

DEPARTMENT OF TRANSPORTATION**Federal Railroad Administration**

49 CFR Parts 213, 214, 215, 217, 218, 219, 220, 221, 222, 223, 224, 225, 228, 229, 230, 231, 232, 233, 234, 235, 236, 238, 239, 240, and 241

[Docket No. FRA-2006-25274]

RIN 2130-AB81

Proposed Revisions to the Schedules of Civil Penalties for a Violation of a Federal Railroad Safety Law or Federal Railroad Administration Safety Regulation

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Proposed schedules of civil penalties with request for comments.

SUMMARY: FRA is issuing for comment proposed statements of agency policy that would amend the 25 schedules of civil penalties (Schedules) issued as appendixes to FRA's safety regulations to reflect more accurately the safety risks associated with a violation of each section or subsection of the regulations, as well as to make sure that the civil monetary penalty amounts (CMP) are consistent across all the safety regulations. These proposed revisions to the Schedules are being published to inform members and representatives of the regulated community and the general public of the amount of the civil penalty that a respondent would likely be assessed for a given violation and to invite their comments on those proposed amounts. In addition, FRA is proposing to correct any obvious errors or omissions in the Schedules.

DATES: Written comments must be received by January 4, 2007. Comments received after that date will be considered to the extent possible without incurring additional delay or expense.

ADDRESSES: *Comments:* Comments related to this Docket No. FRA 2006-25274, Notice No. 1, may be submitted by any of the following methods:

- Web Site: <http://dms.dot.gov>.

Follow the instructions for submitting comments on the DOT electronic docket site.

- Fax: 202-493-2251.
- Mail: Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL-401, Washington, DC 20590.
- Hand Delivery: Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington,

DC between 9 a.m. and 5 p.m. Monday through Friday, except Federal holidays.

- Federal eRulemaking Portal: Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.

Instructions: All submissions must include the agency name and docket number or Regulatory Identification Number (RIN) for this rulemaking. Note that all comments received will be posted without change to <http://dms.dot.gov> including any personal information.

Docket: For access to the docket to read background documents or comments received go to <http://dms.dot.gov> at any time or to PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

FOR FURTHER INFORMATION CONTACT:

Edward Pritchard, Director, Office of Safety Assurance and Compliance, FRA, 1120 Vermont Avenue, NW., Washington, DC 20590 (telephone 202-493-6247), edward.pritchard@dot.gov; or Carolina Mirabal, Trial Attorney, Office of Chief Counsel, FRA, 1120 Vermont Avenue, NW., Mail Stop 10, Washington, DC 20590 (telephone 202-493-6043), carolina.mirabal@dot.gov.

SUPPLEMENTARY INFORMATION:

Table of Contents for Supplementary Information

- I. Background
 - II. FRA's Approach to Reevaluating the Schedules of Civil Penalties
 - III. Rankings of the Sections or Subsections of Each of the Rail Safety Regulations
 - A. Motive Power and Equipment Regulations (CFR Parts 215, 218 (Partially), 223, 224, 229, 230, 231, 232, 238, and 239 (Partially))
 - B. Track and Workplace Safety Regulations (CFR Parts 213 and 214)
 - C. Grade Crossing Signal Systems and Signal and Train Control Regulations (CFR Parts 233, 234, 235, and 236)
 - D. Operating Practices Regulations (CFR Parts 214, 217, 218 (Partially), 219, 220, 221, 222, 225, 228, 239 (Partially), 240, and 241)
- List of Subjects in 49 CFR Parts 213, 214, 215, 217, 218, 219, 220, 221, 222, 223, 224, 225, 228, 229, 230, 231, 232, 233, 234, 235, 236, 238, 239, 240, and 241

I. Background

FRA last published comprehensive revisions to the Schedules of its safety regulations on December 29, 1988. 53 FR 52918. The revisions reflected the higher maximum penalty amounts made available by the enactment of the Rail Safety Improvement Act of 1988 (RSIA) (Pub. L. 100-342). 53 FR 52918. With

the exception of the penalties relating to the hours of service laws (49 U.S.C. Ch. 211), RSIA raised the maximum CMP for any ordinary violation from \$2,500 to \$10,000 (the ordinary maximum) and to \$20,000 (the aggravated maximum) for a grossly negligent violation or a pattern of repeated violations that has created an imminent hazard of death or injury or caused death or injury. Therefore, FRA published amendments to the Schedules in order to "give effect to the full range of civil penalties * * * permitted to be assessed for violation of specific regulations." 53 FR 52918. These amendments revised not only the maximum civil penalty amount for any violation, but also the individual line-item penalties for specific sections or subsections of the regulations.

The Rail Safety Enforcement and Review Act (RSERA) of 1992 (Pub. L. 102-365) increased the maximum CMP from \$1,000 to \$10,000 and in some cases to \$20,000, for a violation of the hours of service laws, making these penalty amounts uniform with those of FRA's other regulatory provisions. RSERA also increased the minimum CMP from \$250 to \$500 for all of FRA's regulatory provisions.

Since the publication of the Schedules in 1988, FRA has only adjusted its minimum and ordinary or aggravated maximum CMPs to conform to the mandates of the Federal Civil Penalties Inflation Adjustment Act of 1990 (Inflation Act). The Inflation Act required that an agency adjust by regulation each maximum CMP, or range of minimum and maximum CMPs within that agency's jurisdiction by October 23, 1996, and adjust those penalty amounts once every four years thereafter to reflect inflation. Public Law 101-410, 104 Stat. 890, 28 U.S.C. 2461, note, as amended by Section 31001(s)(1) of the Debt Collection Improvement Act of 1996, Public Law 104-134, 110 Stat. 1321-373, April 26, 1996. In the Inflation Act, Congress found a way to counter the effect that inflation has had on the CMPs by having the agencies charged with enforcement responsibility administratively adjust the CMPs. Currently FRA's minimum CMP is \$550, the ordinary maximum is \$11,000, and the aggravated maximum is \$27,000 (for when a "grossly negligent violation or pattern of repeated violations has caused an imminent hazard of death or injury to individuals, or has caused death or injury").

The Inflation Act requires only that the minimum, maximum and aggravated maximum civil penalty for a violation be adjusted, not that the guideline penalty amounts for a specific type of violation be adjusted; therefore, FRA

has not adjusted the line-item guideline penalties found in the Schedules in conjunction with its adjustments of the minimum, maximum and aggravated maximum civil penalties. FRA's practice has been to issue Schedules assigning to each section or subsection of the regulations specific dollar amounts for initial penalty assessments. These Schedules (and all line-item penalty amounts found within them) are statements of agency policy that specify the CMP that FRA will ordinarily assess for the violation of a particular section or subsection of a safety regulation, and are published to inform members of the regulated community of the amount that they are likely to be assessed for a given violation within the range of \$550 to \$11,000. The Schedules are "meant to provide guidance as to FRA's policy in predictable situations, not to bind FRA from using the full range of penalty authority where extraordinary circumstances warrant." 49 CFR part 209, App. A. Thus, regardless of the amounts shown in the Schedules, FRA continues to reserve the right to assess an amount other than that listed in the Schedules based on the circumstances of the alleged violation, as well as the statutory maximum CMP of up to \$27,000 per violation in situations "where a grossly negligent violation or a pattern of repeated violations has caused an imminent hazard of death or injury to individuals, or has caused death or injury."

II. FRA's Approach to Reevaluating the Schedules of Civil Penalties

The Federal Railroad Administrator is authorized as the delegate of the Secretary of Transportation to enforce the Federal railroad safety statutes (49 U.S.C. Ch. 201–213) and regulations, including the statutory civil penalty provisions at 49 U.S.C. Ch. 213. 49 CFR 1.49. FRA currently has 25 regulations that contain Schedules.¹ FRA is proposing to amend each of the line-item penalty amounts contained within the Schedules for each of the regulations. In addition, FRA would correct any obvious errors or omissions in the Schedules. For example, FRA would add a line-item penalty for any existing section or subsection that has been inadvertently omitted from an existing Schedule, such as 49 CFR 213.110. FRA would also correct obvious spelling or typographical errors that are caught during the review process. Because the Schedules are

statements of agency policy, FRA has authority to issue these amendments without having to follow the notice and comment procedures under the Administrative Procedure Act, 5 U.S.C. 553(b)(3)(A). Nevertheless, FRA is providing members and representatives of the regulated community and the general public with an opportunity to comment on the proposed line-item penalty amounts before amending the Schedules.

In reevaluating the penalty amounts in the Schedules, FRA has developed the following Severity Scale (Severity Scale) for setting the line-item penalty amounts for each of the provisions in the safety regulations:

Severity Scale for Setting Line-Item Penalty Amounts in FRA Penalty Schedules

FRA's regulations are intended either to prevent a railroad accident/incident or to mitigate the consequences if one were to occur. For the most severe ratings on the scale, FRA concentrated on the *degrees of likelihood* that an accident/incident² will occur or that graver consequences will occur as a result of failing to comply with the section. The following severity scale is intended to reflect this focus:

Level A—Very High Probability—Failure of railroad to comply with this section or subsection of the Code of Federal Regulations (CFR) *is extremely likely to result* in one or more of the following events, but does not create an imminent hazard of death or injury to individuals or causes an actual death or injury³:

1. Rail equipment accident/incident; or

² "Accidents/incidents" is defined at 49 CFR 225.5 and 225.19(c). The term includes highway-rail grade crossing accidents/incidents, rail equipment accidents/incidents, and accidents/incidents resulting in death, injury, or occupational illness. A highway-rail grade crossing accident/incident is "[a]ny impact between railroad on-track equipment and an automobile, bus, truck, motorcycle, bicycle, farm vehicle, or pedestrian at a highway-rail grade crossing." 49 CFR 225.5, read in light of 49 CFR 225.19(c). Rail equipment accidents/incidents are defined in 49 CFR 225.19(c) to include "collisions, derailments, fires, explosions, acts of God, and other events involving the operation of on-track equipment (standing or moving) * * * that result in damage to railroad property that is greater than the reporting threshold." Currently the reporting threshold is \$7,700. 70 FR 754141, 75417 (Dec. 20, 2005).

³ FRA has statutory authority to assess civil penalties in the range of \$550 (minimum) to \$11,000 (maximum) for ordinary violations of its regulations. FRA may only assess a penalty at the statutory maximum of \$27,000 "when a grossly negligent violation or a pattern of repeated violations has caused an imminent hazard of death or injury to individuals, or has caused death or injury." A \$27,000 statutory maximum penalty is the equivalent of a Level A Plus and is therefore off the scale.

2. Other accident/incident (not a rail equipment accident/incident).

FRA is proposing to issue a CMP guideline for Level "A" of \$8,500 for ordinary violations and \$11,000 for willful violations of the regulations.

Level B—High Probability—Failure of railroad to comply with this section or subsection of the CFR *is more likely than not to result* in the occurrence of:

1. Rail equipment accident/incident; or
2. Other accident/incident (not a rail equipment accident/incident).

FRA is proposing to issue a CMP guideline for Level "B" of \$6,500 for ordinary violations and \$9,000 for willful violations of the regulations.

For the following levels, FRA is not only addressing the likelihood that noncompliance will or could contribute to an accident or aggravated consequences if an accident occurred, but also the importance of maintaining compliance in order to prevent violations of these CFR sections or subsections from becoming leading accident causes in the future.

Level C—Moderate Probability—Failure of railroad to comply with this section or subsection of the CFR *substantially increases* the likelihood that one of the following will occur:

1. Rail equipment accident/incident; or
2. Other accident/incident (not a rail equipment accident/incident).

FRA is proposing to issue a CMP guideline for Level "C" of \$5,000 for ordinary violations and \$7,500 for willful violations of the regulations.

Level D—Minor Probability—Failure of the railroad to comply with this section or subsection of the CFR *slightly increases* the likelihood that one of the following will occur:

1. Rail equipment accident/incident; or
2. Other accident/incident (not a rail equipment accident/incident).

FRA is proposing to issue a CMP guideline for Level "D" of \$3,000 for ordinary violations and \$4,500 for willful violations of the regulations.

Level E—Minimal Probability—Failure to comply with this CFR section or subsection *does not increase the likelihood* that a rail equipment accident/incident or other accident/incident will occur, except in special circumstances, such as if the noncompliance is willful or widespread. Nevertheless, noncompliance with any one of these provisions undercuts the effectiveness of the Federal railroad safety program, and could compromise the safety of rail operations.

Example: Violation of § 225.13—Late Reports—Submitting a late accident/

¹ FRA is not amending the Schedule found in 49 CFR part 210 because that part is enforcing the Railroad Noise Emission Standards established by the Environmental Protection Agency in 40 CFR part 201.

incident report to FRA does not increase the likelihood that a rail equipment accident/incident or other accident/incident will occur. Widespread noncompliance with that provision, however, could lead to inaccuracies in Federal accident databases, which in turn could delay FRA's response to emerging safety problems.

FRA is proposing to issue a CMP guideline for Level "E" of \$1,500 for ordinary violations and \$2,500 for willful violations of the regulations.

As the Severity Scale shows, there are five different degrees of probabilities, ranging from A (the most severe) to E (the least severe of the types of violations). In developing the rankings (A through E), FRA concentrated on the degrees of likelihood that an accident/incident will occur or that graver consequences will occur as a result of the failure to comply with the particular section or subsection of the safety regulations. The Severity Scale was then used by FRA to assign a ranking (from A to E) to each of the provisions of the particular safety regulations that it has responsibility for administering and enforcing. The resulting line-item penalty amounts for each of the sections or subsections of the safety regulations affected reflect FRA's determination, based on safety data and industry knowledge, of how likely the violation of a particular section or subsection is to result in a rail equipment accident/incident or other type of accident/incident. FRA not only increased the penalty amounts in some instances, but also reduced the penalty amounts for some sections or subsections where it determined that a violation of the particular regulation constituted less of a safety risk. A determination by FRA that a CFR section or subsection does not increase the likelihood than a rail equipment accident/incident or other accident will occur, however, does not mean that this section or subsection is inconsequential to the effectiveness of the Federal railroad safety program or to the overall safety of railroad operations.

The new Schedules will continue to have two categories of violations: Ordinary and willful. See 49 CFR part 209, App. A for a discussion of "willful" violations. The ordinary penalties apply to railroads or other respondents, except individuals, while the "willful" column applies to willful violations committed by railroads or other respondents, including individuals. Each Schedule lists the CFR section or subsection in the left hand column, with the corresponding penalties listed in the columns next to it. The only exception continues to be 49 CFR part 231; what are listed in the

left hand column of the Schedule are the FRA "defect codes"⁴ for that part, and not the corresponding CFR sections. The reason for this continues to be the fact that the defect codes are organized by the type of safety appliance, which makes them easier to use, than the section numbers of part 231, which are organized primarily by car type. Nevertheless, if necessary, every defect code can be traced to a specific regulatory provision in part 231 or statutory provision in 49 U.S.C. Chapter 203, or both.

The following chart summarizes the proposed guideline amounts for ordinary and willful violations by severity level:

Severity level	Ordinary violations	Willful violations
Level A	\$8,500	\$11,000
Level B	6,500	9,000
Level C	5,000	7,500
Level D	3,000	4,500
Level E	1,500	2,500

III. Rankings of the Sections or Subsections of Each of the Rail Safety Regulations

Although the railroad industry's overall safety record has improved over the last decade, significant train accidents/incidents continue to occur. As a result, the FRA's safety program is being guided by careful analysis of accident/incident, inspection, and other safety data. FRA has also directed both its regulatory and compliance efforts toward the areas that involve the highest of safety risks, in order to reduce the number and severity of accidents/incidents caused by a failure to comply with those safety regulations. Therefore, the goal of the new line-item penalty amounts for each of the Schedules is to reflect the different degrees of probability that a violation of a particular CFR section or subsection will result in a rail equipment accident/incident or other accident/incident, in order to improve the overall safety of railroad operations.

A. Motive Power and Equipment Regulations (MP&E) (49 CFR Parts 215, 218 (Partially), 223, 224, 229, 230, 231, 232, 238, and 239 (Partially))

In reevaluating the line-item penalty amounts for each of the CFR sections or subsections found in Parts 215, 218 (partially), 223, 224, 229, 231, 232, 238,

and 239 (partially) of the CFR, FRA took into consideration, among other factors, the nationwide list of "Top 10" MP&E defects. The defects are listed in the table below, in descending order, according to the number of times that each defect was determined to have caused a rail equipment accident/incident, excluding highway-rail grade crossing accidents/incidents that are also classified as rail equipment accidents/incidents (hereinafter) "train accidents," between 2002 and 2005.

Journal (roller bearing) overheated—(158)	Coupler/draft system defects (car)—(55)
Truck bolster stiff—(78)	Electrically caused fire (locomotive)—(50)
Side bearing clearance insufficient—(67)	Coupler retainer pin/cross key—(48)
Broken rim—(62)	Damaged flange or tread (built up)—(45)
Pantograph defect (locomotive)—(59)	Rigging down or dragging—(43)

The CFR sections or subsections that relate to the defects associated with greater safety risks have received more severe rankings in the Schedules, and as such now carry higher CMP amounts. For example, a violation of 49 CFR 215.103(d)(3), which is a defective wheel rim with a crack of one inch or more, received an "A" severity ranking (and a proposed guideline penalty amount of \$8,500) because of the high safety risk that the defect will cause a broken-rim derailment. In addition, the FRA applied the Severity Scale in order to determine the degrees of likelihood that any type of accident/incident will occur as a result of noncompliance with the regulations.

B. Track and Workplace Safety Regulations (49 CFR Parts 213 and 214)

In recent years, most of the serious accidents/incidents (train collisions or derailments resulting in a release of hazardous materials or harm to rail passengers, rail employees, or the general public) resulted from human factor or track causes. Over the last five years 34 percent of train accidents were caused by track defects. In an effort to reduce track accidents, FRA is focusing its track inspections on the areas of highest risks and encouraging inspectors to recommend enforcement action on the kinds of violations that are considered leading causes of track-caused train accidents. Therefore, in evaluating the line-item penalty amounts for all the sections or subsections, FRA took into consideration the leading causes of

⁴ Defect codes were developed by FRA in order to facilitate computerization of inspection data generated by FRA inspectors by providing a digital format for every CFR section. Defect codes are analytical tools only and are subject to change without notice.

track-related train accidents when applying the Severity Scale to the Track Safety Standards. For example, 49 CFR 213.53(b)—Gage—received an “A” (and a proposed penalty guideline amount of \$8,500) ranking because it is one of the leading causes of track-related train accidents.

