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(a)(2) Failure to perform and				
complete FRA and DOT-required	\$2,500	\$5,000	\$5,200	\$10,300
background checks in a timely	. ,	. ,		. ,
manner				
(a)(3) Failure to document due			_	
diligence in completing FRA and	\$2,500	\$5,000	\$5,200	\$10,300
DOT-required background checks				
(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	\$2,500	\$5,000	\$5,200	\$10,300
and drug violations that occurred	<i>42,000</i>	<i>40,000</i>	40,200	<i><i><i></i></i></i>
within a period of 60 consecutive				
months prior to the review of the				
person's records				

Subpart B—Prohibi				
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 Toxic	cological	Testing		
219.201 Events for which testing is		J		
required:				
(a) Failure to test after qualifying				
event (each regulated employee	\$5,000	\$7,500	\$10,300	\$15,500
not tested is a violation)	. ,	. ,	, ,	. ,
(c)(1)(i) Failure to make good faith	<u>+</u>	<b>t - - - -</b>		
determination	\$5,000	\$7,500	\$10,300	\$15,500
(c)(1)(ii) Failure to provide	¢0 500	<b>#5 0 0 0</b>	<b>#F 0</b> 0 0	¢10 700
requested decision report to FRA	\$2,500	\$5,000	\$5,200	\$10,300
(c)(2) Testing performed after non-	¢5 000	¢10.000	¢10.700	¢20.000
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	¢E 000	¢7 EOO	¢10.700	¢1E EOO
properly test/exclude from testing	\$5,000	\$7,500	\$10,300	\$15,500
(a)(1)(ii) and (a)(2)(ii) Non-regulated	\$5,000	¢7 500		
service employee tested	\$5,000	\$7,500	\$10,300	\$15,500
(b)(1) Delay in obtaining specimens				
due to failure to make every	\$2,500	\$5,000	\$5,200	\$10,300
reasonable effort				
(c) Independent medical facility	\$2,500	\$5,000	\$5,200	\$10,300
not utilized	\$2,500	\$3,000	\$J,200	\$10,500
(d) Failure to report event or				
contact FRA when intervention	\$1,000	\$3,000	\$2,100	\$6,200
required				
(d)(1) Failure to collect specimens	\$2,500	\$5,000	\$5,200	\$10,300
in a timely manner	+_,	+-,	+-,	÷,
(e)(2) Failure to recall employee for	\$2,500	\$5,000	\$5,200	\$10,300
testing when conditions met	+	+ - 1	+ - /	+
(e)(5) Failure to document why	\$2,500	\$5,000	\$5,200	\$10,300
employee could not be recalled	. ,	. ,	. ,	1 /
(f)(1) Specimen collection not	¢2 500	¢5 000	¢5 000	¢10,700
completed at an independent	\$2,500	\$5,000	\$5,200	\$10,300
medical facility				
219.205 Specimen collection and handling:				
(a) Failure to observe requirements				
with respect to specimen	\$2,500	\$5,000	\$5,200	\$10,300
collection, marking and handling	ΨΖ,500	<i>\$</i> 3,000	<i>ф</i> ,200	<i>Ф</i> 10,500
(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	<i>40,000</i>	φ,,οοο	<i></i>	<i><i></i></i>
collection and shipment of	\$2,500	\$5,000	\$5,200	\$10,300
required specimens	÷=,200	+ =, = = = =	+-,	+,000
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(b) Failure to request assistance	\$2,500	\$5,000	\$5,200	\$10,300
when necessary	\$2,500	\$3,000	\$3,200	\$10,500
219.209 Reports of tests and				
refusals:				
(a)(1) Failure to provide telephonic	¢1,000	\$2,000	¢2100	¢ / 100
report	\$1,000	\$2,000	\$2,100	\$4,100
(b) Failure to provide written report	¢1,000	¢2,000	¢2100	¢ / 100
of refusal to test	\$1,000	\$2,000	\$2,100	\$4,100
(c) Failure to maintain report				
explaining why test not conducted	\$1,000	\$2,000	\$2,100	\$4,100
within 4 hours				
219.211 Analysis and follow-up:				
(c) Failure of the MRO to report				
MRO downgrades and/or verified	¢0 500	¢5 000	¢5.000	¢10,700
non-negative results to FRA in a	\$2,500	\$5,000	\$5,200	\$10,300
timely manner				
