

PENALTY SCHEDULE 1—Continued

Section ²	Violation	Willful violation
(a) Failure to comply with Part 40 procedures in Subpart B, D, F, or G testing	-5,000	-7,500
(b) Testing not performed in a timely manner	2,500	5,000
Subpart I—Annual Report		
219.801 Reporting alcohol misuse prevention program results in a management information system:		
(a) Failure to submit MIS report on time	2,500	5,000
(c) Failure to submit accurate MIS report	2,500	5,000
(d) Failure to include required data	2,500	5,000
219.803 Reporting drug misuse prevention program results in a management information system:		
(c) Failure to submit accurate MIS report	2,500	5,000
(d) Failure to submit MIS report on report	2,500	5,000
(e) Failure to include required data	2,500	5,000
Subpart J—Recordkeeping Requirements		
219.901 Retention of Alcohol Testing Records:		
(a) Failure to maintain records required to be kept by Part 40	2,500	5,000
(b) Failure to maintain records required to be kept for five years	2,500	5,000
(c) Failure to maintain records required to be kept for two years	2,500	5,000
219.903 Retention of Drug Testing Records:		
(a) Failure to maintain records required to be kept by Part 40	2,500	5,000
(b) Failure to maintain records required to be kept for five years	2,500	5,000
(c) Failure to maintain records required to be kept for two years	2,500	5,000
219.905 Access to facilities and records:		
(a) Failure to release records in this subpart in accordance with Part 40	2,500	5,000
(b) Failure to permit access to facilities	2,500	5,000
(c) Failure to provide access to results of railroad alcohol and drug testing programs	2,500	5,000

¹ 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 \$100,000 for any violation, including ones not listed in this penalty schedule, where circumstances warrant. See 49 CFR part 209, appendix A.

² 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" (e.g., "A"), which is used to facilitate assessment of civil penalties. For convenience, penalty citations will cite the CFR section and the penalty code, if any (e.g., "Sec. 219.11A") 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.

[66 FR 41973, Aug. 9, 2001, as amended at 69 FR 30593, May 28, 2004; 73 FR 79702, Dec. 30, 2008]

APPENDIX B TO PART 219—DESIGNATION OF LABORATORY FOR POST-ACCIDENT TOXICOLOGICAL TESTING

The following laboratory is currently designated to conduct post-accident toxicological analysis under subpart C of this part: Northwest Toxicology/LabOne, Hayes Building, Suite #C, 2282 South Presidents Drive, West Valley City, UT 84120, Telephone: (800) 322-3361 or (801) 293-2300 (Day), (801) 244-5599 (Night/Weekend).

[70 FR 16966, Apr. 4, 2005]

APPENDIX C TO PART 219—POST-ACCIDENT TESTING SPECIMEN COLLECTION

1.0 General.

This appendix prescribes procedures for collection of specimens for mandatory post-accident testing pursuant to subpart C of this part. Collection of blood and urine specimens is required to be conducted at an independent medical facility.

(Surviving Employees)

2.0 Surviving Employees.

This unit provides detailed procedures for collecting post-accident toxicological specimens from surviving employees involved in train accidents and train incidents, as required by subpart C of this part. Subpart C specifies qualifying events and employees required to be tested.

2.1 Collection Procedures; General.

a. All forms and supplies necessary for collection and transfer of blood and urine specimens for three surviving employees can be found in the FRA post-accident shipping box, which is made available to the collection site by the railroad representative.

b. Each shipping box contains supplies for blood/urine collections from three individuals, including instructions and necessary forms. The railroad is responsible for ensuring that materials are fresh, complete and meet FRA requirements.

2.1.1 Responsibility of the Railroad Representative.

a. In the event of an accident/incident for which testing is required under subpart C of this part, the railroad representative shall follow the designated set of instructions, and, upon arrival at the independent medical facility, promptly present to the collection