In ranking the sections or subsections of 49 CFR part 214 (Part 214)—Railroad Workplace Safety, FRA took into consideration not only the probability that an accident/incident could result if a violation occurred, but also the fact that the accident/incident could result in serious injury or death. One example of the rankings for part 214 is the ranking for the second type of violation of section 214.103, which requires bridge workers to use fall protection. This subsection received a ranking of “A” (and a proposed guideline penalty of \$8,500) because a violation of the subsection could result in serious injury or death, as evidenced by the several bridge worker fatalities in the past 10 years due to the failure to use fall protection.

C. Grade Crossing Signal Systems and Signal and Train Control Regulations (CFR Parts 233, 234, 235, and 236)

FRA applied the Severity Scale to each of the sections in Parts 233, 234, 235, and 236, in order to determine the appropriate rankings for each of the sections or subsections of the regulations. In the area of signal and train control (S&TC), FRA followed the Severity Scale, which concentrates on the potential for an accident/incident resulting from noncompliance. While there are relatively few train accidents associated with S&TC causes and few highway-rail grade crossing accidents/incidents associated with S&TC causes that have occurred in recent years, it is imperative that the Schedules still reflect the levels of risks associated with the violation of these CFR sections or subsections, in order to prevent future S&TC-caused accidents.

D. Operating Practices Regulations (CFR Parts 217, 218 (Partially), 219, 220, 221, 222, 225, 228, 239 (Partially), 240, and 241)

Over the last five years, human-factor-related causes have accounted for 38 percent of all train accidents. A review of the FRA's Office of Safety database indicated that the top four human factor causes contributing to train accidents are as follows: (1) Switch improperly lined; (2) shoving movement, absence of employee on, at or ahead of movement; (3) shoving movement, failure to control; and (4) buff/slack action excess, train handling. These top causes are

often involved in violations of such regulations as 49 CFR part 220, Railroad Communications. A review of the top four causes for human factors train accidents between 2001 and 2005 showed that these causes accounted for 2,175 reportable train accidents/incidents (including 12 employee fatalities, 389 employee injuries, and \$60,550,000 in rail and equipment damages). Therefore, when applying the Severity Scale to the CFR sections or subsections, FRA considered all of this safety information in order to ensure that each line-item penalty amount reflected the likelihood that noncompliance would result in a train accident/incident, or that graver consequences would occur as a result of failing to comply with the section or subsection of the regulations⁵.

List of Subjects

49 CFR Part 213

Bridges, Occupational safety and health, Penalties, Railroad safety, Reporting and recordkeeping requirements.

49 CFR Part 214

Bridges, Occupational safety and health, Penalties, Railroad safety, Reporting and recordkeeping requirements.

49 CFR Part 215

Freight, Penalties, Railroad safety, Reporting and recordkeeping requirements.

49 CFR Part 217

Penalties, Railroad safety, Reporting and recordkeeping requirements.

49 CFR Part 218

Occupational safety and health, Penalties, Railroad employees, Railroad safety, Reporting and recordkeeping requirements.

49 CFR Part 219

Alcohol abuse, Drug abuse, Drug testing, Penalties, Railroad safety, Reporting and recordkeeping requirements, safety, Transportation.

49 CFR Part 220

Penalties, Radio, Railroad safety.

49 CFR Part 221

Penalties, Railroad safety, reporting and recordkeeping requirements.

⁵ FRA has separately proposed that additional Railroad Operating Rules be incorporated in the Federal regulations and made directly enforceable. The notice of proposed rulemaking was issued on October 12, 2006, and included additional amendments to the Schedules of Parts 217 and 218. See 71 FR 60372.

49 CFR Part 222

Administrative practice and procedure, Penalties, Railroad safety, Reporting and recordkeeping requirements.

49 CFR Part 223

Glass and glass products, Penalties, Railroad safety, Reporting and recordkeeping requirements.

49 CFR Part 224

Incorporation by reference, Penalties, Railroad locomotive safety, Railroad safety, Reporting and recordkeeping requirements.

49 CFR Part 225

Investigations, Penalties, Railroad safety, Reporting and recordkeeping requirements.

49 CFR Part 228

Penalties, Railroad employees, Reporting and recordkeeping requirements.

49 CFR Part 229

Penalties, Railroad safety, Reporting and recordkeeping requirements.

49 CFR Part 230

Penalties, Railroad safety, Reporting and recordkeeping requirements.

49 CFR Part 231

Penalties, Railroad safety.

49 CFR Part 232

Penalties, Railroad safety, Reporting and recordkeeping requirements.

49 CFR Part 233

Penalties, Railroad safety, Reporting and recordkeeping requirements.

49 CFR Part 234

Highway safety, Penalties, Railroad safety, Reporting and recordkeeping requirements.

49 CFR Part 235

Administrative practice and procedure, Penalties, Railroad safety, Reporting and recordkeeping requirements.

49 CFR Part 236

Penalties, Railroad safety, Reporting and recordkeeping requirements.

49 CFR Part 238

Fire prevention, Penalties, Railroad safety, Reporting and recordkeeping requirements.

49 CFR Part 239

Penalties, Railroad safety, Reporting and recordkeeping.

49 CFR Part 240

Administrative practice and procedure, Penalties, Railroad employees, Railroad safety, Reporting and recordkeeping requirements.

49 CFR Part 241

Communications, Penalties, Railroad safety, Reporting and recordkeeping requirements.

In consideration of the foregoing, FRA proposes to amend Parts 213, 214, 215, 217, 218, 219, 220, 221, 222, 223, 224, 225, 228, 229, 230, 231, 232, 233, 234, 235, 236, 238, 239, 240, and 241 of Subtitle B, Chapter II of Title 49 of the Code of Federal Regulations as follows:

PART 213—[AMENDED]

1. The authority citation for part 213 continues to read as follows:

Authority: 49 U.S.C. 20102–20114 and 20142; 28 U.S.C. 2461, note; and 49 CFR 1.49(m).

2. Appendix B to part 213 is revised to read as follows:

APPENDIX B TO PART 213.—SCHEDULE OF CIVIL PENALTIES ¹

Section ²	Violation	Willful violation
Subpart A—General		
213.4(a) Excepted track ²	\$5,000	\$7,500
213.4(b) Excepted track ²	6,500	9,000
213.4(c) Excepted track ²	6,500	9,000
213.4(d) Excepted track ²	6,500	9,000
213.4(e):		
(1) Excepted track	6,500	9,000
(2) Excepted track	6,500	9,000
(3) Excepted track	6,500	9,000
(4) Excepted track	6,500	9,000
213.4(f) Excepted track	3,000	4,500
213.7 Designation of qualified persons to supervise certain renewals and inspect track	5,000	7,500
213.9 Classes of track: Operating speed limits	8,500	11,000
213.11 Restoration or renewal of track under traffic conditions	5,000	7,500
213.13 Measuring track not under load	6,500	9,000
Subpart B—Roadbed		
213.33 Drainage	6,500	9,000
213.37 Vegetation	5,000	7,500
Subpart C—Track Geometry		
213.53 Gage	8,500	11,000
213.55 Alignment	6,500	9,000
213.57 Curves; elevation and speed limitations	6,500	9,000
213.59 Elevation of curved track; runoff	6,500	9,000
213.63 Track surface	6,500	9,000
Subpart D—Track Structure		
213.103 Ballast; general	5,000	7,500
213.109 Crossties		
(a) Material used	3,000	4,500
(b) Distribution of ties	6,500	9,000
(c) Sufficient number of nondefective ties	5,000	7,500
(d) Sufficient number of nondefective ties (effective 9/21/2000)	5,000	7,500
(f) Joint ties	5,000	7,500
(g) Track constructed without crossties	5,000	7,500
213.110 Gage restraint measurement systems		
(a) through (b) Notification	5,000	7,500
(c) Design requirements	6,500	9,000
(g) through (i) Exception reports	5,000	7,500
(j) Data integrity	6,500	9,000
(k) Training	5,000	7,500
(l) Remedial actions	8,500	11,000
(m) PTLF	6,500	9,000
(n) Recordkeeping	5,000	7,500
(o) Inspection frequency	8,500	11,000
213.113 Defective rails	8,500	11,000
213.115 Rail end mismatch	5,000	7,500
213.119 Continuous welded rail		
(a) CWR plan filed with FRA	6,500	9,000
(b) CWR fastening requirements	6,500	9,000
(c) CWR rail temperature requirements	6,500	9,000
(d) CWR alignment monitoring requirements	6,500	9,000
(e) Procedures for controlling train speed on CWR track	6,500	9,000
(f) CWR track inspections	6,500	9,000
(g) CWR joint bar inspections	6,500	9,000

APPENDIX B TO PART 213.—SCHEDULE OF CIVIL PENALTIES ¹—Continued

Section ²	Violation	Willful violation
(h) CWR training	6,500	9,000
(i) CWR recordkeeping requirements	6,500	9,000
213.121(a) Rail joints	6,500	9,000
213.121(b) Rail joints	6,500	9,000
213.121(c) Rail joints	8,500	11,000
213.121(d) Rail joints	6,500	9,000
213.121(e) Rail joints	6,500	9,000
213.121(f) Rail joints	6,500	9,000
213.121(g) Rail joints	6,500	9,000
213.121(h) Rail joints	6,500	9,000
213.122 Torch cut rail	6,500	9,000
213.123 Tie plates	5,000	7,500
213.127 Rail fastenings	6,500	9,000
213.133 Turnouts and track crossings, generally	5,000	7,500
213.135 Switches:		
(a) through (g)	6,500	9,000
(h) chipped or worn points	6,500	9,000
213.137 Frogs	6,500	9,000
213.139 Spring rail frogs	6,500	9,000
213.141 Self-guarded frogs	5,000	7,500
213.143 Frog guard rails and guard faces; gage	6,500	9,000
Subpart E—Track Appliances and Track-Related Devices		
213.205 Derails	5,000	7,500
Subpart F—Inspection		
213.233 Track inspections	5,000	7,500
213.235 Switches, crossings, transition devices	5,000	7,500
213.237 Inspection of rail	6,500	9,000
213.239 Special inspections	5,000	7,500
213.241 Inspection records	5,000	7,500
Subpart G—High Speed		
213.305 Designation of qualified individuals; general qualifications	8,500	11,000
213.307 Class of track; operating speed limits	8,500	11,000
213.309 Restoration or renewal of track under traffic conditions	8,500	11,000
213.311 Measuring track not under load	6,500	9,000
213.319 Drainage	5,000	7,500
213.321 Vegetation	5,000	7,500
213.323 Track gage	8,500	11,000
213.327 Alignment	8,500	11,000
213.329 Curves, elevation and speed limits	8,500	11,000
213.331 Track surface	8,500	11,000
213.333 Automated vehicle inspection systems	8,500	11,000
213.335 Crossties		
(a) Material used	5,000	7,500
(b) Distribution of ties	6,500	9,000
(c) Sufficient number of nondefective ties, non-concrete	5,000	7,500
(d) Sufficient number of nondefective, concrete ties	8,500	11,000
(e) Joint ties	8,500	11,000
(f) Track constructed without crossties	8,500	11,000
(g) Non-defective ties surrounding defective ties	8,500	11,000
(h) Tie plates	8,500	11,000
(i) Tie plates	8,500	11,000
213.337 Defective rails	8,500	11,000
213.339 Inspection of rail in service	8,500	11,000
213.341 Inspection of new rail	8,500	11,000
213.343 Continuous welded rail (a) through (h)	8,500	11,000
213.345 Vehicle qualification testing (a) through (b)	8,500	11,000
(c) through (e)	8,500	11,000
213.347 Automotive or railroad crossings at grade	6,500	9,000
213.349 Rail end mismatch	6,500	9,000
213.351(a) Rail joints	8,500	11,000
213.351(b) Rail joints	8,500	11,000
213.351(c) Rail joints	8,500	11,000
213.351(d) Rail joints	8,500	11,000
213.351(e) Rail joints	6,500	9,000
213.351(f) Rail joints	8,500	11,000

APPENDIX B TO PART 213.—SCHEDULE OF CIVIL PENALTIES ¹—Continued

Section ²	Violation	Willful violation
213.351(g) Rail joints	8,500	11,000
213.352 Torch cut rails	5,000	7,500
213.353 Turnouts, crossovers, transition devices	8,500	11,000
213.355 Frog guard rails and guard faces; gage	6,500	9,000
213.357 Derails	5,000	7,500
213.359 Track stiffness	8,500	11,000
213.361 Right of way	5,000	7,500
213.365 Visual inspections	8,500	11,000
213.367 Special inspections	8,500	11,000
213.369 Inspections records	5,000	7,500

¹ A penalty may be assessed against an individual only for a willful violation. The Administrator reserves the right to assess a penalty of up to \$27,000 for any violation where circumstances warrant. See 49 CFR part 209, appendix A.

² In addition to assessment of penalties for each instance of noncompliance with the requirements identified by this footnote, track segments designated as excepted track that are or become ineligible for such designation by virtue of noncompliance with any of the requirements to which this footnote applies are subject to all other requirements of part 213 until such noncompliance is remedied.

PART 214—[AMENDED]

Authority: 49 U.S.C. 20103, 20107; 28 U.S.C. 2461, note; and 49 CFR 1.49.

4. Appendix A to part 214 is revised to read as follows:

3. The authority citation for part 214 continues to read as follows:

APPENDIX A TO PART 214.—SCHEDULE OF CIVIL PENALTIES ¹

Section	Violation	Willful violation
Subpart B—Bridge Worker Safety Standards		
214.103 Fall protection:		
(i) Failure to provide fall protection	\$6,500	\$9,000
(ii) Failure to use fall protection	8,500	11,000
214.105 Standards and practices:		
(a) General:		
(1) Fall protection used for other purposes	5,000	7,500
(2) Failure to remove from service	5,000	7,500
(3) Failure to protect from deterioration	5,000	7,500
(4) Failure to inspect and remove	6,500	9,000
(5) Failure to train	6,500	9,000
(6) Failure to provide for prompt rescue	6,500	9,000
(7) Failure to prevent damage	5,000	7,500
(8) Failure to use proper connectors	5,000	7,500
(9) Failure to use proper anchorages	5,000	7,500
(b) Fall arrest system:		
(1)–(17) Failure to provide conforming equipment	5,000	7,500
(c) Safety net systems:		
(1) Failure to install close to workplace	5,000	7,500
(2) Failure to provide fall arrest if over 30 feet	6,500	9,000
(3) Failure to provide for unobstructed fall	6,500	9,000
(4) Failure to test	5,000	7,500
(5) Failure to use proper equipment	5,000	7,500
(6) Failure to prevent contact with surface below	6,500	9,000
(7) Failure to properly install	6,500	9,000
(8) Failure to remove defective nets	6,500	9,000
(9) Failure to inspect	6,500	9,000
(10) Failure to remove objects	3,000	4,500
(11)–(13) Failure to use conforming equipment	5,000	7,500
214.107 Working over water:		
(a)(i) Failure to provide life vest	6,500	9,000
(ii) Failure to use life vest .....	.....	9,000
(c) Failure to inspect	5,000	7,500
(e)(i) Failure to provide ring buoys	6,500	9,000
(ii) Failure to use ring buoys	5,000	7,500
(f)(i) Failure to provide skiff	5,000	7,500
(ii) Failure to use skiff .....	.....	7,500
214.109 Scaffolding:		
(a)–(f) Failure to provide conforming equipment	6,500	9,000
214.113 Head protection:		
(a)(i) Failure to provide	6,500	9,000
(ii) Failure to use .....	.....	9,000
(b) or (c) Failure to provide conforming equipment	5,000	7,500

APPENDIX A TO PART 214.—SCHEDULE OF CIVIL PENALTIES ¹—Continued

Section	Violation	Willful violation
214.115 Foot protection:		
(a)(i) Failure to require use of	5,000	7,500
(ii) Failure to use .....	.....	7,500
214.117 Eye and face protection:		
(a)(i) Failure to provide	5,000	7,500
(ii) Failure to use .....	.....	4,500
(b) Failure to use conforming equipment	5,000	7,500
(c) Use of defective equipment	5,000	7,500
(d) Failure to provide for corrective lenses	5,000	7,500
Subpart C—Roadway Worker Protection Rule		
214.303 Railroad on-track safety programs, generally:		
(a) Failure of a railroad to implement an On-track Safety Program	8,500	11,000
(b) On-track Safety Program of a railroad includes no internal monitoring procedure	8,500	11,000
214.305 Compliance Dates:		
Failure of a railroad to comply by the specified dates	5,000	7,500
214.307 Review and approval of individual on-track safety programs by FRA:		
(a)(i) Failure to notify FRA of adoption of On-track Safety Program	5,000	7,500
(ii) Failure to designate primary person to contact for program review	5,000	7,500
214.309 On-track safety program documents:		
(1) On-track Safety Manual not provided to prescribed employees	6,500	9,000
(2) On-track Safety Program documents issued in fragments	5,000	7,500
214.311 Responsibility of employers:		
(b) Roadway worker required by employer to foul a track during an unresolved challenge	8,500	11,000
(c) Roadway workers not provided with written procedure to resolve challenges of on-track safety procedures	6,500	9,000
214.313 Responsibility of individual roadway workers:		
(a) Failure to follow railroad's on-track safety rules .....	.....	11,000
(b) Roadway worker fouling a track when not necessary in the performance of duty .....	.....	11,000
(c) Roadway worker fouling a track without ascertaining that provision is made for on-track safety .....	.....	11,000
(d) Roadway worker failing to notify employer of determination of improper on-track safety provisions .....	.....	11,000
214.315 Supervision and communication:		
(a) Failure of employer to provide job briefing	8,500	11,000
(b) Incomplete job briefing	6,500	9,000
(c)(i) Failure to designate roadway worker in charge of roadway work group	6,500	9,000
(ii) Designation of more than one roadway worker in charge of one roadway work group	5,000	7,500
(iii) Designation of non-qualified roadway worker in charge of roadway work group	6,500	9,000
(d)(i) Failure to notify roadway workers of on-track safety procedures in effect	6,500	9,000
(ii) Incorrect information provided to roadway workers regarding on-track safety procedures in effect	6,500	9,000
(iii) Failure to notify roadway workers of change in on-track safety procedures	6,500	9,000
(e)(i) Failure of lone worker to communicate with designated employee for daily job briefing .....	.....	7,500
(ii) Failure of employer to provide means for lone worker to receive daily job briefing	6,500	9,000
214.317 On-track safety procedures, generally:		
On-track safety rules conflict with this part	8,500	11,000
214.319 Working limits, generally:		
(a) Non-qualified roadway worker in charge of working limits	8,500	11,000
(b) More than one roadway worker in charge of working limits on the same track segment	6,500	9,000
(c)(1) Working limits released without notifying all affected roadway workers	8,500	11,000
(2) Working limits released before all affected roadway workers are otherwise protected	8,500	11,000
214.321 Exclusive track occupancy:		
(a) Improper transmission of authority for exclusive track occupancy	5,000	7,500
(b)(1) Failure to repeat authority for exclusive track occupancy to issuing employee .....	.....	7,500
(2) Failure to retain possession of written authority for exclusive track occupancy .....	.....	9,000
(3) Failure to record authority for exclusive track occupancy when issued .....	.....	9,000
(c) Limits of exclusive track occupancy not identified by proper physical features	8,500	11,000
(d)(1) Movement authorized into limits of exclusive track occupancy without authority of roadway worker in charge	8,500	11,000
(2) Movement authorized within limits of exclusive track occupancy without authority of roadway worker in charge	8,500	11,000
(3) Movement within limits of exclusive track occupancy exceeding restricted speed without authority of roadway worker in charge	8,500	11,000
214.323 Foul time:		
(a) Foul time authority overlapping movement authority of train or equipment	8,500	11,000
(b) Failure to repeat foul time authority to issuing employee	6,500	9,000
214.325 Train coordination:		
(a) Train coordination limits established where more than one train is authorized to operate	6,500	9,000
(b)(1) Train coordination established with train not visible to roadway worker at the time	5,000	7,500
(2) Train coordination established with moving train .....	.....	7,500
(3) Coordinated train moving without authority of roadway worker in charge	6,500	9,000
(4) Coordinated train releasing movement authority while working limits are in effect	6,500	9,000