(g)(3) Unauthorized withholding of				
regulated employee out of		<b>+- - - - -</b>	<b>*- - - - - - - - - -</b>	
regulated service pending receipt	\$2,500	\$5,000	\$5,200	\$10,300
of PAT testing results				
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	<b>*- - - - -</b>	<b>AAAAAAAAAAAAA</b>	<b>410 700</b>	
conduct breath alcohol test under	\$5,000	\$7,500	\$10,300	\$15,500
reasonable suspicion when criteria				
not met				
(b) Failure to conduct drug test				
when reasonable suspicion testing				
criteria met or conduct drug test	\$5,000	\$7,500	\$10,300	\$15,500
under reasonable suspicion when				
criteria not met				
219.303 Testing when reasonable				
suspicion criteria not met:				
(a) Failure to use a trained				
supervisor when conducting a	¢ 2 5 0 0	¢r 000	¢r 200	¢10.700
reasonable suspicion	\$2,500	\$5,000	\$5,200	\$10,300
determination for alcohol				
(b) Failure to use two supervisors,				
one of which must have been				
trained, when conducting a	\$2,500	\$5,000	\$5,200	\$10,300
reasonable suspicion		. ,	. ,	· ·
determination for drugs				
(c) Improperly holding employee	¢ 2 5 2 2	¢r 000	¢5 202	¢10,700
out of service	\$2,500	\$5,000	\$5,200	\$10,300
(d) Failure to provide adequate	¢o coo	<u>ط</u> ر ممم	¢r 200	¢10.700
written documentation for the	\$2,500	\$5,000	\$5,200	\$10,300

test 219.305 Prompt specimen collections; time limitations: 219.305 Prompt specimen collections; time limitations: 22,500 \$5,000 \$5,200 \$10,300 (b) Failure to document why test not administered within time \$2,500 \$5,000 \$5,200 \$10,300 [imits company] is 22,500 \$5,000 \$5,200 \$10,300 [imits company] is 219.401 Authorization for reasonable Cause testing 219.401 Authorization for reasonable cause testing: 219.401 Authorization for reasonable cause testing 219.401 Authorization for regulated employee is released \$2,500 \$5,000 \$5,200 \$10,300 from duty 219.403 Requirements for reasonable cause testing: 219.403 Requirements for reasonable cause test the criteria for train accident \$2,500 \$5,000 \$5,200 \$10,300 219.405 Documentation requirements: 219.407 Prompt Specimen curve time document specific type of rule violation and the \$1,000 \$2,500 \$2,100 \$5,200 \$5,200 \$10,300 (b) Failure to document specific type of rule violation and the \$1,000 \$2,500 \$5,200 \$10,300 (b) Failure to document why test not administered within time \$1,000 \$2,500 \$5,200 \$10,300 (c) Failure to document why test not administered within time \$1,000 \$2,500 \$5,200 \$10,300 \$5,200 \$10,300 \$2,500 \$5,200 \$10,300 \$2,500 \$5,200 \$5,200 \$5,200 \$5,200 \$2,200 \$5,200 \$2,200 \$5,200 \$2,200 \$5,200 \$2,200 \$5,200 \$2,200 \$5,200 \$2,200 \$5,200 \$2,200 \$5,200 \$2,200 \$5,200 \$2,200 \$5,200 \$2,200 \$5,200 \$2,200 \$5,200 \$2,200 \$5,200 \$2,200 \$5,200 \$2,200 \$5,200 \$2,200 \$2,200 \$5,200 \$2,200 \$2,200 \$5,200 \$2,200 \$2,200 \$2,200 \$2,200 \$2,200 \$2,200 \$2,200 \$2,200 \$2,200 \$2,200 \$2,200	reasons for a reasonable suspicion				
collections; time limitations:	test				
collections; time limitations:	219.305 Prompt specimen				
(b) Failure to document why test not administered within time  \$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:  219,401  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:  219,403 Requirements for reasonable cause testing:  219,403  \$5,000  \$5,200  \$10,300    (b) Testing when event did not meet the criteria for train accident (b) Testing when event did not meet the criteria for rule violation  \$5,000  \$5,200  \$10,300    219,405 Documentation requirements:  \$1,000  \$2,500  \$2,100  \$5,200    (a) Failure to provide adequate written document specific type of rule violation and the involvement of each tested  \$1,000  \$2,500  \$2,100  \$5,200    (b) Failure to document specific type of rule violation and the involvement of each tested  \$1,000  \$2,500  \$5,200  <					