APPENDIX A TO PART 214.—SCHEDULE OF CIVIL PENALTIES ¹—Continued

Section	Violation	Willful violation
214.327 Inaccessible track:		
(a) Improper control of entry to inaccessible track	6,500	9,000
(5) Remotely controlled switch not properly secured by control operator	6,500	9,000
(b) Train or equipment moving within inaccessible track limits without permission of roadway worker in charge	6,500	9,000
(c) Unauthorized train or equipment located within inaccessible track limits	6,500	9,000
214.329 Train approach warning provided by watchmen/lookouts:		
(a) Failure to give timely warning of approaching train		11,000
(b)(1) Failure of watchman/lookout to give full attention to detecting approach of train		9,000
(2) Assignment of other duties to watchman/lookout	6,500	9,000
(c) Failure to provide proper warning signal devices	5,000	7,500
(d) Failure to maintain position to receive train approach warning signal	6,500	9,000
(e) Failure to communicate proper warning signal	6,500	9,000
(f)(1) Assignment of non-qualified person as watchman/lookout	6,500	9,000
(2) Non-qualified person accepting assignment as watchman/lookout	5,000	7,500
(g) Failure to properly equip a watchman/lookout	5,000	7,500
214.331 Definite train location:		
(a) Definite train location established where prohibited	6,500	9,000
(b) Failure to phase out definite train location by required date	5,000	7,500
(d)(1) Train location information issued by unauthorized person	6,500	9,000
(2) Failure to include all trains operated on train location list	8,500	11,000
(5) Failure to clear track 10 minutes before earliest departure time of train at last station prior to work location, or failure to remain clear until such train passed		9,000
(6) Train passing station before time shown in train location list	8,500	11,000
(7) Non-qualified person using definite train location to establish on-track safety	6,500	9,000
214.333 Informational line-ups of trains:		
(a) Informational line-ups of trains used for on-track safety where prohibited	8,500	11,000
(b) Informational line-up procedures inadequate to protect roadway workers	8,500	11,000
(c) Failure to discontinue informational line-ups by required date	5,000	7,500
214.335 On-track safety procedures for roadway work groups:		
(a) Failure to provide on-track safety for a member of a roadway work group	8,500	11,000
(b) Member of roadway work group fouling a track without authority of employee in charge	6,500	9,000
(c) Failure to provide train approach warning or working limits on adjacent track where required	8,500	11,000
214.337 On-track safety procedures for lone workers:		
(b) Failure by employer to permit individual discretion in use of individual train detection	8,500	11,000
(c)(1) Individual train detection used by non-qualified employee	6,500	9,000
(2) Use of individual train detection while engaged in heavy or distracting work	5,000	7,500
(3) Use of individual train detection in controlled point or manual interlocking	5,000	7,500
(4) Use of individual train detection with insufficient visibility	8,500	11,000
(5) Use of individual train detection with interfering noise		7,500
(6) Use of individual train detection while a train is passing		9,000
(d) Failure to maintain access to place of safety clear of live tracks		11,000
(e) Lone worker unable to maintain vigilant lookout		9,000
(f)(1) Failure to prepare written statement of on-track safety		4,500
(2) Incomplete written statement of on-track safety		4,500
(3) Failure to produce written statement of on-track safety to FRA		4,500
214.339 Audible warning from trains:		
(a) Failure to require audible warning from trains	5,000	7,500
(b) Failure of train to give audible warning where required	5,000	7,500
214.341 Roadway maintenance machines:		
(a) Failure of on-track safety program to include provisions for safety near roadway maintenance machines	8,500	11,000
(b) Failure to provide operating instructions	5,000	7,500
(1) Assignment of non-qualified employee to operate machine	6,500	9,000
(2) Operator unfamiliar with safety instructions for machine	6,500	9,000
(3) Roadway worker working with unfamiliar machine	6,500	9,000
(c) Roadway maintenance machine not clear of passing trains or operation of machine component closer than four feet to adjacent track without procedural instructions	8,500	11,000
214.343 Training and qualification, general:		
(a)(1) Failure of railroad program to include training provisions	6,500	9,000
(2) Failure to provide initial training	6,500	9,000
(b) Failure to provide annual training	6,500	9,000
(c) Assignment of non-qualified railroad employees to provide on-track safety	6,500	9,000
(d)(1) Failure to maintain records of qualifications	5,000	7,500
(2) Incomplete records of qualifications	5,000	7,500
(3) Failure to provide records of qualifications to FRA	5,000	7,500
214.345 Training for all roadway workers	6,500	9,000
214.347 Training and qualification for lone workers.		
214.349 Training and qualification of watchmen/lookouts.		
214.351 Training and qualification of flagmen.		
214.353 Training and qualification of roadway workers who provide on-track safety for roadway work groups.		

APPENDIX A TO PART 214.—SCHEDULE OF CIVIL PENALTIES ¹—Continued

Section	Violation	Willful violation
214.355 Training and qualification in on-track safety for operators of roadway maintenance machines.		
Subpart D—On-Track Roadway Maintenance Machines and Hi-Rail Vehicles		
214.503 Good-faith challenges; procedures for notification and resolution:		
(a) Failure of employee to notify employer that the machine or vehicle does not comply with this subpart or has a condition inhibiting safe operation .....	.....	9,000
(b) Roadway worker required to operate machine or vehicle when good-faith challenge not resolved	8,500	11,000
(c) Failure of employer to have or follow written procedures to resolve good-faith challenges	8,500	11,000
214.505 Required environmental control and protection systems for new on-track roadway maintenance machines with enclosed cabs:		
(a) Failure to equip new machines with required systems	8,500	11,000
(b) Failure of new or existing machines to protect employees from exposure to air contaminants	8,500	11,000
(c) Failure of employer to maintain required list of machines or make list available	5,000	7,500
(d) Removal of “designated machine” from list before retired or sold	5,000	7,500
(e) Personal respiratory protective equipment not provided when ventilation system fails	8,500	11,000
(f) Personal respiratory protective equipment fails to meet required standards	8,500	11,000
(g) Other new machines with enclosed cabs not equipped with operable heating and ventilation systems ..	8,500	11,000
(h) Non-enclosed station not equipped with covering, where feasible	8,500	11,000
214.507 Required safety equipment for new on-track roadway maintenance machines:		
(a)(1)–(5) Failure to equip new machine or provide protection as specified in these paragraphs	8,500	11,000
(a)(6)–(7) Failure to equip new machine with first-aid kit or operative and charged fire extinguisher	6,500	9,000
(b) Position for operator to stand not properly equipped to provide safe and secure position	8,500	11,000
(c) New machine not equipped with accurate speed indicator, as required	6,500	9,000
(d) As-built light weight not conspicuously displayed on new machine	6,500	9,000
214.509 Required visual illumination and reflective devices for new on-track roadway maintenance machines	6,500	9,000
214.511 Required audible warning devices for new on-track roadway maintenance machines	8,500	11,000
214.513 Retrofitting of existing on-track roadway maintenance machines; general:		
(a) Failure to provide safe and secure position and protection from moving parts inside cab for each roadway worker transported on machine	8,500	11,000
(b) Horn or other audible warning device is missing, inoperable, or has non-compliant triggering mechanism	6,500	9,000
(c) Illumination device or portable light missing, inoperable, improperly secured, or incapable of illuminating track as required	6,500	9,000
214.515 Overhead covers for existing on-track roadway maintenance machines:		
(a) Failure to repair, reinstall, or maintain overhead cover as required	8,500	11,000
(b) Failure to provide written response to operator’s request within 60 days	5,000	7,500
214.517 Retrofitting of existing on-track roadway maintenance machines manufactured on or after January 1, 1991:		
(a) Failure to equip machine with change-of-direction alarm or rearward viewing device	8,500	11,000
(b) Failure to equip machine with operative heater	8,500	11,000
(c) Failure to display light weight of machine as required	6,500	9,000
(d) Failure to equip machine with reflective material, reflective device, or operable brake lights	8,500	11,000
(e) Failure to install or replace safety glass as required	8,500	11,000
(f) Failure to equip machine with turntable restraint device or warning light as required	8,500	11,000
214.518 Safe and secure position for riders	8,500	11,000
214.519 Floors, decks, stairs, and ladders for on-track roadway maintenance machines	8,500	11,000
214.521 Flagging equipment for on-track roadway maintenance machines and hi-rail vehicles	6,500	9,000
214.523 Hi-rail vehicles:		
(a) Failure to inspect hi-rail gear annually	8,500	11,000
(b) Failure to maintain inspection record or make record available to FRA	5,000	7,500
(c) Failure to equip new hi-rail vehicle with alarm and light or beacon as required	6,500	9,000
(d)(2) Failure of operator to tag, date or report non-complying condition	5,000	7,500
(d)(3) Failure to repair or replace non-complying alarms, lights or beacons as required	6,500	9,000
214.525 Towing with on-track roadway maintenance machines or hi-rail vehicles	8,500	11,000
214.527 On-track roadway maintenance machines; inspection for compliance and schedule for repairs:		
(a) Failure of operator to check on-track roadway maintenance machine for compliance	5,000	7,500
(b) Failure of operator to tag, date, or report noncomplying condition	5,000	7,500
(c)(1)–(4) Failure to meet requirements for operating on-track roadway maintenance machine with non-complying headlights, work lights, horn, fire extinguisher, alarm, warning light, or beacon	6,500	9,000
(c)(5) Failure to repair or replace defective or missing operator’s seat within required time period	8,500	11,000
214.529 In-service failure of primary braking system	8,500	11,000
214.531 Schedule of repairs; general	6,500	9,000
214.533 Schedule of repairs subject to availability of parts:		
(a)–(c) Failure to order necessary part(s), make repair(s), or remove on-track roadway maintenance machine or hi-rail vehicle from service as required	6,500	9,000

APPENDIX A TO PART 214.—SCHEDULE OF CIVIL PENALTIES ¹—Continued

Section	Violation	Willful violation
(d) Failure to maintain record or make record available to FRA	5,000	7,500

¹ A penalty may be assessed against an individual only for a willful violation. The Administrator reserves the right to assess a penalty of up to \$27,000 for any violation where circumstances warrant. See 49 CFR part 209, appendix A. The penalty schedule uses section numbers from 49 CFR part 214. 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, and which may or may not correspond to any subsection designation(s). 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, should they differ.

PART 215—[AMENDED]

Authority: 49 U.S.C. 20103, 20107; 28 U.S.C. 2461.

6. Appendix B to part 215 is revised to read as follows:

5. The authority citation for part 215 continues to read as follows:

APPENDIX B TO PART 215.—SCHEDULE OF CIVIL PENALTIES ¹

Section	Violation	Willful violation
Subpart A—General		
215.9 Movement for repair:		
(a), (c)	(¹)	(¹)
(b)	\$3,000	\$4,500
215.11 Designation of qualified persons	5,000	7,500
215.13 Pre-departure inspection	5,000	7,500

Subpart B—Freight Car Components

215.103 Defective wheel:		
(a) Flange thickness of:		
(1) 7/8" or less but more than 13/16"	5,000	7,500
(2) 13/16" or less	6,500	9,000
(b) Flange height of:		
(1) 1 1/2" or greater but less than 1 5/8"	5,000	7,500
(2) 1 5/8" or more	6,500	9,000
(c) Rim thickness of:		
(1) 1 1/16" or less but more than 5/8"	5,000	7,500
(2) 5/8" or less	6,500	9,000
(d) Wheel rim, flange plate hub width:		
(1) Crack of less than 1"	5,000	7,500
(2) Crack of 1" or more	6,500	9,000
(3) Break	8,500	11,000
(e) Chip or gouge in flange of:		
(1) 1 1/2" or more but less than 1 5/8" in length; and 1/2" or more but less than 5/8" in width	3,000	4,500
(2) 1 5/8" or more in length; or 5/8" or more in width	5,000	7,500
(f) Slid flat or shelled spot(s):		
(1)(i) One spot more than 2 1/2", but less than 3", in length	3,000	4,500
(ii) One spot 3" or more in length	5,000	7,500
(2)(i) Two adjoining spots each of which is more than 2" but less than 2 1/2" in length	3,000	4,500
(ii) Two adjoining spots both of which are at least 2" in length, if either spot is 2 1/2", or more in length	5,000	7,500
(g) Loose on axle	8,500	11,000
(h) Overheated; discoloration extending:		
(1) more than 4" but less than 4 1/2"	5,000	7,500
(2) 4 1/2" or more	6,500	9,000
(i) Welded	6,500	9,000
215.105 Defective axle:		
(a)(1) Crack of 1" or less	5,000	7,500
(2) Crack of more than 1"	6,500	9,000
(3) Break	8,500	11,000
(b) Gouge in surface that is between the wheel seats and is more than 1/8" in depth	3,000	4,500
(c) End collar with crack or break	5,000	7,500
(d) Journal overheated	8,500	11,000
(e) Journal surface has: a ridge; a depression; a circumferential score; corrugation; a scratch; a continuous streak; pitting; rust; or etching	5,000	7,500
215.107 Defective plain bearing box: general:		
(a)(1) No visible free oil	3,000	4,500
(2) Lubricating pad dry (no expression of oil observed when pad is compressed)	6,500	9,000
(b) Box lid is missing, broken, or open except to receive servicing	3,000	4,500
(c) Contains foreign matter that can be expected to damage the bearing or have a detrimental effect on the lubrication of the journal and bearing	5,000	7,500

APPENDIX B TO PART 215.—SCHEDULE OF CIVIL PENALTIES ¹—Continued

Section	Violation	Willful violation
215.109 Defective plain bearing box: journal lubrication system:		
(a) Lubricating pad has a tear	3,000	4,500
(b) Lubricating pad scorched, burned, or glazed	5,000	7,500
(c) Lubricating pad contains decaying or deteriorating fabric	5,000	7,500
(d) Lubricating pad has an exposed center core or metal parts contacting the journal	5,000	7,500
(e) Lubricating pad is missing or not in contact with the journal	6,500	9,000
215.111 Defective plain bearing:		
(a) Missing	8,500	11,000
(b) Bearing liner is loose or has piece broken out	5,000	7,500
(c) Overheated	8,500	11,000
215.113 Defective plain bearing wedge:		
(a) Missing	8,500	11,000
(b) Cracked	5,000	7,500
(c) Broken	6,500	9,000
(d) Not located in its design position	5,000	7,500
215.115 Defective roller bearing:		
(a)(1) Overheated	8,500	11,000
(2)(i) Cap screw(s) loose	6,500	9,000
(ii) Cap screw lock broken, missing or improperly applied	3,000	4,500
(3) Seal is loose or damaged, or permits leakage of lubricant	3,000	4,500
(b)(1) Not inspected and tested after derailment	6,500	9,000
(2) Not disassembled after derailment	5,000	7,500
(3) Not repaired or replaced after derailment	6,500	9,000
215.117 Defective roller bearing adapter:		
(a) Cracked or broken	5,000	7,500
(b) Not in its design position	6,500	9,000
(c) Worn on the crown	5,000	7,500
215.119 Defective freight car truck:		
(a)(1) A side frame or bolster that is broken	8,500	11,000
(2)(i) Side frame or bolster with crack of: $\frac{1}{4}$ " or more, but less than 1"	5,000	7,500
(ii) 1" or more	6,500	9,000
(b) A snubbing device that is ineffective or missing	5,000	7,500
(c) Side bearing(s):		
(1) Assembly missing or broken	8,500	11,000
(2) In contact except by design	6,500	9,000
(3), (4) Total clearance at one end or at diagonally opposite sides of:		
(i) more than $\frac{3}{4}$ " but not more than 1"	5,000	7,500
(ii) more than 1"	6,500	9,000
(d) Truck spring(s):		
(1) Do not maintain travel or load	5,000	7,500
(2) Compressed solid	5,000	7,500
(3) Outer truck springs broken or missing:		
(i) Two outer springs	5,000	7,500
(ii) Three or more outer springs	6,500	9,000
(e) Truck bolster-center plate interference	6,500	9,000
(f) Brake beam shelf support worn	5,000	7,500
215.121 Defective car body:		
(a) Has less than $2\frac{1}{2}$ " clearance from the top of rail	5,000	7,500
(b) Car center sill is:		
(1) Broken	8,500	11,000
(2) Cracked more than 6"	5,000	7,500
(3) Bent or buckled more than $2\frac{1}{2}$ " in any 6" length	5,000	7,500
(c) Coupler carrier that is broken or missing	5,000	7,500
(d) Car door not equipped with operative safety hangers	8,500	11,000
(e)(1) Center plate not properly secured	8,500	11,000
(2) Portion missing	5,000	7,500
(3) Broken	8,500	11,000
(4) Two or more cracks	5,000	7,500
(f) Broken sidesill, crossbearer, or body bolster	5,000	7,500
215.123 Defective couplers:		
(a) Shank bent out of alignment	3,000	4,500
(b) Crack in highly stressed junction area	5,000	7,500
(c) Coupler knuckle broken or cracked	5,000	7,500
(d) Coupler knuckle pin or thrower that is missing or inoperative	5,000	7,500
(e) Coupler retainer pin lock that is missing or broken	3,000	4,500
(f) Coupler with following conditions: locklift inoperative; no anticreep protection; or coupler lock is missing, inoperative, bent, cracked, or broken	5,000	7,500
215.125 Defective uncoupling device	5,000	7,500
215.127 Defective draft arrangement:		
(a) Draft gear that is inoperative	5,000	7,500
(b) Yoke that is broken	5,000	7,500

APPENDIX B TO PART 215.—SCHEDULE OF CIVIL PENALTIES ¹—Continued

Section	Violation	Willful violation
(c) End of car cushioning unit is leaking or inoperative	5,000	7,500
(d) Vertical coupler pin retainer plate missing or has missing fastener	8,500	11,000
(e) Draft key or draft key retainer that is inoperative or missing	8,500	11,000
(f) Follower plate that is missing or broken	5,000	7,500
215.129 Defective cushioning device	5,000	7,500
Subpart C—Restricted Equipment		
215.203 Restricted cars	5,000	7,500
Subpart D—Stenciling		
215.301 General	3,000	4,500
215.303 Stenciling of restricted cars	3,000	4,500
215.305 Stenciling of maintenance-of-way	3,000	4,500

¹ A penalty may be assessed against an individual only for a willful violation. Generally, when two or more violations of these regulations are discovered with respect to a single freight car that is placed or continued in service by a railroad, the appropriate penalties set forth above are aggregated up to a maximum of \$11,000 per day. A failure to perform, with respect to a particular freight car, the predeparture inspection required by § 215.13 of this Part will be treated as a violation separate and distinct from, and in addition to, any substantive violative conditions found on the car. The Administrator reserves the right to assess a penalty of up to \$27,000 for any violation where circumstances warrant. See 49 CFR part 209, appendix A. Failure to observe any condition for movement set forth in paragraphs (a) and (c) of § 215.9 will deprive the railroad of the benefit of the movement-for-repair provision and make the railroad and any responsible individuals liable for penalty under the particular regulatory section(s) concerning the substantive defect(s) present on the freight car at the time of movement. Maintenance-of-way equipment not stenciled in accordance with § 215.305 is subject to all requirements of this Part. See § 215.3(c)(3). The penalty schedule uses section numbers from 49 CFR part 215. 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, and which may or may not correspond to any subsection designation(s). 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, should they differ.

PART 217—[AMENDED]

Authority: 49 U.S.C. 20103, 20107; 28 U.S.C. 2461, note; and 49 CFR 1.49.

8. Appendix A to part 217 is revised to read as follows:

7. The authority citation for part 217 continues to read as follows:

APPENDIX A TO PART 217.—SCHEDULE OF CIVIL PENALTIES ¹

Section	Violation	Willful violation
217.7 Operating Rules:		
(a)	\$6,500	\$9,000
(b)	6,500	9,000
(c)	6,500	9,000
217.9 Operational tests and inspections:		
(a) Program	8,500	11,000
(b) Record of program	6,500	9,000
(c) Record of tests and inspections	8,500	11,000
(d) Annual Summary	8,500	11,000
217.11 Program of instruction on operating rules:		
(a)	8,500	11,000
(b)	8,500	11,000

¹ A penalty may be assessed against an individual only for a willful violation. The Administrator reserves the right to assess a penalty of up to \$27,000 for any violation where circumstances warrant. See 49 CFR part 209, appendix A.

PART 218—[AMENDED]

Authority: 49 U.S.C. 20103, 20107; 28 U.S.C. 2461, note; and 49 CFR 1.49.

10. Appendix A to part 218 is revised to read as follows:

9. The authority citation for part 218 continues to read as follows:

APPENDIX A TO PART 218.—SCHEDULE OF CIVIL PENALTIES ¹

Section	Violation	Willful violation
Subpart B—Blue Signal Protection of Workmen		
218.22 Utility employees:		
(a) Employee qualifications	\$5,000	\$7,500
(b) Concurrent service	6,500	9,000

APPENDIX A TO PART 218.—SCHEDULE OF CIVIL PENALTIES ¹—Continued

Section	Violation	Willful violation
(c) Assignment conditions:		
(1) No controlling locomotive	6,500	9,000
(2) Empty cab	6,500	9,000
(3)(4) Improper communication	6,500	9,000
(5) Performing functions not listed	5,000	7,500
(d) Improper release	5,000	7,500
(f) More than three utility employees with one crew	5,000	7,500
218.23 Blue signal display	6,500	9,000
218.24 One-person crew:		
(a)(1) Equipment not coupled or insufficiently separated	6,500	9,000
(a)(2) Unoccupied locomotive cab not secured	5,000	7,500
(b) Helper service	6,500	9,000
218.25 Workmen on a main track	6,500	9,000
218.27 Workmen on track other than main track:		
(a) Protection provided except that signal not displayed at switch	6,500	9,000
(b) through (e)	5,000	7,500
218.29 Alternate methods of protection:		
(a)(1) protection provided except that signal not displayed at switch	6,500	9,000
(a)(2) through (a)(8)	6,500	9,000
(b)(1) Protection provided except that signal not displayed at switch	6,500	9,000
(b)(2) through (b)(4)	6,500	9,000
(c) Use of derails	5,000	7,500
(d) Emergency repairs	6,500	9,000
218.30 Remotely controlled switches:		
(a) and (b)	5,000	7,500
(c)	1,500	2,500
Subpart C—Protection of Trains and Locomotives		
218.35 Yard limits:		
(a) and (b)	3,000	4,500
(c)	3,000	4,500
218.37 Flag protection:		
(a)	1,500	2,500
(b) and (c)	1,500	2,500
218.39 Hump operations	6,500	9,000
218.41 Noncompliance with hump operations rule	6,500	9,000

Subpart D—Prohibition Against Tampering With Safety Devices

218.55 Tampering .....	.....	11,000
218.57 (i) Knowingly operating or permitting operation of disabled equipment	3,000	.....
(ii) Willfully operating or permitting operation of disabled equipment .....	.....	4,500
218.59 Operation of disabled equipment	3,000	4,500

¹ Except as provided for in § 218.57, a penalty may be assessed against an individual only for a willful violation. The Administrator reserves the right to assess a penalty of up to \$27,000 for any violation where the circumstances warrant. See 49 CFR part 209, appendix A. The penalty schedule uses section numbers from 49 CFR part 218. 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, and which may or may not correspond to any sub-section designation(s). 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, should they differ.

PART 219—[AMENDED]

11. The authority citation for part 219 continues to read as follows:

Authority: 49 U.S.C. 20103, 20107, 20140, 21301, 21304, 21311; 28 U.S.C. 2461, note; and 49 CFR 1.49(m).

12. Appendix A to part 219 is revised to read as follows:

Appendix A to Part 219—Schedule of Civil Penalties

The following chart lists the schedule of civil penalties:

PENALTY SCHEDULE ¹

Section	Violation	Willful violation
Subpart A—General		
219.3 Application:		
Railroad does not have required program	\$5,000	\$7,500
219.11 General conditions for chemical tests:		
(b)(1) Employee unlawfully refuses to participate in testing	8,500	11,000

PENALTY SCHEDULE ¹—Continued

Section	Violation	Willful violation
(b)(2) Employer fails to give priority to medical treatment	8,500	11,000
(b)(3) Employee fails to remain available	8,500	11,000
(b)(4) Employee tampers with specimen	8,500	11,000
(d) Employee unlawfully required to execute a waiver of rights	5,000	7,500
(e) Railroad used or authorized the use of coercion to obtain specimens	1,500	2,500
(g) Failure to meet supervisory training requirements or program of instruction not available or program not complete	6,500	9,000
(h) Urine or blood specimens provided for Federal testing were used for non-authorized testing	8,500	11,000
219.23 Railroad policies:		
(a) Failure to provide written notice of FRA test	3,000	4,500
(b) Failure to provide written notice of basis for FRA test	3,000	4,500
(c) Use of subpart C form for other test	3,000	4,500
(d) Failure to provide educational materials	1,500	2,500
(e) Educational materials fail to explain requirements of this part and/or include required content	1,500	2,500
(f) Non-Federal provisions are clearly described as independent authority	1,500	2,500
Subpart B—Prohibitions		
219.101 Alcohol and drug use prohibited:		
Employee violates prohibition(s)	8,500	.....
219.103 Prescribed and over-the-counter drugs:		
(a) Failure to train employee properly on requirements	5,000	7,500
219.104 Responsive Action:		
(a) Failure to remove employee from covered service immediately	8,500	11,000
(b) Failure to provide notice for removal	5,000	7,500
(c) Failure to provide prompt hearing	8,500	11,000
(d) Employee improperly returned to service	8,500	11,000
219.105 Railroad's duty to prevent violations:		
(a) Employee improperly permitted to remain in covered service	8,500	11,000
(b) Failure to exercise due diligence to assure compliance with prohibition	6,500	9,000
219.107 Consequences of unlawful refusal:		
(a) Failure to disqualify an employee for nine months following a refusal	8,500	11,000
(e) Employee unlawfully returned to service	8,500	11,000
Subpart C—Post-Accident Toxicological Testing		
219.201 Events for which testing is required:		
(a) Failure to test after qualifying event (each employee not tested is a violation)	8,500	11,000
(c)(1)(i) Failure to make good faith determination	5,000	7,500
(c)(1)(ii) Failure to provide requested decision report to FRA	1,500	2,500
(c)(2) Testing performed after non-qualifying event	8,500	11,000
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
(a)(1)(ii) and (a)(2)(ii) Non-covered service employee tested	5,000	7,500
(b)(1) Delay in obtaining specimens due to failure to make every reasonable effort	3,000	4,500
(c) Independent medical facility not utilized	5,000	7,500
(d) Failure to report event or contact FRA when intervention required	1,500	2,500
219.205 Specimen collection and handling:		
(a) Failure to observe requirements with respect to specimen collection, marking and handling	5,000	7,500
(b) Failure to provide properly prepared forms with specimens	1,500	2,500
(d) Failure to promptly or properly forward specimens	5,000	7,500
219.207 Fatality:		
(a) Failure to test	6,500	9,000
(a)(1) Failure to ensure timely collection and shipment of required specimens	1,500	2,500
(b) Failure to request assistance when necessary	5,000	7,500
219.209 Reports of tests and refusals:		
(a)(1) Failure to provide telephonic report	3,000	4,500
(b) Failure to provide written report of refusal to test	3,000	4,500
(c) Failure to maintain report explaining why test not conducted within 4 hours	3,000	4,500
219.211 Analysis and follow-up:		
(c) Failure of MRO to report review of positive results to FRA	1,500	2,500
Subpart D—Testing for Cause		
219.300 Mandatory reasonable suspicion testing:		
(a)(1) Failure to test when reasonable suspicion criteria met	8,500	11,000
(a)(2) Tested when reasonable suspicion criteria not met	8,500	11,000
219.301 Testing for reasonable cause:		
(a) Event did not occur during daily tour	6,500	9,000
(b)(2) Tested when accident/incident criteria not met	8,500	11,000
(b)(3) Tested when operating rules violation criteria not met	8,500	11,000

PENALTY SCHEDULE ¹—Continued

Section	Violation	Willful violation
219.302 Prompt specimen collection: (a) Specimen collection not conducted promptly	5,000	7,500
Subpart E—Identification of Troubled Employees		
219.401 Requirement for policies: (b) Failure to publish and/or implement required policy	5,000	7,500
219.407 Alternate policies: (c) Failure to file agreement or other document or provide timely notice or revocation	5,000	7,500
Subpart F—Pre-Employment Tests		
219.501 Pre-employment tests: (a) Failure to perform pre-employment drug test before first time employee performs covered service	5,000	7,500
Subpart G—Random Testing Programs		
219.601 Railroad random drug programs: (a)(1) Failure to file a random program	6,500	9,000
(a)(2) Failure to file amendment to program	5,000	7,500
(b) Failure to meet random testing criteria	3,000	4,500
(b)(1)(i) Failure to use a neutral selection process	8,500	11,000
(b)(2)(i)(B) Testing not spread throughout the year	3,000	4,500
(b)(3) Testing not distributed throughout the day	3,000	4,500
(b)(4) Advance notice provided to employee	8,500	11,000
(b)(6) Testing when employee not on duty	6,500	9,000
219.601A Failure to include covered service employee in pool	5,000	7,500
219.602 Administrator's determination of drug testing rate: (f) Total number of tests below minimum random drug testing rate	6,500	9,000
219.603 Participation in drug testing: Failure to document reason for not testing selected employee	5,000	7,500
219.607 Railroad random alcohol programs: (a)(1) Failure to file a random alcohol program	5,000	7,500
(a)(2) Failure to file amendment to program	5,000	7,500
(b) Failure to meet random testing criteria	8,500	11,000
(b)(1) Failure to use a neutral selection process	6,500	9,000
(b)(5) Testing when employee not on duty	5,000	7,500
(b)(8) Advance notice provided to employee	8,500	11,000
219.607A Failure to include covered service employee in pool	6,500	9,000
219.608 Administrator's determination of random alcohol testing rate: (e) Total number of tests below minimum random alcohol testing rate	6,500	9,000
219.609 Participation in alcohol testing: Failure to document reason for not testing selected employee	5,000	7,500
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, F, or G testing	1,500	2,500
(b) Testing not performed in a timely manner	3,000	4,500
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	3,000	4,500
(c) Failure to submit accurate MIS report	3,000	4,500
(d) Failure to include required data	1,500	2,500
219.803 Reporting drug misuse prevention program results in a management information system: (c) Failure to submit accurate MIS report	3,000	4,500
(d) Failure to submit MIS report on report	3,000	4,500
(e) Failure to include required data	1,500	2,500
Subpart J—Recordkeeping Requirements		
219.901 Retention of Alcohol Testing Records: (a) Failure to maintain records required to be kept by part 40	5,000	7,500
(b) Failure to maintain records required to be kept for five years	5,000	7,500
(c) Failure to maintain records required to be kept for two years	5,000	7,500
219.903 Retention of Drug Testing Records: (a) Failure to maintain records required to be kept by part 40	5,000	7,500
(b) Failure to maintain records required to be kept for five years	5,000	7,500
(c) Failure to maintain records required to be kept for two years	5,000	7,500
219.905 Access to facilities and records:		

PENALTY SCHEDULE ¹—Continued

Section	Violation	Willful violation
(a) Failure to release records in this subpart in accordance with part 40	6,500	9,000
(b) Failure to permit access to facilities	8,500	11,000
(c) Failure to provide access to results of railroad alcohol and drug testing programs	8,500	11,000

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 \$27,000 for any violation, including ones not listed in this penalty schedule, where circumstances warrant. See 49 CFR part 209, appendix A.

PART 220—[AMENDED]

Authority: 49 U.S.C. 20102–20103, 20107, 21301–21302, 21304, 21311; 28 U.S.C. 2461, note; and 49 CFR 1.49.

14. Appendix C to part 220 is revised to read as follows:

13. The authority citation for part 220 continues to read as follows:

APPENDIX C TO PART 220.—SCHEDULE OF CIVIL PENALTIES ¹

Section	Violation	Willful violation
220.9 Requirements for trains	\$8,500	\$11,000
220.11 Requirements for roadway workers	6,500	9,000
220.21 Railroad Operating rules; radio communications:		
(a)	8,500	11,000
(b)	6,500	9,000
220.23 Publication of radio information	5,000	7,500
220.25 Instruction of employees	8,500	11,000
220.27 Identification	6,500	9,000
220.29 Statement of letters and numbers	6,500	9,000
220.31 Initiating a transmission	3,000	4,500
220.33 Receiving a transmission	5,000	7,500
220.35 Ending a transmission	5,000	7,500
220.37 Voice test	6,500	9,000
220.39 Continuous monitoring	5,000	7,500
220.41 [Reserved].		
220.43 Communication consistent with the rules	6,500	9,000
220.45 Complete communications	8,500	11,000
220.47 Emergencies	8,500	11,000
220.49 Switching, backing or pushing	8,500	11,000
220.51 Signal indications	6,500	9,000
220.61 Radio transmission of mandatory directives	8,500	11,000

¹ A penalty may be assessed against and only for a willful violation. The Administrator reserves the right to assess a penalty of up to \$27,000 for any violation where circumstances warrant. See 49 CFR part 209, appendix A.

PART 221—[AMENDED]

Authority: 49 U.S.C. 20103, 20107; 28 U.S.C. 2461, note; and 49 CFR 1.49.

16. Appendix C to part 221 is revised to read as follows:

15. The authority citation for part 221 continues to read as follows:

APPENDIX C TO PART 221.—SCHEDULE OF CIVIL PENALTIES ¹

Section	Violation	Willful violation
221.13 Marking device display:		
(a) device not present, not displayed, or not properly illuminated	\$5,000	\$7,500
(d) device too close to rail	3,000	4,500
221.14 Marking devices: Use of unapproved or noncomplying device	3,000	4,500
221.15 Marking device inspection:		
(a) Failure to inspect at crew change	3,000	4,500
(b), (c) improper inspection	3,000	4,500
221.16 Inspection procedure:		
(a) Failure to obtain protection	5,000	7,500
(b) Improper protection	5,000	7,500
221.17 Movement of defective equipment	15,000	17,500

¹ A penalty may be assessed against an individual only for a willful violation. The Administrator reserves the right to assess a penalty of up to \$27,000 for any violation where circumstances warrant. See 49 CFR part 209, appendix A. Where the conditions for movement of defective equipment set forth in § 221.17 of this Part are not met, the movement constitutes a violation of § 221.13 of this part.