(b) Failure to document why test not administered within time  \$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:  219,401  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:  219,403 Requirements for reasonable cause testing:  219,403  \$5,000  \$5,200  \$10,300    (b) Testing when event did not meet the criteria for train accident (b) Testing when event did not meet the criteria for rule violation  \$5,000  \$5,200  \$10,300    219,405 Documentation requirements:  \$1,000  \$2,500  \$2,100  \$5,200    (a) Failure to provide adequate written document specific type of rule violation and the involvement of each tested  \$1,000  \$2,500  \$2,100  \$5,200    (b) Failure to document specific type of rule violation and the involvement of each tested  \$1,000  \$2,500  \$5,200  <	(a) Fail to promptly conduct test	\$2,500	\$5,000	\$5,200	\$10,300
not administered within time\$2,500\$5,000\$5,200\$10,300limits\$2,500\$5,000\$5,200\$10,300Subpart E—Reasonable Cause\$2,500\$5,000\$5,200\$10,300Subpart E—Reasonable Cause testing:(a) Failure to declare which(b) Testing conducted after(c) Imgroper recall of employee\$2,500\$5,000(a) Failure to declare which\$2,500\$5,000\$5,200\$10,300uthority (Federal or company) is being used for reasonable cause\$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(19.403 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 requirements: (a) Failure to provide adequate written documentation for the regulated employee\$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\$2,200\$5,200(a) Failure to document why test not administered within time limits\$1,000\$2,500\$5,200\$10,300(b) Failure to document why test not administered within time limits\$1,000\$2,500\$5,200\$10,300(b) Improper recall of employee (b) Improper recall of employee limits\$1,000\$2,500\$5,200				. ,	. ,
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(c) Improper recall of employee\$2,500\$5,000\$5,200\$10,300Subpart E—Reasonable Cause Testing(a) Failure to declare which authority (Federal or company) is being used for reasonable cause testing(b) Failure to declare which authority (Federal or company) is \$2,500\$5,000\$5,200\$10,300(b) Testing conducted after 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 requirements: (a) Testing when event did not meet the criteria for rule violation\$2,500\$5,000\$5,200\$10,300(a) Testing when event did not meet the criteria for rule violation requirements: (a) Testing when event did not meet the criteria for rule violation\$2,500\$5,000\$5,200\$10,300(b) Testing when event did not meet the criteria for rule violation requirements: (a) Failure to provide adequate written documentation for the reasons for a reasonable cause test (b) Failure to document specific type of rule violation and the involvement of each tested regulated employee\$2,500\$2,500\$2,200\$5,200(a) Failure to document why test not administered within time limits\$1,000\$2,500\$5,200\$10,300(b) Failure to document why test not administered within time limits\$1,000\$2,500\$5,200\$10,300(c) Improper recall of employee (c) Improper withholding of regulated employee from regulated employee from regulated employee from regulated employee fro		. ,	. ,	1 /	1 7
Subpart E—Reasonable Cause TestingImage: Cause Subpart E TestingImage: Cause Subpart E Testing(a) Failure to declare which authority (Federal or company) is being used for reasonable cause testing (b) Testing conducted after regulated employee is released from duty\$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(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 requirements:\$2,500\$5,000\$5,200\$10,300(a) Failure to provide adequate written documentation for the reasonable cause test (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(a) Failure to perform a test in a timely\$2,500\$5,000\$2,500\$5,200\$5,200(b) Failure to document why test not administered within time timely\$1,000\$2,500\$5,200\$10,300(b) Failure to document why test not administered within time timely\$1,000\$2,500\$5,200\$10,300(c) Improper recall of employee 194.09\$1,000\$2,500\$5,200\$10,300(b) Improper withholding of regulated employee from regulated employee from <td></td> <td>\$2.500</td> <td>\$5.000</td> <td>\$5.200</td> <td>\$10.300</td>		\$2.500	\$5.000	\$5.200	\$10.300
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219.409Limitations on authority:(b) Improper withholding of regulated employee from regulated service pending test\$2,500\$5,000\$5,200\$10,300results\$2,500\$5,000\$5,200\$10,300		. ,	. ,	. ,	1 /
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regulated service pending test results \$2,500 \$5,000 \$5,000 \$5,200 \$10,300		<b>h</b> o <b>-</b>	<b>AF -</b>	<b>A - - -</b>	<b>A1 A A A A</b>
results		\$2,500	\$5,000	\$5,200	\$10,300
Subpart F—Pre-Employment Tests	Subpart F—Pre-Employment Tests				

219.501 Pre-employment drug				
219.501 Pre-employment drug testing:				
(a) Failure to conduct a Federal				
pre-employment test before a final				
applicant or employee transfer	\$2,500	\$5,000	\$5,200	\$10,300
performs regulated service				
(b) Failure to conduct a Federal pre-employment test before an				
	\$2,500	\$5,000	\$5,200	\$10,300
employee of a contractor performs				
regulated service				
(e) Pre-employment testing of	¢1,000	¢2 500	¢-2100	¢r 200
grandfathered regulated	\$1,000	\$2,500	\$2,100	\$5,200
employee				
219.502 Pre-employment alcohol				
testing:				
(a)(1) Failure to conduct alcohol				
testing of a regulated employee after choosing to perform Federal	\$2,500	\$5,000	\$5,200	\$10,300
pre-employment alcohol testing				
(a)(2) Failure to treat all regulated				
employees the same for purposes				
of Federal pre-employment alcohol	\$2,500	\$5,000	\$5,200	\$10,300
testing				
219.503 Notification; records:				
Failure to notify the applicant in				
writing of non-negative test results	\$1,000	\$2,500	\$2,100	\$5,200
or refusal	\$1,000	<i>ъ</i> 2,500	<i>φ</i> 2,100	<i></i> ,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	\$2,500	\$5,000	\$5,200	\$10,300
testing	ΨΖ,500	<i>\$</i> 3,000	ψ0,200	\$10,500
(c) Contractor or volunteer not				
included in random testing while				
subject to performing regulated	\$2,500	\$5,000	\$5,200	\$10,300
service				
(d)(1) Regulated employee not				
subject to random testing at				
minimum rate set by agency	\$2,500	\$5,000	\$5,200	\$10,300
covering more than 50% of	Ψ2,000	Ψ0,000	ψ <u></u> ,200	<i><i><i></i></i></i>
employee's regulated functions				
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	\$2,500	\$5,000	\$5,200	\$10,300
notification of FRA approval	,	+ =, = = = =	+0,200	+,000

	[[			
(d)(1) Failure to implement				
substantive plan amendment				
within 30 days of notification of	¢0 500	¢5 000	¢5 000	¢10,700