PART 222—[AMENDED]

Authority: 49 U.S.C. 20103, 20107, 20153, 21301, 21304; 28 U.S.C. 2461, note; and 49 CFR 1.49.

18. Appendix G to part 222 is revised to read as follows:

17. The authority citation for part 222 continues to read as follows:

APPENDIX G TO PART 222.—SCHEDULE OF CIVIL PENALTIES¹

Section	Violation	Willful violation
Subpart B—Use of Locomotive Horns		
222.21 Use of locomotive horn:		
(a) Failure to sound horn at grade crossing	\$5,000	\$7,500
Failure to sound horn in proper pattern	5,000	7,500
(b) Failure to sound horn at least 15 and no more than 20 seconds before crossing	3,000	4,500
Routine sounding of the locomotive horn more than ¼-mile in advance of crossing	3,000	4,500
222.33		
Failure to sound horn when conditions of § 222.33 are not met	6,500	9,000
222.45		
Routine sounding of the locomotive horn at a grade crossing within a quiet zone	3,000	4,500
222.49		
(b) Failure to provide Grade Crossing Inventory Form information	1,500	2,500
222.59		
(d) Routine sounding of the locomotive horn at a grade crossing equipped with wayside horn	1,500	2,500

¹ A penalty may be assessed against an individual only for a willful violation. The Administrator reserves the right to assess a penalty of up to \$27,000 for any violation where circumstances warrant. See 49 CFR part 209, appendix A.

PART 223—[AMENDED]

Authority: 49 U.S.C. 20102–03, 20133, 20701–20702, 21301–02, 21304; 28 U.S.C. 2461, note; and 49 CFR 1.49.

20. Appendix B to part 223 is revised to read as follows:

19. The authority citation for part 223 continues to read as follows:

APPENDIX B TO PART 223.—SCHEDULE OF CIVIL PENALTIES¹

Section	Violation	Willful violation
223.9 New or rebuilt equipment:		
(a) Locomotives	\$3,000	\$4,500
(b) Cabooses	3,000	4,500
(c) Passenger cars	3,000	4,500
(d)(1), (d)(2):		
(i) Window not marked or instructions not posted	5,000	7,500
(ii) Window improperly marked or instructions improperly posted	3,000	4,500
223.11(c) Existing locomotives	3,000	4,500
(d) Repair of window	1,500	2,500
223.13(c) Existing cabooses	3,000	4,500
(d) Repair of window	1,500	2,500
223.15(c) Existing passenger cars	3,000	4,500
(d) Repair of window	1,500	2,500
223.17 Identification of units	1,500	2,500

¹ A penalty may be assessed against an individual only for a willful violation. The Administrator reserves the right to assess a penalty of up to \$27,000 for any violation where circumstances warrant. See 49 U.S.C. 21301, 21304, and 49 CFR part 209, appendix A. The penalty schedule uses section numbers from 49 CFR part 223. 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, and which may or may not correspond to any subsection designation(s). 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, should they differ.

PART 224—[AMENDED]

Authority: 49 U.S.C. 20103, 20107, 20148 and 21301; 28 U.S.C. 2461; and 49 CFR 1.49.

22. Appendix A to part 224 is revised to read as follows:

21. The authority citation for part 224 continues to read as follows:

APPENDIX A TO PART 224.—SCHEDULE OF CIVIL PENALTIES¹

Section	Violation	Willful violation
224.103 Characteristics of retroreflective sheeting:		
(a)–(d) Retroreflective sheeting applied does not meet the requirements of § 224.103	\$3,000	\$4,500
224.105 Sheeting dimensions and quantity	3,000	4,500
(a) Failure to apply minimum amount of retroreflective sheeting in accordance with Table	3,000	4,500

APPENDIX A TO PART 224.—SCHEDULE OF CIVIL PENALTIES¹—Continued

Section	Violation	Willful violation
(b) Applying retroreflective sheeting of wrong dimensions	3,000	4,500
224.106 Location of retroreflective sheeting:		
(a), (b) Applying retroreflective sheeting in nonconforming pattern	3,000	4,500
224.107 Implementation schedule:		
(a)(1), (b)(1) Failure to apply retroreflective sheeting to new freight car or locomotive before equipment placed in service	3,000	4,500
(a)(2), (b)(2), (b)(4) Failure to apply retroreflective sheeting to existing freight car or locomotive in accordance with minimum schedule of paragraphs, (a)(2), (b)(2), (b)(4)	3,000	4,500
224.109 Inspection, repair, and replacement:		
(a)(1) Failure to perform inspection	3,000	4,500
(2) Failure to properly notify car owner of defect	3,000	4,500
(3) Failure to retain written notification of defect for two years	3,000	4,500
(4) Failure to repair defect after notification	3,000	4,500
(b)(1) Failure to perform inspection	3,000	4,500
(2) Failure to repair defect	3,000	4,500

¹A penalty may be assessed against an individual only for a willful violation. The Administrator reserves the right to assess a penalty of up to \$27,000 for any violation where circumstances warrant. See 49 CFR part 209, appendix A. The penalty schedule uses section numbers from 49 CFR part 224. 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, and which may or may not correspond to any subsection designation(s). 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, should they differ.

PART 225—[AMENDED]

Authority: 49 U.S.C. 103, 322(a), 20103, 20107, 20901–02, 21301, 21302, 21311; 28 U.S.C. 2461, note; and 49 CFR 1.49.

24. Appendix A to part 225 is revised to read as follows:

23. The authority citation for part 225 continues to read as follows:

APPENDIX A TO PART 225.—SCHEDULE OF CIVIL PENALTIES ¹

Section	Violation	Willful violation
225.9 Telephonic reports of certain accidents/incidents	\$1,500	\$2,500
225.11 Reports of accidents/incidents	6,500	9,000
225.12(a):		
Failure to file Railroad Employee Human Factor Attachment properly.		
(1) Employee identified	6,500	9,000
(2) No employee identified	3,000	4,500
225.12(b):		
(1) Failure to notify employee properly	6,500	9,000
(2) Notification of employee not involved in accident	6,500	9,000
225.12(c):		
Failure of employing railroad to provide requested information properly	1,500	2,500
225.12(d):		
(1) Failure to revise report when identity becomes known	6,500	9,000
(2) Failure to notify after late identification	6,500	9,000
225.12(f)(1):		
Submission of notice if employee dies as result of the reported accident	6,500	9,000
225.12(g):		
Willfully false accident statement by employee		9,000
225.13 Late reports	1,500	2,500
225.17(d) Alcohol or drug involvement	8,500	11,000
225.23 Joint operations	(¹)	(¹)
225.25 Recordkeeping	5,000	7,500
225.27 Retention of records	1,500	2,500
225.33:		
(1) Failure to adopt the Internal Control Plan	6,500	9,000
(2) Inaccurate reporting due to failure to comply with the Internal Control Plan	6,500	9,000
(3) Failure to comply with the intimidation/harassment policy in the Internal Control Plan	6,500	9,000
225.35 Access to records and reports	8,500	11,000

¹A penalty may be assessed against an individual only for a willful violation. The Administrator reserves the right to assess a penalty of up to \$27,000 for any violation where circumstances warrant. See 49 CFR part 209, appendix A. A failure to comply with § 225.23 constitutes a violation of § 225.11. For purposes of §§ 225.25 and 225.27 of this part, each of the following constitutes a single act of noncompliance: (1) a missing or incomplete log entry for a particular employee's injury or illness; or (2) a missing or incomplete log record for a particular rail equipment accident or incident. Each day a violation continues is a separate offense. The penalty schedule uses section numbers from 49 CFR part 225. 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, and which may or may not correspond to any subsection designation(s). 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, should they differ.

PART 228—[AMENDED]

Authority: 49 U.S.C. 20103, 20107, 21101–21108; 28 U.S.C. 2461, note and 49 CFR 1.49.

26. Appendix B to part 228 is revised to read as follows:

25. The authority citation for part 228 continues to read as follows:

APPENDIX B TO PART 228.—SCHEDULE OF CIVIL PENALTIES ¹

Section	Violation	Willful violation
Subpart B—Records and Reporting		
228.9 Railroad records	\$5,000	\$7,500
228.11 Hours of duty records	1,500	2,500
228.17 Dispatcher's record	5,000	7,500
228.19 Monthly reports of excess service	1,500	2,500

¹ A penalty may be assessed against an individual only for a willful violation. The Administrator reserves the right to assess a penalty of up to \$27,000 for any violation where circumstances warrant. See 49 CFR part 209, appendix A.

PART 229—[AMENDED]

Authority: 49 U.S.C. 20102–20103, 20107, 20133, 20137–20138, 20143, 20701–20703, 21301–21302, 21304; 28 U.S.C. 2461, note; and 49 CFR 1.49 (c), (m).

28. Appendix B to part 229 is revised to read as follows:

27. The authority citation for part 229 continues to read as follows:

APPENDIX B TO PART 229.—SCHEDULE OF CIVIL PENALTIES ¹

Section ²	Violation	Willful violation
Subpart A—General		
229.7 Prohibited acts: Safety deficiencies not governed by specific regulations: To be assessed on relevant facts	\$1,500–6,500	\$2,500–9,000
229.9 Movement of noncomplying locomotives	(¹)	(¹)
229.11 Locomotive identification	1,500	2,500
229.13 Control of locomotives	5,000	7,500
229.17 Accident reports	3,000	4,500
219.19 Prior waivers	(¹)	(¹)
Subpart B—Inspection and Tests		
229.21 Daily inspection:		
(a)(b):		
(1) Inspection overdue	3,000	4,500
(2) Inspection report not made, improperly executed, or not retained	1,500	2,500
(c) Inspection not performed by a qualified person	1,500	2,500
229.23 Periodic inspection: General		
(a)(b):		
(1) Inspection overdue	3,000	4,500
(2) Inspection performed improperly or at a location where the underneath portion cannot be safely inspected	3,000	4,500
(c)(d):		
(1) Form missing	1,500	2,500
(2) Form not properly displayed	1,500	2,500
(3) Form improperly executed	1,500	2,500
(e) Replace Form FRA F 6180–49A by April 2	1,500	2,500
(f) Secondary record of the information reported on Form FRA F 6180.49A	1,500	2,500
229.25		
(a) through (e)(4) Tests: Every periodic inspection	3,000	4,500
(e)(5) Ineffective maintenance	6,500	9,000
229.27 Annual tests	3,000	4,500
229.29 Biennial tests	3,000	4,500
229.31		
(a) Biennial hydrostatic tests of main reservoirs	3,000	4,500
(b) Biennial hammer tests of main reservoirs	3,000	4,500
(c) Drilled telltale holes in welded main reservoirs	3,000	4,500
(d) Biennial tests of aluminum main reservoirs	3,000	4,500
229.33 Out-of-use credit	1,500	2,500
Subpart C—Safety Requirements		
229.41 Protection against personal injury	5,000	7,500
229.43 Exhaust and battery gases	5,000	7,500
229.45 General condition: To be assessed based on relevant facts	1,500–6,500	2,500–9,000
229.46 Brakes: General	5,000	7,500

APPENDIX B TO PART 229.—SCHEDULE OF CIVIL PENALTIES ¹—Continued

Section ²	Violation	Willful violation
229.47 Emergency brake valve	5,000	7,500
229.49 Main reservoir system:		
(a)(1) Main reservoir safety valve	5,000	7,500
(2) Pneumatically actuated control reservoir	5,000	7,500
(b)(c) Main reservoir governors	5,000	7,500
229.51 Aluminum main reservoirs	5,000	7,500
229.53 Brake gauges	5,000	7,500
229.55 Piston travel	5,000	7,500
229.57 Foundation brake gear	5,000	7,500
229.59 Leakage	5,000	7,500
229.61 Draft system	3,000	4,500
229.63 Lateral motion	3,000	4,500
229.64 Plain bearing	3,000	4,500
229.65 Spring rigging	3,000	4,500
229.67 Trucks	5,000	7,500
229.69 Side bearings	5,000	7,500
229.71 Clearance above top of rail	1,500	2,500
229.73 Wheel sets	5,000	7,500
229.75 Wheel and tire defects:		
(a), (d) Slid flat or shelled spot(s):		
(1) One spot 2½" or more but less than 3" in length	5,000	7,500
(2) One spot 3" or more in length	6,500	9,000
(3) Two adjoining spots each of which is 2" or more in length but less than 2½" in length	5,000	7,500
(4) Two adjoining spots each of which are at least 2" in length, if either spot is 2½" or more in length	6,500	9,000
(b) Gouge or chip in flange of:		
(1) more than 1½" but less than 1⅝" in length; and more than ½" but less than ⅝" in width	5,000	7,500
(2) 1⅝" or more in length and ⅝" or more in width	6,500	9,000
(c) Broken rim	8,500	11,000
(e) Seam in tread	5,000	7,500
(f) Flange thickness of:		
(1) ⅞" or less but more than 1⅜"	5,000	7,500
(2) 1⅜" or less	6,500	9,000
(g) Tread worn hollow	5,000	7,500
(h) Flange height of:		
(1) 1½" or greater but less than 1⅝"	5,000	7,500
(2) 1⅝" or more	6,500	9,000
(i) Tire thickness	5,000	7,500
(j) Rim thickness:		
(1) Less than 1" in road service and ¾" in yard service	5,000	7,500
(2) 1⅝" or less in road service and 1⅜" in yard service	6,500	9,000
(k):		
(1) Crack of less than 1"	5,000	7,500
(2) Crack of 1" or more	6,500	9,000
(3) Break	8,500	11,000
(l) Loose wheel or tire	8,500	11,000
(m) Welded wheel or tire	5,000	7,500
229.77 Current collectors	3,000	4,500
229.79 Third rail shoes and beams.	3,000	4,500
229.81 Emergency pole; shoe insulation	5,000	7,500
229.83 Insulation or grounding	6,500	9,000
229.85 Door and cover plates marked "Danger"	3,000	4,500
229.87 Hand operated switches	3,000	4,500
229.89 Jumpers; cable connections:		
(a) Jumpers and cable connections; located and guarded	5,000	7,500
(b) Condition of jumpers and cable connections	5,000	7,500
229.91 Motors and generators	5,000	7,500
229.93 Safety cut-off device	5,000	7,500
229.95 Venting	5,000	7,500
229.97 Grounding fuel tanks	5,000	7,500
229.99 Safety hangers	5,000	7,500
229.101 Engines:		
(a) Temperature and pressure alarms, controls, and switches	3,000	4,500
(b) Warning notice	5,000	7,500
(c) Wheel slip/slide protection	3,000	4,500
229.103 Safe working pressure; factor of safety	5,000	7,500
229.105 Steam generator number	1,500	2,500
229.107 Pressure gauge	5,000	7,500
229.109 Safety valves	5,000	7,500
229.111 Water-flow indicator	5,000	7,500
229.113 Warning notice	5,000	7,500
229.115 Slip/slide alarms	5,000	7,500

APPENDIX B TO PART 229.—SCHEDULE OF CIVIL PENALTIES ¹—Continued

Section ²	Violation	Willful violation
229.117 Speed indicators	5,000	7,500
229.119 Cabs, floors, and passageways:		
(a)(1) Cab set not securely mounted or braced	3,000	4,500
(2) Insecure or improper latching device	3,000	4,500
(b) Cab windows of lead locomotive	3,000	4,500
(c) Floors, passageways, and compartments	3,000	4,500
(d) Ventilation and heating arrangement	5,000	7,500
(e) Continuous barrier	5,000	7,500
(f) Containers for fuses and torpedoes	5,000	7,500
229.121 Locomotive cab noise	5,000	7,500
229.123 Pilots, snowplows, end plates	3,000	4,500
229.125		
(a) Headlights	5,000	7,500
(d) Auxiliary lights	5,000	7,500
229.127 Cab lights	3,000	4,500
229.129 Audible warning device:		
(a) prescribed sound levels	5,000	7,500
arrangement of device	5,000	7,500
(b) testing	5,000	7,500
(c) test procedures	5,000	7,500
(c)(10) records of tests	5,000	7,500
229.131 Sanders	1,500	2,500
229.135 Event Recorders:		
(a) Lead locomotive without in-service event recorder	5,000	7,500
(b) Failure to meet equipment requirements	5,000	7,500
(c) Unauthorized removal or failure to remove from service	5,000	7,500
(d) Improper response to out of service event recorder	5,000	7,500
(e) Failure to preserve data or unauthorized extraction of data	5,000	7,500
(g) Tampering with device or data	5,000	7,500
229.137 Sanitation, general:		
(a) Sanitation compartment in lead unit, complete failure to provide required items	5,000	7,500
(1) Ventilation	3,000	4,500
(2) Door missing	3,000	4,500
(2)(i) Door doesn't close	3,000	4,500
(2)(ii) No modesty lock	1,500	2,500
(3) Not equipped with toilet in lead	5,000	7,500
(4) Not equipped with washing system	3,000	4,500
(5) Lack of paper	3,000	4,500
(6) Lack of trash receptacle	3,000	4,500
(b) Exceptions:		
(1)(i) Commuter service, failure to meet conditions of exception	1,500	2,500
(1)(ii) Switching service, failure to meet conditions of exception	1,500	2,500
(1)(iii) Transfer service, failure to meet conditions of exception	1,500	2,500
(1)(iv) Class III, failure to meet conditions of exception	1,500	2,500
(1)(v) Tourist, failure to meet conditions of exception	1,500	2,500
(1)(vi) Control cab locomotive, failure to meet conditions of exception	1,500	2,500
(2) Noncompliant toilet	3,000	4,500
(c) Defective/unsanitary toilet in lead unit	3,000	4,500
(1)–(5) Failure to meet conditions of exception	3,000	4,500
(d) Defective/unsanitary unit; failure to meet conditions for trailing position	3,000	4,500
(e) Defective/sanitary unit; failure to meet conditions for switching/transfer service	3,000	4,500
(f) Paper, washing, trash holder; failure to equip prior to departure	3,000	4,500
(g) Inadequate ventilation; failure to repair or move prior to departure	3,000	4,500
(h) Door closure/modesty lock; failure to repair or move	1,500	2,500
(i) Failure to retain/maintain of equipped units	3,000	4,500
(j) Failure to equip new units/in-cab facility	3,000	4,500
(k) Failure to provide potable water	3,000	4,500
229.139 Servicing requirements:		
(a) Lead occupied unit not sanitary	3,000	4,500
(b) Components not present/operating	1,500	2,500
(c) Occupied unit in switching, transfer service, in trailing position not sanitary	1,500	2,500
(d) Defective unit used more than 10 days	3,000	4,500
(e) Failure to repair defective modesty lock	1,500	2,500

APPENDIX B TO PART 229.—SCHEDULE OF CIVIL PENALTIES ¹—Continued

Section ²	Violation	Willful violation
229.141 Body structure, MU locomotives	5,000	7,500

¹ A penalty may be assessed against an individual only for a willful violation. Generally, when two or more violations of these regulations are discovered with respect to a single locomotive that is used by a railroad, the appropriate penalties set forth above are aggregated up to a maximum of \$11,000 per day. However, a failure to perform, with respect to a particular locomotive, any of the inspections and tests required under subpart B of this part will be treated as a violation separate and distinct from, and in addition to, any substantive violative conditions found on that locomotive. Moreover, the Administrator reserves the right to assess a penalty of up to \$27,000 for any violation where circumstances warrant. See 49 CFR part 209, appendix A. Failure to observe any condition for movement set forth in § 229.9 will deprive the railroad of the benefit of the movement-for-repair provision and make the railroad and any responsible individuals liable for penalty under the particular regulatory section(s) concerning the substantive defect(s) present on the locomotive at the time of movement. Failure to comply with § 229.19 will result in the lapse of any affected waiver.

² The penalty schedule uses section numbers from 49 CFR part 229. 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, and which may or may not correspond to any subsection designation(s). 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, should they differ.

PART 230—[AMENDED]

Authority: 49 U.S.C. 20103, 20107, 20702;
28 U.S.C. 2461, note; and 49 CFR 1.49.

30. Appendix D to part 230 is revised
to read as follows:

29. The authority citation for part 230
continues to read as follows:

APPENDIX D TO PART 230.—SCHEDULE OF CIVIL PENALTIES

Section	Violation	Willful violation
Subpart A—General		
230.11 Repair of non-complying conditions:		
(a) Failure to repair non-complying steam locomotive prior to use in service	\$3,000	\$4,500
(b) Failure of owner and/or operator to approve repairs made prior to use of steam locomotive	3,000	4,500
230.12 Movement of non-complying steam locomotive	(¹)	(¹)
230.13 Daily inspection:		
(a) (b):		
(1) Inspection overdue	5,000	7,500
(2) Inspection not performed by qualified person	3,000	4,500
(c) Inspection report not made, improperly executed or not retained	3,000	4,500
230.14 Thirty-one service day inspection:		
(a):		
(1) Inspection overdue	5,000	7,500
(2) Inspection not performed by qualified person	3,000	4,500
(b) Failure to notify FRA	3,000	4,500
(c) Inspection report not made, improperly executed, not properly filed	3,000	4,500
230.15 Ninety-two service day inspection:		
(a):		
(1) Inspection overdue	5,000	7,500
(2) Inspection not performed by qualified person	3,000	4,500
(b) Inspection report not made, improperly executed, not properly filed	3,000	4,500
230.16 Annual inspection:		
(a):		
(1) Inspection overdue	5,000	7,500
(2) Inspection not performed by qualified person	3,000	4,500
(b) Failure to notify FRA	3,000	4,500
(c) Inspection report not made, improperly executed, not properly filed	3,000	4,500
230.17 One thousand four hundred seventy-two service day inspection:		
(a):		
(1) Inspection overdue	5,000	7,500
(2) Inspection not performed by qualified person	3,000	4,500
(b) Inspection report not made, improperly executed, not properly maintained, not properly filed	3,000	4,500
230.18 Service days:		
(a) Service day record not available for inspection	3,000	4,500
(b) Failure to file service day report with FRA Regional Administrator	3,000	4,500
(c) Failure to complete all 1,472 service day inspection items prior to returning retired steam locomotive to service	5,000	7,500
230.19 Posting of forms:		
(a) FRA Form No. 1:		
(1) FRA Form No. 1 not properly filled out	3,000	4,500
(2) FRA Form No. 1 not properly displayed	3,000	4,500
(b) FRA Form No. 3:		
(1) FRA Form No. 3 not properly filled out	3,000	4,500
(2) FRA Form No. 3 not properly displayed	3,000	4,500

APPENDIX D TO PART 230.—SCHEDULE OF CIVIL PENALTIES—Continued

Section	Violation	Willful violation
230.20 Alteration and repair reports:		
(a) Alterations:		
(1) Failure to properly file FRA Form No. 19 with FRA Regional Administrator	3,000	4,500
(2) FRA Form No. 19 not properly filled out	3,000	4,500
(3) FRA Form No. 19 not properly maintained	3,000	4,500
(b) Repairs to unstayed portions of the boiler:		
(1) FRA Form No. 19 not properly filled out	3,000	4,500
(2) FRA Form No. 19 not properly maintained	3,000	4,500
(c) Repairs to stayed portions of the boiler:		
(1) FRA Form No. 19 not properly filled out	3,000	4,500
(2) FRA Form No. 19 not properly maintained	3,000	4,500
230.21 Failure to properly document steam locomotive number Change	3,000	4,500
Subpart B—Boilers and Appurtenances		
230.22 Failure to properly report accident resulting from failure of steam locomotive boiler or part or appurtenance thereof	5,000	7,500
230.23 Responsibility for general construction and safe working pressure:		
(a) Failure to properly establish safe working pressure for steam locomotive boiler	8,500	11,000
(b) Placing steam locomotive in service before safe working pressure for boiler has been established	8,500	11,000
230.24 Maximum allowable stress values on boiler components:		
(a) Use of materials not of sufficient tensile strength	3,000	4,500
(b) Use of a safety factor value of less than 4 when using the code of original construction in boiler calculations	6,500	9,000
230.25 Maximum allowable stresses on stays and braces:		
(a) Exceeding allowable stress values on fire box and/or combustion chamber	3,000	4,500
(b) Exceeding allowable stress values on round, rectangular or gusset braces	3,000	4,500
230.29 Inspection and repair:		
(a):		
(1) Failure of owner and/or operator to inspect and repair any steam locomotive boiler and/or appurtenance under control thereof	5,000	7,500
(2) Failure to remove steam locomotive from service when considered necessary to do so	6,500	9,000
(b):		
(1) Failure of perform repairs in accordance with accepted industry standards	6,500	9,000
(2) Owner and/or operator returning steam locomotive boiler and/or appurtenances to service before they are in good condition and safe and suitable for service	6,500	9,000
230.30 Lap-joint seam boilers, Failure to properly inspect	6,500	9,000
230.31 Flues to be removed:		
(a):		
(1) Failure to remove all flues when inspecting boiler	5,000	7,500
(2) Failure to enter boiler and clean and inspect	5,000	7,500
(b) Failure to remove superheater flues when deemed necessary to do so	3,000	4,500
230.32 Time and method of inspection:		
(a) Failure to perform 1,472 service day inspection when required to do so	5,000	7,500
(b) Failure to properly inspect boiler during 1,472 service day inspection	5,000	7,500
230.33 Welded repairs and alterations:		
(a) Failure to obtain permission before welding on unstayed portions of boiler containing alloy or carbon steel with carbon content over .25 percent carbon	5,000	7,500
(b) Failure to perform welding on unstayed portions of boiler containing carbon steel not exceeding .25 percent carbon in accordance with a nationally accepted standard for boiler repairs	5,000	7,500
(c):		
(1) Failure to submit written request for approval before performing weld buildup on wasted areas of unstayed boiler surfaces that exceed 100 square inches or the smaller of 25 percent of minimum required wall thickness or 1/2 inch	5,000	7,500
(2) Repairing wasted sheets	5,000	7,500
230.34 Riveted repairs and alterations:		
(a) Failure to obtain approval before making riveted alterations on unstayed portions of the boiler; failure to do riveting in accordance with established railroad practices or accepted national standards for boiler repairs	5,000	7,500
(b) Failure to perform riveted repairs on unstayed boiler portions in accordance with established railroad practices or accepted national standards for boiler repairs	5,000	7,500
(c) Failure to perform riveted repairs on stayed boiler portions in accordance with established railroad practices or accepted national standards for boiler repairs	3,000	4,500
230.35 Failure to raise temperature of steam locomotive boiler to 70 degrees F. before applying hydrostatic pressure to the boiler	3,000	4,500
230.36 Hydrostatic testing of boilers:		
(a) Failure to perform hydrostatic test of boiler as required	5,000	7,500
(b) Failure to properly perform hydrostatic test	5,000	7,500
(c) Failure to properly inspect boiler after conducting hydrostatic test above MAWP	5,000	7,500
230.37 Failure to perform proper steam test or inspection of boiler after completion of repair or alteration to boiler	3,000	4,500

APPENDIX D TO PART 230.—SCHEDULE OF CIVIL PENALTIES—Continued

Section	Violation	Willful violation
230.38 Telltale holes:		
(a) Failure to have telltale holes as required in staybolts	3,000	4,500
(b) Failure to have proper telltale holes in reduced body staybolts	3,000	4,500
(c) Failure to keep telltales holes when so required	3,000	4,500
230.39 Broken staybolts:		
(a) Boiler in service with excess number of broken staybolts	5,000	7,500
(b) Failure to replace staybolts when required to do so; to properly replace staybolts when so required; to inspect adjacent staybolts when replacing broken staybolts	5,000	7,500
(c) Failure to count leaking, plugged, or missing telltale holes as broken staybolts	5,000	7,500
(d) Closing telltale holes by prohibited means	5,000	7,500
230.40 Time and method of staybolt testing:		
(a) Failure to hammer test staybolts when so required	3,000	4,500
(b) Failure to properly hammer test staybolts	3,000	4,500
230.41 Flexible staybolts with caps:		
(a) Failure to inspect flexible staybolts as required	3,000	4,500
(b) Failure to replace broken flexible staybolts; failure to close inner ends of telltale holes as required	3,000	4,500
(c) Failure to report removal of flexible staybolts caps and other tests on FRA Form No. 3 when so required	3,000	4,500
(d) Failure to remove staybolt caps or otherwise test when FRA inspector or steam locomotive owner and/or operator consider it necessary to do so	3,000	4,500
230.42 Failure to have accurate boiler steam gauge where engine crew can conveniently read	6,500	9,000
230.43 Failure to have gauge siphon of proper capacity on steam gauge supply pipe; failure to properly clean, maintain the steam gauge supply pipe	3,000	4,500
230.44 Failure to test steam gauge when so required	3,000	4,500
230.45 Failure to properly test and/or set steam gauge	3,000	4,500
230.46 Failure to attach to boiler backhead metal badge plate showing allowable steam pressure	3,000	4,500
230.47 Boiler Number:		
(a) (b) (c) Failure to stamp builder's number on boiler when number is known	3,000	4,500
230.48 Number and capacity of safety relief valves:		
(a) Failure to equip steam locomotive boiler with proper safety relief valves	6,500	9,000
(b) Failure to provide additional safety relief valve capacity when so required	6,500	9,000
230.49 Setting of safety relief valves:		
(a) Safety relief valve(s) set and/or adjusted by person not competent to do so	6,500	9,000
(b) Safety relief valve(s) not set to open at prescribed pressure(s)	6,500	9,000
(c) Safety relief valve(s) not properly set	6,500	9,000
(d) Set pressure of lowest safety relief valve not properly indicated	3,000	4,500
230.50 Failure to test and adjust safety relief valves when required to do so	5,000	7,500
230.51 Failure to equip steam locomotive boiler with at least 2 properly installed water glasses	3,000	4,500
230.52 Failure to properly equip water glasses	6,500	9,000
230.53 Failure to properly clean water glass valves and/or gauge cocks when required to do so	3,000	4,500
230.54 Testing and maintenance:		
(a) Failure to properly test water glasses and/or gauge cocks	3,000	4,500
(b) Failure to properly maintain gauge cocks, water column drain valves, and/or water glass valves	5,000	7,500
230.55 Tubular type water and lubricator glasses and shields:		
(a) Failure to renew tubular type water glasses as required	3,000	4,500
(b) Failure to properly shield tubular water glasses and/or lubricator glasses	3,000	4,500
(c) Failure to properly locate and/or maintain water glasses and/or water glass shields	3,000	4,500
230.56 Failure to equip water glass with suitable lamp	3,000	4,500
230.57 Injectors and feedwater pumps:		
(a) Failure to equip steam locomotive with proper means for delivering water to the boiler	6,500	9,000
(b) Failure to properly test and/or maintain injectors, feedwater pumps, boiler checks, delivery pipes, feed water pipes, tank hose, tank valves	6,500	9,000
(c) Failure to properly brace injectors, feedwater pumps, and/or associated piping	3,000	4,500
230.58 Flue plugs:		
(a) Plugging flue plugs when not otherwise permitted	3,000	4,500
(b) Improperly plugging flue plugs, when otherwise permitted	3,000	4,500
230.59 Failure to remove and properly clean fusible boiler plugs when required to do so; failure to properly note removal	5,000	7,500
230.60 Time of washing:		
(a) Failure to thoroughly wash boiler when required to do so	3,000	4,500
(b) Failure to remove washout plugs, arch tube plugs, thermic siphon plugs, circulator plugs, water bar plugs when washing locomotive boiler	5,000	7,500
(c) Failure to examine and/or properly maintain washout plugs, washout plug sleeves, threaded openings	5,000	7,500
(d) Failure to clean fusible plugs when required to do so	5,000	7,500
230.61 Arch tubes, water bar tubes, circulators and thermic siphons:		
(a) Failure to clean, wash, inspect arch tubes, water bar tubes, circulators and thermic siphons as required	3,000	4,500
(b) Failure to renew arch tubes, water bar tubes; failure to repair or renew circulators, thermic siphons when required	5,000	7,500
(c) Failure to properly inspect and/or replace as necessary arch tubes, water bar tubes, circulators	5,000	7,500
230.62 Failure to properly inspect and/or repair or replace as necessary dry pipes subject to pressure	6,500	9,000

APPENDIX D TO PART 230.—SCHEDULE OF CIVIL PENALTIES—Continued

Section	Violation	Willful violation
230.63 Failure to properly inspect smoke box, steam pipes, pressure parts when required to do so	5,000	7,500
230.64 Failure to remove from service steam locomotive boiler leaking under lagging from condition which may reduce safety and/or repair the boiler before returning to service	5,000	7,500
230.65 Failure to keep steam locomotive boiler, piping, appurtenances in repair so steam does not obscure vision	3,000	4,500
230.66 Failure to properly oversee general design, construction, maintenance of steam locomotive(s) and tender(s)	3,000	4,500
230.67 Failure to ensure all steam locomotives and tenders are properly inspected and repaired and/or all defects are properly repaired and steam locomotive and/or tender are in good condition, safe and suitable for service before being returned to service	6,500	9,000
230.68 Failure to equip steam locomotive that operates in excess of 20 miles per hour over the general system with speed indicator maintained to ensure accurate functioning	3,000	4,500
230.69 Failure to equip steam locomotive with properly supported ash pan with operating mechanism that may be safely operated and securely closed	3,000	4,500
230.70 Safe condition:		
(a) Failure to perform proper pre-departure inspection when so required	3,000	4,500
(b) Failure to properly equip steam locomotive with brake pipe valve clearly identified as "Emergency Brake Valve"	3,000	4,500
230.71 Orifice testing of air compressors:		
(a)(b):		
Failure to properly test and/or maintain air compressor(s) capacity	3,000	4,500
230.72 Testing main reservoirs:		
(a) Failure to properly test main reservoir(s) when required	3,000	4,500
(b) Impermissibly or improperly drilling main reservoir	3,000	4,500
(c) Impermissibly using NDE method to measure wall thickness of main reservoirs	3,000	4,500
(d) Failure to use appropriate method of NDE testing of wall thickness of welded or riveted longitudinal lap seam main reservoir(s); failure to withdraw main reservoir(s) from service when testing reveals insufficient wall thickness	5,000	7,500
230.73 Air gauges:		
(a) Failure to equip steam locomotive with properly located air gauge(s) that are no more than 3 psi in error	3,000	4,500
(b) Failure to test air gauge(s) when so required	3,000	4,500
(c) Failure to properly test air gauge(s)	3,000	4,500
230.74 Failure to properly clean and/or test all air brake valves, related dirt collectors, filters when required to do so	3,000	4,500
230.75 Failure to properly stencil or display date of testing and cleaning and initials of shop or station performing work	3,000	4,500
230.76 Piston travel:		
(a) Insufficient minimum piston travel	3,000	4,500
(b) Excessive piston travel when steam locomotive is stationary	3,000	4,500
230.77 Foundation brake gear:		
(a) Failure to properly maintain foundation brake gear	3,000	4,500
(b) Foundation brake gear less than 2.5 inches above rail	3,000	4,500
230.78 Leakage:		
(a):		
(1) Failure to test for leakage from main reservoir or related piping as required	3,000	4,500
(2) Failure to repair excessive leakage from main reservoir or related piping leakage	3,000	4,500
(b) Failure to test for brake cylinder as required	3,000	4,500
(c):		
(1) Failure to test for leakage from steam locomotive brake pipe as required	3,000	4,500
(2) Failure to repair excessive brake pipe leakage	3,000	4,500
230.79 Train signal system:		
(1) Failure to test the train signal system or other form of on-board communication as required	3,000	4,500
(2) Failure to repair train signal system or other on-board communication when not safe or suitable for service	3,000	4,500
230.80 Cabs:		
(a) Steam locomotive cab not safe and suitable for service	3,000	4,500
(b) Steam pipes: Construction, attachment	3,000	4,500
(c) Oil-burning steam locomotive, cab-enclosed	3,000	4,500
230.81 Cab aprons:		
(a) Cab apron, general provisions	3,000	4,500
(b) Cab apron, insufficient width	3,000	4,500
230.82 Fire doors:		
(a) Safe and suitable for service, general provisions	3,000	4,500
(b) Construction and maintenance of mechanically operated fire doors	3,000	4,500
(c) Construction and maintenance of hand-operated fire doors.	3,000	4,500
230.83 Cylinder cocks:		
(1) Failure to properly equip with cylinder cocks	3,000	4,500
(2) Failure to properly maintain cylinder cocks	3,000	4,500
230.84 Sanders:		
(1) Inoperable sanders	3,000	4,500