FRA approval, or failure to obtain	\$2,500	\$5,000	\$5,200	\$10,300
FRA approval before implementing				
substantive plan amendment				
before implementation				
(d)(2) Failure to submit non-				<b>t</b>
substantive plan amendment	\$2,500	\$5,000	\$5,200	\$10,300
before implementation				
219.607 Requirements for random				
testing plans:				
(a) Railroad implementation failed	\$2,500	\$5,000	\$5,200	\$10,300
to comply with approved plan	+	+ - /	+ - }	+
(c) Failure to contain required plan	\$2,500	\$5,000	\$5,200	\$10,300
elements	+	+ - /	+ - }	+
219.609 Inclusion of contractor				
employees and volunteers in				
random testing plans:				
(a) Failure to demonstrate that				
regulated service contractor	\$2,500	\$5,000	\$5,200	\$10,300
employees and volunteers are	+	+ - /	+ - }	+
subject to random testing				
(c) Failure to ensure regulated				
service contractor and volunteers	\$2,500	\$5,000	\$5,200	\$10,300
are tested in accordance with this	+	+ - /	+ - }	+
subpart				
219.611 Random drug and alcohol				
and drug testing pools:	 			
(a) Failure of railroad to ensure that				
all regulated employees including	\$2,500	\$5,000	\$5,200	\$10,300
contractors and volunteers are	+	+ - /	+ - }	+
included in random testing pools				
(b)(2) Improper criteria for pool		<b>+- - - - -</b>	<b>*- - - - - - - - - -</b>	
entries which allows for employer	\$2,500	\$5,000	\$5,200	\$10,300
discretion over who is to be tested				
(b)(3) Failure to construct and				
maintain pool entries that will	#0 500	<b>45 000</b>	<b>45000</b>	¢10.700
ensure regulated employees have	\$2,500	\$5,000	\$5,200	\$10,300
an equal chance of being selected				
randomly for each draw				
(c) Maintaining a random testing	¢0 500	dr 000	+F ~~~	A10 700
pool with less than four pool	\$2,500	\$5,000	\$5,200	\$10,300
entries				
(d)(1) Failure to ensure that pools	¢ 2 5 0 0	фг. <u>о о о</u>	¢5 000	¢10.700
do not contain non-regulated	\$2,500	\$5,000	\$5,200	\$10,300
employees				
(d)(2) Regulated employee	¢0 500	dr 000	+F ~~~	A10 700
included in more than one DOT	\$2,500	\$5,000	\$5,200	\$10,300
random pool				

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(d)(3) Failure to maintain pools				
and/or pool entries that meet	\$2,500	\$5,000	\$5,200	\$10,300
FRA/DOT regulations				
(d)(5) Failure to add or remove				
regulated employees to or from	\$2,500	\$5,000	\$5,200	\$10,300
the proper random pool in a timely	ΨΖ,500	40,000	<i>4</i> 0,200	\$10,500
manner				
(e)(2) Failure to remove employees				
who perform de minimis service				
from pools which include	\$2,500	\$5,000	\$5,200	\$10,300
employees who perform regulated				
service on a regular basis				
(f) Failure to have an effective				
mechanism to update and	\$2,500	\$5,000	\$5,200	\$10,300
maintain pools				
219.613 Random testing				
selections:				
(b)(1) Failure to use an FRA-	¢0 500	<b>4- - - - - - - - - -</b>	<b>*</b> = 000	¢10.700
acceptable selection procedure	\$2,500	\$5,000	\$5,200	\$10,300
(b)(2) Failure to ensure every				
regulated employee has an equal	¢0 500	<b>#F 0 0 0</b>	<b>*</b> = <b>.</b>	¢10 700
chance at being selected at each	\$2,500	\$5,000	\$5,200	\$10,300
draw				
(b)(3) Failure to have necessary				
documentation verifying the	¢0 500	<b>#F 0 0 0</b>	<b>*</b> = <b>.</b>	¢10 700
selection process for testing	\$2,500	\$5,000	\$5,200	\$10,300
window				
(c)(1) Failure to select pool entries				
at a rate which ensures				
compliance with FRA required		<b>+- - - - -</b>	<b>+- - - - -</b>	
random rates or fail to reasonably	\$2,500	\$5,000	\$5,200	\$10,300