APPENDIX D TO PART 230.—SCHEDULE OF CIVIL PENALTIES—Continued

Section	Violation	Willful violation
(2) Failure to test sanders	3,000	4,500
230.85 Audible warning devices:		
(a) General provisions	3,000	4,500
(b) Sound level measurements, Failure to properly take	3,000	4,500
230.86 Required illumination:		
(a) General provisions	3,000	4,500
(b) Dimming device, Failure to properly equip with	3,000	4,500
(c) Multiple locomotives, Failure of lead locomotive to display headlight	3,000	4,500
230.87 Cab lights: Failure to properly equip with	3,000	4,500
230.88 Throttles: Failure to properly maintain, equip	3,000	4,500
230.89 Reverse gear:		
(a) General provisions	3,000	4,500
(b) Air-operated power reverse gear	3,000	4,500
(c) Power reverse gear reservoirs	3,000	4,500
230.90 Draw gear and draft systems:		
(a) Maintenance and testing	3,000	4,500
(b) Safety bars and chains, general	3,000	4,500
(c) Safety bars and chains, minimum length	3,000	4,500
(d) Lost motion between steam locomotive and tender	3,000	4,500
(e) Spring buffers: Improper application, compression	3,000	4,500
230.91 Chafing irons: Improper application, maintenance	3,000	4,500
230.92 Draw gear, draft systems: Improperly maintained, fastened	3,000	4,500
230.93 Pistons and piston rods:		
(a) Failure to properly inspect, maintain, renew	3,000	4,500
(b) Fasteners: Failure to keep tight, properly equip	3,000	4,500
230.94 Crossheads: Improperly maintained, excess clearance	3,000	4,500
230.95 Guides: Failure to securely fasten, properly maintain	3,000	4,500
230.96 Main, side, valve motion rods:		
(a) General	3,000	4,500
(b) Repairs	3,000	4,500
(1) Failure to make in accordance with accepted national standard	3,000	4,500
(2) Failure to submit written request for approval prior to welding	3,000	4,500
(c) Bearings and bushings	3,000	4,500
(d) Rod side motion: Excessive motion	3,000	4,500
(e) Oil, grease cups: Failure to securely fasten, properly equip	3,000	4,500
(f) Main rod bearings:		
(1) excessive bore	3,000	4,500
(2) excessive lost motion	3,000	4,500
(g) Side rod bearings, excessive bore	3,000	4,500
230.97 Crank pins:		
(a) General provisions	3,000	4,500
(b) Maintenance: Failure to maintain in safe, suitable condition	3,000	4,500
230.98 Driving, trailing, engine truck axles:		
(a) Condemning defects	3,000	4,500
(b) Journal diameter: Failure to stamp on end of axle	1,500	2,500
230.99 Tender truck axle: Insufficient diameter	3,000	4,500
230.100 Defects in tender truck axles and journals:		
(a) Tender truck axle condemning defects	3,000	4,500
(b) Tender truck journal condemning defects	3,000	4,500
230.101 Steam locomotive driving journal boxes:		
(a) Driving journal boxes: Failure to properly maintain	3,000	4,500
(b) Broken bearings: Failure to renew	3,000	4,500
(c) Loose bearings: Failure to repair or renew	3,000	4,500
230.102 Tender plain bearing journal boxes: Failure to repair	3,000	4,500
230.103 Tender roller bearing journal boxes: Failure to properly maintain	3,000	4,500
230.104 Driving box shoes and wedges: Failure to properly maintain	3,000	4,500
230.105 Lateral motion:		
(a) Condemning limits: Total lateral motion in excess of	3,000	4,500
(b) Limits exceeded, failure to demonstrate conditions require additional lateral motion	3,000	4,500
(c) Interferes with other parts of steam locomotive	3,000	4,500
230.106 Steam locomotive frame:		
(a) Failure to properly inspect and/or maintain	3,000	4,500
(b) Broken frames, not properly patched or secured	6,500	9,000
230.107 Tender frame and body:		
(a) Failure to properly maintain	3,000	4,500
(b) Height difference between tender deck and steam locomotive cab floor or deck excessive	3,000	4,500
(c) Gangway minimum width excessive	3,000	4,500
(d) Tender frame condemning defects	5,000	7,500
230.108 Steam locomotive leading and trailing trucks:		
(a) Failure to properly maintain	3,000	4,500
(b) Safety chain, suitable safety chain not provided	3,000	4,500

APPENDIX D TO PART 230.—SCHEDULE OF CIVIL PENALTIES—Continued

Section	Violation	Willful violation
(c) Insufficient truck clearance	3,000	4,500
230.109 Tender trucks:		
(a):		
(1) Tender truck frames	3,000	4,500
(2) Tender truck center plate	3,000	4,500
(b) Tender truck bolsters: Failure to properly maintain	5,000	7,500
(c) Condemning defects, springs and/or spring rigging	3,000	4,500
(d) Truck securing arrangement: Not properly maintained	3,000	4,500
(e) Side bearings, truck centering devices	3,000	4,500
(f) Friction side bearings: Run in contact	3,000	4,500
(g):		
(1) Side bearings, failure to equip rear trucks with	3,000	4,500
(2) Insufficient clearance of	3,000	4,500
230.110 Pilots:		
(a) General provisions	3,000	4,500
(b) Clearance, insufficient or excessive	3,000	4,500
230.111 Spring rigging:		
(a) Arrangement of springs and equalizers	3,000	4,500
(b) Spring or spring rigging condemning defects	3,000	4,500
230.112 Wheels and tires:		
(a) Improperly Mounted, excess variance in axle diameter	5,000	7,500
(b) Out of gage	3,000	4,500
(c) Flange distance variance, excessive	3,000	4,500
(d) Tire thickness, insufficient	3,000	4,500
(e) Tire width, insufficient	3,000	4,500
230.113 Wheels and tire defects:		
(1) Failure to repair	3,000	4,500
(2) Welding on, except as otherwise provided for	5,000	7,500
(a) Cracks or breaks in	3,000	4,500
(b) Flat spots	3,000	4,500
(c) Chipped flange	3,000	4,500
(d) Broken rim	3,000	4,500
(e) Shelled-out spots	3,000	4,500
(f) Seams	3,000	4,500
(g) Worn flanges, excessive wear	3,000	4,500
(h) Worn treads, excessive wear	3,000	4,500
(i) Flange height, insufficient or excessive	3,000	4,500
(j) Rim thickness, insufficient	3,000	4,500
(k) Wheel diameter, excessive variance	3,000	4,500
230.114 Wheel centers:		
(a) Filling blocks and shims	3,000	4,500
(b) Wheel center condemning limits, failure to repair	3,000	4,500
(c) Wheel center repairs	3,000	4,500
(d) Counterbalance maintenance	3,000	4,500
230.115 Feed water tanks:		
(a) General provisions	3,000	4,500
(b) Inspection frequency, failure to inspect as required	3,000	4,500
(c) Top of tender: Improperly maintained and/or equipped	3,000	4,500
230.116 Oil tanks:		
(1) Failure to properly maintain	6,500	9,000
(2) Failure to equip with complying safety cut-off device	8,500	11,000

¹A penalty may be assessed against an individual only for a willful violation. The Administrator reserves the right to assess a penalty of up to \$27,000 for any violation where circumstances warrant. See 49 CFR part 209, appendix A. Failure to observe any condition for movement set forth in §230.12 will deprive the railroad of the benefit of the movement-for-repair provision and make the railroad and any responsible individuals liable for penalty under the particular regulatory section(s) concerning the substantive defect(s) present on the locomotive at the time of movement. Failure to comply with §230.12 will result in the lapse of any affected waiver. Generally, when two or more violations of these regulations are discovered with respect to a single locomotive that is used by a railroad, the appropriate penalties set forth are aggregated up to a maximum of \$11,000 per day. However, a failure to perform, with respect to a particular locomotive, any of the inspections and tests required under this part, will be treated as a violation separate and distinct from, and in addition to, any substantive violative conditions found on that locomotive. The penalty schedule uses section numbers from 49 CFR part 230. 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, and which may or may not correspond to any subsection designation(s). 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, should they differ.

PART 231—[AMENDED]

31. The authority citation for part 231 continues to read as follows:

Authority: 49 U.S.C. 20103, 20107, 20702; 28 U.S.C. 2461, note; and 49 CFR 1.49.

32. Appendix A to part 231 is revised to read as follows:

APPENDIX A TO PART 231.—SCHEDULE OF CIVIL PENALTIES¹

Section	Violation	Willful violation
110.A1 Hand Brake or Hand Brake Part Missing	\$6,500	\$9,000
110.A2 Hand Brake or Hand Brake Part Broken	6,500	9,000
110.A3 Hand Brake or Hand Brake Part Loose or Worn	5,000	7,500
110.B1 Hand Brake Inoperative	6,500	9,000
110.B2 Hand Brake Inefficient	5,000	7,500
110.B3 Hand Brake Improperly Applied	5,000	7,500
110.B4 Hand Brake Incorrectly located	3,000	4,500
110.B5 Hand Brake Shaft Welded or Wrong Dimension	3,000	4,500
110.B6 Hand Brake Shaft Not Retained in Operating Position	3,000	4,500
110.B8 Hand Brake or Hand Brake Parts Wrong Design	3,000	4,500
114.B2 Hand Brake Wheel or Lever Has Insufficient Clearance Around Rim or Handle	3,000	4,500
114.B3 Hand Brake Wheel/Lever Clearance Insufficient to Vertical Plane Through Inside Face of Knuckle	3,000	4,500
120.A1 Brake Step Missing Except by Design	6,500	9,000
120.A2 Brake Step or Brace Broken or Decayed	6,500	9,000
120.A3 Brake Step or Brace Loose	5,000	7,500
120.B1 Brake Step or Brace Bent	5,000	7,500
120.B2 Brake Step or Wrong Dimensions	3,000	4,500
120.C1 Brake Step Improperly Applied	3,000	4,500
120.C2 Brake Step Improperly Located	3,000	4,500
120.C3 Brake Step With Less Than 4" Clearance to Vertical Plane through Inside Face of Knuckle	3,000	4,500
120.C4 Brake Step Obstructed or Otherwise Unsafe	5,000	7,500
124.A1 Running Board Missing or Part Missing Except By Design	6,500	9,000
124.A2 Running Board Broken or Decayed	6,500	9,000
124.A3 Running Board Loose Presents a Tripping Hazard or Other Unsafe Condition	6,500	9,000
124.A4 Running Board Wrong Material	3,000	4,500
124.B1 Running Board Bent to the Extent that It is Unsafe	5,000	7,500
124.B2 Running Board Wrong Dimensions	3,000	4,500
124.B3 Running Board Wrong Location	3,000	4,500
124.C1 Running Board Improperly Applied	3,000	4,500
124.C2 Running Board Obstructed	5,000	7,500
126.A1 End Platform Missing or Part Except By Design	6,500	9,000
126.A2 End Platform Broken or Decayed	6,500	9,000
126.A3 End Platform Loose	5,000	7,500
126.B1 End Platform or Brace Bent	3,000	4,500
126.B2 End Platform Wrong Dimensions	3,000	4,500
126.C1 End Platform Improperly Applied	3,000	4,500
126.C2 End Platform With Less Than Required Clearance to Vertical Plane Through Inside Knuckle	3,000	4,500
126.C3 End Platform Improperly Located	3,000	4,500
126.C4 End Platform Obstructed	5,000	7,500
128.A1 Platform or Switching Step Missing	6,500	9,000
128.A2 Platform or Switching Step Broken or Decayed	6,500	9,000
128.A3 Platform or Switching Step Loose	5,000	7,500
128.B1 Platform or Switching Step Bent	5,000	7,500
128.B2 Platform or Switching Step Does Not Meet the Required Location or Dimensions	3,000	4,500
128.C1 Platform or Switching Step Improperly Applied or Repaired	5,000	7,500
128.C2 Platform or Switching Step Obstructed	5,000	7,500
128.D1 Switching Step Back Stop or Kick Plate Missing	3,000	4,500
128.D2 Switching Step Not Illuminated When Required	3,000	4,500
128.D3 Non-Illuminated Step Not Painted Contrasting Color	1,500	2,500
130.A1 Sill Step or Additional Tread, Missing	6,500	9,000
130.A2 Sill Step or Additional Tread, Broken	6,500	9,000
130.A3 Sill Step or Additional Tread, Loose	5,000	7,500
130.B1 Sill Step or Additional Tread, Bent	5,000	7,500
130.B2 Sill Step or Additional Tread, Having Wrong Dimensions or Improperly Located	3,000	4,500
130.B3 Sill Step Improperly Applied	3,000	4,500
132.A1 Side Missing Step	6,500	9,000
132.A2 Side Door Step Broken	6,500	9,000
132.A3 Side Door Step Loose	5,000	7,500
132.B1 Side Door Step Bent	5,000	7,500
132.B2 Side Door Step Having Wrong Dimensions	3,000	4,500
134.A1 Ladder Missing	6,500	9,000
134.A2 Ladder Broken	6,500	9,000
134.A3 Ladder Loose	5,000	7,500
134.B1 Ladder Bent	5,000	7,500
134.B2 Ladder Having Wrong Dimensions	3,000	4,500
134.C1 Ladder Improperly Applied	3,000	4,500
134.C2 Ladder Having Insufficient Clearance or Improperly Located	3,000	4,500
134.C3 Ladder Wrong Design	3,000	4,500
134.C4 Ladder Wrong Material	3,000	4,500
134.D1 End Clearance Insufficient	3,000	4,500
136.A1 Ladder Tread or Handholds Missing	6,500	9,000

APPENDIX A TO PART 231.—SCHEDULE OF CIVIL PENALTIES ¹

Section	Violation	Willful violation
136.A2 Ladder Tread or Handhold Broken	6,500	9,000
136.A3 Ladder Tread or Handhold Loose Except By Design	5,000	7,500
136.B1 Ladder Tread or Handhold Bent to The Extent That It May Be Unsafe	5,000	7,500
136.B2 Ladder Tread or Handhold Wrong Dimensions	3,000	4,500
136.C1 Ladder Tread or Handhold Improperly Applied	3,000	4,500
136.C2 Ladder Tread or Handhold Having Wrong Clearance	3,000	4,500
136.C3 Ladder or Handhold Improperly Located	3,000	4,500
136.C4 Ladder Tread or Handhold Obstructed	5,000	7,500
136.C5 Ladder Tread Without Footguards	5,000	7,500
138.A1 Hand or Safety Railing Missing	6,500	9,000
138.A2 Hand or Safety Railing Broken	6,500	9,000
138.A3 Hand or Safety Railing Loose Except by Design	5,000	7,500
138.B1 Hand or Safety Railing Bent	5,000	7,500
138.B2 Hand or Safety Railing Wrong Dimensions	3,000	4,500
138.C1 Hand or Safety Railing Improperly Applied	3,000	4,500
138.C2 Hand or Safety Railing Having Less Than the Required Clearance	3,000	4,500
138.C3 Hand or Safety Railing Improperly Located	3,000	4,500
140.A1 Uncoupling Lever Missing	5,000	7,500
140.A2 Uncoupling Lever Broken or Disconnected	5,000	7,500
140.B1 Uncoupling Lever Bent Will Not Safely and Reasonably Function As Intended	5,000	7,500
140.C1 Uncoupling Lever Bracket Bent Lever Will Not Function Properly	5,000	7,500
140.C2 Uncoupling Lever Bracket Broken or Missing	5,000	7,500
140.D1 Uncoupling Lever Wrong Dimension	3,000	4,500
140.D2 Uncoupling Lever With Improper Handle Clearance	3,000	4,500
144.A1 Coupler Missing	6,500	9,000
144.B1 Coupler Height Incorrect	3,000	4,500
144.C1 Coupler Inoperative	5,000	7,500
145.A1 Kick Plates Missing	3,000	4,500
145.A2 Kick Plates Broken	3,000	4,500
145.B1 Kick Plates Wrong Dimensions	3,000	4,500
145.B2 Kick Plates Improper Clearance	3,000	4,500
145.B3 Kick Plates Insecure Or Improperly Applied	3,000	4,500
146.A Notice or Stencil not Posted on Cabooses with Running Boards Removed	1,500	2,500
146.B Safe Means not Provided to Clean or Maintain Windows of Caboose	1,500	2,500
231.31 Drawbars, standard height	5,000	7,500

¹ A penalty may be assessed against an individual only for a willful violation. The Administrator reserves the right to assess a penalty of up to \$27,000 for any violation where circumstances warrant. See 49 CFR part 209, appendix A.

² This schedule uses section numbers from FRA's Safety Appliance Defect Code, a restatement of the CFR text in a reorganized format. For convenience, and as an exception to FRA's general policy, penalty citations will cite the defect code rather than the CFR. FRA reserves the right, should litigation become necessary, to substitute in its complaint the CFR and/or statutory citation in place of the defect code section cited in the penalty demand letter.

PART 232—[AMENDED]

Authority: 49 U.S.C. 20102–20103, 20107, 20133, 20141, 20301–20303, 20306, 21301–21302, 21304; 28 U.S.C. 2461, note; and 49 CFR 1.49.