distribute selections throughout				
the selection year				
(d) Railroad failed to select at least				
one entry from each of its random	\$2,500	\$5,000	\$5,200	\$10,300
testing pools every three months	+	+ - /	+ - /	+
(e) Railroad discarded selection				
draws without an acceptable	\$2,500	\$5,000	\$5,200	\$10,300
explanation	+	+ - /	+ - /	+
(g) Failure to capture and maintain				
electronic or hard copy snapshot of	<b>.</b>	<b>1</b>	±	<b>1</b>
each random testing pool at the	\$2,500	\$5,000	\$5,200	\$10,300
time it makes a testing selection				
219.615 Random testing				
collections:				
(a) Failure to comply with				
minimum annual random	\$2,500	\$5,000	\$5,200	\$10,300
collection testing rates	<i>+_,</i>	<i>+</i> 0,000	<i>40,200</i>	<i></i> ,
(b) Failure to test selections within		+		
the approved testing window	\$2,500	\$5,000	\$5,200	\$10,300
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(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

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219.625 FRA Administrator's					
determination of random alcohol					
and drug rates					
(d) Failure to meet the required	\$2,500	\$5,000	\$5,200	\$10,300	
FRA random testing rate for drugs	+_,	+-,	+-,	+	
(e) Failure to meet the required					
FRA random testing rate for	\$2,500	\$5,000	\$5,200	\$10,300	
alcohol					
Subpart H—Drug and Alcohol Te					
219.701 Standards for drug and					
alcohol testing:					
(a) Failure to comply with part 40					
procedures in subpart B, D, E, F, G	\$5,000	\$7,500	\$10,300	\$15,500	
and K testing					
Subpart I—Annual R	Report				
219.800 Annual Reports:	-				
(a) Failure to submit MIS report on	#0.500	<b>AF A A A</b>	<b>AF A A C</b>	¢10.700	
time	\$2,500	\$5,000	\$5,200	\$10,300	
(c) Failure to submit accurate MIS	<b>.</b>	<b>+- - - - -</b>	<b>45 000</b>	<b>*</b> 7 • <b>7</b> • •	
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 I		-	<i>\$0,200</i>	<i><i><i></i></i></i>	
219.901 Retention of alcohol and	<u>kequi em</u>	CIICS			
drug testing records:					
(a) Failure to maintain records					
required to be kept by part 40 of	\$2,500	\$5,000	\$5,200	\$10,300	
this chapter	φ2,500	\$ <b>3</b> ,000	\$3,200	<i>ф</i> Ю,500	
(b) Failure to maintain records					
	\$2,500	\$5,000	\$5,200	\$10,300	
required to be kept for five years (c) Failure to maintain records					
	\$2,500	\$5,000	\$5,200	\$10,300	
required to be kept for two years 219.903 Access to facilities and					
records:					
(a) Failure to release records in this	¢2 500	¢r 000	¢r 200	¢10,700	
subpart in accordance with part 40	\$2,500	\$5,000	\$5,200	\$10,300	
of this chapter					
(b) Failure to permit access to	\$2,500	\$5,000	\$5,200	\$10,300	
facilities	-			-	
(c) Failure to provide access to	¢2 500	¢5 000	¢5 000	¢10.700	
results of railroad alcohol and drug	\$2,500	\$5,000	\$5,200	\$10,300	
testing programs					
	Subpart K—Referral Programs				
219.1001 Requirement for referral					
programs:	 				
(b)(1) Failure to adopt or					
implement required self-referral	<b>h</b> a <b>-</b>	<b>A- - - - -</b>	<b>.</b>	<b>A1 A A A A</b>	
program or alternate program that	\$2,500	\$5,000	\$5,200	\$10,300	
meets the requirements of this					
subpart					

(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
(I) 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

<sup>1</sup>A 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.

<sup>2</sup> The 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.

[81 FR 37944, June 10, 2016, as amended at 83 FR 60747, Nov. 27, 2018; 88 FR 1114, Jan. 6, 2023]