34. Appendix A to part 232 is revised to read as follows:

33. The authority citation for part 232 continues to read as follows:

APPENDIX A TO PART 232.—SCHEDULE OF CIVIL PENALTIES

Section	Violation	Willful violation
Subpart A—General		
232.15 Movement of power brake defects:		
(a) Improper movement, general	(¹)	(¹)
(11) Failure to make determinations and provide notification of en route defect	\$5,000	\$7,500
(b) Complete failure to tag	5,000	7,500
(1) Insufficient tag or record	1,500	2,500
(2), (4) Improper removal of tag	5,000	7,500
(3) Failure to retain record of tag	5,000	7,500
(c) Improper loading or purging	5,000	7,500
(e) Improper placement of defective equipment	5,000	7,500
232.19 Availability of records	(¹)	(¹)
Subpart B—General Requirements		
232.103 All train brake systems:		
(a)–(c), (h)–(i) Failure to meet general design requirements	5,000	7,500
(d) Failure to have proper percentage of operative brakes from Class I brake test	6,500	9,000

APPENDIX A TO PART 232.—SCHEDULE OF CIVIL PENALTIES—Continued

Section	Violation	Willful violation
(e) Operating with less than 85 percent operative brakes	6,500	9,000
(f) Improper use of car with inoperative or ineffective brakes	5,000	7,500
(g) Improper display of piston travel	5,000	7,500
(m) Failure to stop train with excess air flow or gradient	5,000	7,500
(n) Securement of unattended equipment:		
(1) Failure to apply sufficient number of hand brakes; failure to develop or implement procedure to verify number applied	6,500	9,000
(2) Failure to initiate emergency	5,000	7,500
(3) Failure to apply hand brakes on locomotives	5,000	7,500
(4) Failure to adopt or comply with procedures for securing unattended locomotive	6,500	9,000
(o) Improper adjustment of air regulating devices	5,000	7,500
(p) Failure to hold supervisors jointly responsible	5,000	7,500
232.105 Locomotives:		
(a) Air brakes not in safe and suitable condition	6,500	9,000
(b) Not equipped with proper hand or parking brake	6,500	9,000
(c)(1) Failure to inspect/repair hand or parking brake	5,000	7,500
(2) Failure to properly stencil, tag, or record	3,000	4,500
(d) Excess leakage from equalizing reservoir	5,000	7,500
(e) Improper use of feed or regulating valve braking	5,000	7,500
(f) Improper use of passenger position	5,000	7,500
(g) Brakes in operative condition	6,500	9,000
232.107 Air sources/cold weather operations:		
(a)(1), (2) Failure to adopt or comply with monitoring program for yard air sources	6,500	9,000
(3) Failure to maintain records	5,000	7,500
(b) Failure to blow condensation	6,500	9,000
(c) Use of improper chemicals	6,500	9,000
(d) Failure to equip or drain yard air reservoirs	6,500	9,000
(e) Failure to adopt or comply cold weather operating procedures	6,500	9,000
232.109 Dynamic brakes:		
(a) Failure to provide information	5,000	7,500
(b) Failure to make repairs	5,000	7,500
(c) Failure to properly tag	3,000	4,500
(d) Failure to maintain record of repair	1,500	2,500
(e) Improper deactivation	5,000	7,500
(f) Improper use of locomotive as controlling unit	5,000	7,500
(g) Locomotive not properly equipped with indicator	5,000	7,500
(h) Rebuilt locomotive not properly equipped	5,000	7,500
(j) Failure to adopt or comply with dynamic brake operating rules	6,500	9,000
(k) Failure to adopt or comply with training on operating procedures	6,500	9,000
232.111 Train handling information:		
(a) Failure to adopt and comply with procedures	6,500	9,000
(b) Failure to provide specific information	5,000	7,500
Subpart C—Inspection and Testing Requirements		
232.203 Training requirements:		
(a) Failure to develop or adopt program	8,500	11,000
(b)(1)–(9) Failure to address or comply with specific required item or provision of program	5,000	7,500
(c) Failure to adopt or comply with two-way EOT program	6,500	9,000
(d) Failure to adopt or comply with retaining valve program	6,500	9,000
(e) Failure to maintain adequate records	6,500	9,000
(f) Failure to adopt and comply with periodic assessment plan	8,500	11,000
232.205 Class I brake test—initial terminal inspection:		
(a) Complete failure to perform inspection	¹ 8,500	11,000
(c)(1)–(4), (6)–(8) Partial failure to perform inspection	6,500	9,000
(c)(5) Failure to properly adjust piston travel (per car)	5,000	7,500
(d) Failure to use carman when required	3,000	4,500
(e) Failure to provide proper notification	5,000	7,500
(f) Failure to void compressed air	5,000	7,500
232.207 Class IA brake tests—1,000-mile inspection:		
(a) Complete failure to perform inspection	¹ 6,500	9,000
(b)(1)–(6) Partial failure to perform inspection	5,000	7,500
(c) Failure to properly designate location	5,000	7,500
(c)(1) Failure to perform at designated location	5,000	7,500
(c)(2) Failure to provide notification	5,000	7,500
232.209 Class II brake tests—intermediate inspection:		
(a) Complete failure to perform inspection	¹ 6,500	9,000
(b)(1)–(5), (c) Partial failure to perform inspection	5,000	7,500
(d) Failure to conduct Class I after Class II pick-up	(¹)	(¹)
232.211 Class III brake tests—trainline continuity inspection:		
(a) Complete failure to perform inspection	6,500	9,000

APPENDIX A TO PART 232.—SCHEDULE OF CIVIL PENALTIES—Continued

Section	Violation	Willful violation
(b)(1)–(4), (c) Partial failure to perform inspection	5,000	7,500
(d) Failure to restore air pressure at rear	5,000	7,500
232.213 Extended haul trains:		
(a)(1) Failure to properly designate an extended haul train	6,500	9,000
(a)(2)–(3), (5)(i), (8) Failure to perform inspections	(¹)	(¹)
(a)(4) Failure to remove defective car (per car)	3,000	4,500
(a)(5)(ii), (6) Failure to conduct inbound inspection	6,500	9,000
(a)(7) Failure to maintain record of defects (per car)	3,000	4,500
(b) Improper movement or use of extended haul train	6,500	9,000
232.215 Transfer train brake tests:		
(a) Failure to perform inspection	6,500	9,000
(b) Failure to perform on cars added	5,000	7,500
232.217 Train brake system tests conducted using yard air:		
(a) Failure to use suitable device	5,000	7,500
(b) Improper connection of air test device	6,500	9,000
(c) Failure to properly perform inspection	(¹)	(¹)
(d) Failure to calibrate test device	5,000	7,500
(e) Failure to use accurate device	5,000	7,500
232.219 Double heading and helper service:		
(a) Failure to perform inspection or inability to control brakes	5,000	7,500
(b) Failure to make visual inspection	5,000	7,500
(c) Use of improper helper link device	5,000	7,500
Subpart D—Periodic Maintenance and Testing Requirements		
232.303 General requirements:		
(b)–(d) Failure to conduct inspection or test when car on repair track	5,000	7,500
(e) Improper movement of equipment for testing	5,000	7,500
(e)(1) Failure to properly tag equipment for movement	3,000	4,500
(e)(2)–(4) Failure to retain record or improper removal of tag or card	3,000	4,500
(f) Failure to stencil or track test information	5,000	7,500
232.305 Single car tests:		
(a) Failure to test in accord with required procedure	5,000	7,500
(b)–(c) Failure to perform test	5,000	7,500
232.309 Repair track air brake test and single car test equipment and devices:		
(a)–(f) Failure to properly test or calibrate	5,000	7,500
Subpart E—End-of-Train Devices		
232.403 Design standards for one-way devices:		
(a)–(g) Failure to meet standards	5,000	7,500
232.405 Design standards for two-way devices:		
(a)–(i) Failure to meet standards	5,000	7,500
232.407 Operating requirements for two-way devices:		
(b) Failure to equip a train	6,500	9,000
(c) Improper purchase	5,000	7,500
(f)(1) Failure of device to be armed and operable	6,500	9,000
(f)(2) Insufficient battery charge	5,000	7,500
(f)(3) Failure to activate the device	5,000	7,500
(g) Improper handling of en route failure, freight or other non-passenger	6,500	6,500
(h) Improper handling of en route failure, passenger	6,500	9,000
232.409 Inspection and testing of devices:		
(a) Failure to have unique code	5,000	7,500
(b) Failure to compare quantitative values	5,000	7,500
(c) Failure to test emergency capability	6,500	9,000
(d) Failure to properly calibrate	5,000	7,500
Subpart F—Introduction of New Brake System Technology		
232.503 Process to introduce new technology:		
(b) Failure to obtain FRA approval	8,500	11,000
232.505 Pre-revenue service acceptance testing plan:		
(a) Failure to obtain FRA approval	6,500	9,000
(b) Failure to comply with plan	5,000	7,500
(f) Failure to test previously used technology	6,500	9,000

¹ A penalty may be assessed against an individual only for a willful violation. Generally, when two or more violations of these regulations are discovered with respect to a single unit of equipment that is placed or continued in service by a railroad, the appropriate penalties set forth above are aggregated up to a maximum of \$11,000 per day. Although the penalties listed for failure to perform the brake inspections and tests under § 232.205 through § 232.209 may be assessed for each train that is not properly inspected, failure to perform any of the inspections and tests required under those sections will be treated as a violation separate and distinct from, and in addition to, any substantive volatile conditions found on the equipment contained in the train consist. Moreover, the Administrator reserves the right to assess a penalty of up to \$27,000 for any violation where circumstances warrant. See 49 CFR part 209, appendix A.

Failure to observe any condition for movement of defective equipment set forth in § 232.15(a) will deprive the railroad of the benefit of the movement-for-repair provision and make the railroad and any responsible individuals liable for penalty under the particular regulatory section(s) concerning the substantive defect(s) present on the equipment at the time of movement.

Failure to provide any of the records or plans required by this part pursuant to § 232.19 will be considered a failure to maintain or develop the record or plan and will make the railroad liable for penalty under the particular regulatory section(s) concerning the retention or creation of the document involved.

Failure to properly perform any of the inspections specifically referenced in § 232.209, § 232.213, and § 232.217 may be assessed under each section of this part or this chapter, or both, that contains the requirements for performing the referenced inspection.

PART 233—[AMENDED]

Authority: 49 U.S.C. 20103, 20107; 28 U.S.C. 2461, note; and 49 CFR 1.49.

36. Appendix A to part 233 is revised to read as follows:

35. The authority citation for part 233 continues to read as follows:

APPENDIX A TO PART 233.—SCHEDULE OF CIVIL PENALTIES ¹

Section	Violation	Willful violation
233.5 Accidents resulting from signal failure	\$5,000	\$7,500
233.7 Signal failure reports	3,000	4,500
233.9 Annual reports	1,500	2,500

¹A penalty may be assessed against an individual only for a willful violation. The Administrator reserves the right to assess a penalty of up to \$27,000 for any violation where circumstances warrant. See 49 CFR part 209, appendix A.

PART 234—[AMENDED]

Authority: 49 U.S.C. 20103, 20107; 28 U.S.C. 2461, note; and 49 CFR 1.49.

38. Appendix A to part 234 is revised to read as follows:

37. The authority citation for part 234 continues to read as follows:

APPENDIX A TO PART 234.—SCHEDULE OF CIVIL PENALTIES ¹

Section ²	Violation	Willful violation
Subpart B—Reports		
234.7 Accidents involving grade crossing signal failure	\$5,000	\$7,500
234.9 Grade crossing signal system failure reports	3,000	4,500
Subpart C—Response to Reports of Warning System Malfunction		
234.101 Employee notification rules	3,000	4,500
234.103 Timely response to report of malfunction	6,500	9,000
234.105 Activation failure:		
(a) Failure to notify—train crews	8,500	11,000
Other railroads	8,500	11,000
(b) Failure to notify law enforcement agency	3,000	4,500
(c) Failure to comply with—flagging requirements	6,500	9,000
Speed restrictions	6,500	9,000
(d) Failure to activate horn or whistle	3,000	4,500
234.106 Partial activation:		
(a) Failure to notify—train crews	5,000	7,500
Other railroads	5,000	7,500
(b) Failure to notify law enforcement agency	3,000	4,500
(c) Failure to comply with—flagging requirements speed restrictions	5,000	7,500
(d) Failure to activate horn or whistle	3,000	4,500
234.107 False activation:		
(a) Failure to notify—train crews	6,500	9,000
Other railroads	6,500	9,000
(b) Failure to notify law enforcement agency	3,000	4,500
(c) Failure to comply with—flagging requirements	5,000	7,500
Speed restrictions	5,000	7,500
(d) Failure to activate horn or whistle	3,000	4,500
234.109 Recordkeeping	1,500	2,500
Subpart D—Maintenance, Inspection, and Testing		
Maintenance Standards:		
234.201 Location of plans	3,000	4,500
234.203 Control circuits	5,000	7,500
234.205 Operating characteristics of warning system apparatus	6,500	9,000
234.207 Adjustment, repair, or replacement of component	6,500	9,000
234.209 Interference with normal functioning of system	8,500	11,000
234.211 Locking of warning system apparatus	3,000	4,500

APPENDIX A TO PART 234.—SCHEDULE OF CIVIL PENALTIES ¹—Continued

Section ²	Violation	Willful violation
234.213 Grounds	5,000	7,500
234.215 Standby power system	8,500	11,000
234.217 Flashing light units	3,000	4,500
234.219 Gate arm lights and light cable	3,000	4,500
234.221 Lamp voltage	5,000	7,500
234.223 Gate arm	3,000	4,500
234.225 Activation of warning system	8,500	11,000
234.227 Train detection apparatus	8,500	11,000
234.229 Shunting sensitivity	8,500	11,000
234.231 Fouling wires	6,500	9,000
234.233 Rail joints	6,500	9,000
234.235 Insulated rail joints	8,500	11,000
234.237 Switch equipped with circuit controller	3,000	4,500
234.239 Tagging of wires and interference of wires or tags with signal apparatus	3,000	4,500
234.241 Protection of insulated wire; splice in underground wire	5,000	7,500
234.243 Wire on pole line and aerial cable	5,000	7,500
234.245 Signs	3,000	4,500
Inspections and Tests:		
234.247 Purpose of inspections and tests; removal from service of relay or device failing to meet test requirements	6,500	9,000
234.249 Ground tests	6,500	9,000
234.251 Standby power	5,000	7,500
234.253 Flashing light units and lamp voltage	3,000	4,500
234.255 Gate arm and gate mechanism	3,000	4,500
234.257 Warning system operation	6,500	9,000
234.259 Warning time	5,000	7,500
234.261 Highway traffic signal pre-emption	5,000	7,500
234.263 Relays	5,000	7,500
234.265 Timing relays and timing devices	5,000	7,500
234.267 Insulation resistance tests, wires in trunking and cables	5,000	7,500
234.269 Cut-out circuits	8,500	11,000
234.271 Insulated rail joints, bond wires, and track connections	5,000	7,500
234.273 Results of tests	1,500	2,500
234.275 Processor-Based Systems	6,500	9,000

¹ A penalty may be assessed against an individual only for a willful violation. The Administrator reserves the right to assess a penalty of up to \$27,000 for any violation where circumstances warrant. See 49 CFR part 209, appendix A.

² The penalty schedule uses section numbers from 49 CFR part 234. 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, and which may or may not correspond to any subsection designation(s). 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, should they differ.

PART 235—[AMENDED]

Authority: 49 U.S.C. 20103, 20107; 28 U.S.C. 2461, note; and 49 CFR 1.49.

40. Appendix A to part 235 is revised to read as follows:

39. The authority citation for part 235 continues to read as follows:

APPENDIX A TO PART 235.—SCHEDULE OF CIVIL PENALTIES ¹

Section	Violation	Willful violation
235.5 Changes requiring filing of application	\$3,000	\$4,500

¹ A penalty may be assessed against an individual only for a willful violation. The Administrator reserves the right to assess a penalty of up to \$27,000 for any violation where circumstances warrant. See 49 CFR part 209, appendix A.

PART 236—[AMENDED]

Authority: 49 U.S.C. 20103, 20107; 28 U.S.C. 2461, note and 49 CFR 1.49.

42. Appendix A to part 236 is revised to read as follows:

41. The authority citation for part 236 continues to read as follows:

APPENDIX A TO PART 236.—SCHEDULE OF CIVIL PENALTIES ¹

Section	Violation	Willful violation
Subpart A—Rules and Instructions—All Systems		
General:		
236.0 Applicability, minimum requirements	\$5,000	\$7,500
236.1 Plans, where kept	6,500	9,000
236.2 Grounds	6,500	9,000
236.3 Locking of signal apparatus housings:		
(a) Power interlocking machine cabinet not secured against unauthorized entry	3,000	4,500
(b) other violations	3,000	4,500
236.4 Interference with normal functioning of device	8,500	11,000
236.5 Design of control circuits on closed circuit principle	8,500	11,000
236.6 Hand-operated switch equipped with switch circuit controller	6,500	9,000
236.7 Circuit controller operated by switch-and-lock movement	6,500	9,000
236.8 Operating characteristics of electro-magnetic, electronic, or electrical apparatus	5,000	7,500
236.9 Selection of circuits through indicating or annunciating instruments	3,000	4,500
236.10 Electric locks, force drop type; where required	3,000	4,500
236.11 Adjustment, repair, or replacement of component	6,500	9,000
236.12 Spring switch signal protection; where required	5,000	7,500
236.13 Spring switch; selection of signal control circuits through circuit controller	5,000	7,500
236.14 Spring switch signal protection; requirements	5,000	7,500
236.15 Timetable instructions	3,000	4,500
236.16 Electric lock, main track releasing circuit:		
(a) Electric lock releasing circuit on main track extends into fouling circuit where turnout not equipped with derail at clearance point either pipe-connected to switch or independently locked, electrically ...	6,500	9,000
(b) other violations	6,500	9,000
236.17 Pipe for operating connections, requirements	3,000	4,500
236.18 Software management control plan:		
Failure to develop and adopt a plan	5,000	7,500
Failure to fully implement plan	5,000	7,500
Inadequate plan	5,000	7,500
Roadway Signals and Cab Signals—		
236.21 Location of roadway signals	6,500	9,000
236.22 Semaphore signal arm; clearance to other objects	3,000	4,500
236.23 Aspects and indications	5,000	7,500
236.24 Spacing of roadway signals	6,500	9,000
236.26 Buffing device, maintenance	6,500	9,000
Track Circuits—		
236.51 Track circuit requirements:		
(a) Shunt fouling circuit used where permissible speed through turnout greater than 45 m.p.h.	6,500	9,000
(b) Track relay not in de-energized position or device that functions as track relay not in its most restrictive state when train, locomotive, or car occupies any part of track circuit, except fouling section of turnout of hand-operated main-track crossover	8,500	11,000
(c) other violations	6,500	9,000
236.52 Relayed cut-section	6,500	9,000
236.53 Track circuit feed at grade crossing	6,500	9,000
236.54 Minimum length of track circuit	6,500	9,000
236.55 Dead section; maximum length	6,500	9,000
236.56 Shunting sensitivity	6,500	9,000
236.57 Shunt and fouling wires:		
(a) Shunt or fouling wires do not consist of at least two discrete conductors	6,500	9,000
(b) other violations	5,000	7,500
236.58 Turnout, fouling section:		
(a) Rail joint in shunt fouling section not bonded	6,500	9,000
(b) other violations	5,000	7,500
236.59 Insulated rail joints	6,500	9,000
236.60 Switch shunting circuit; use restricted	6,500	9,000
Wires and Cables—		
236.71 Signal wires on pole line and aerial cable	6,500	9,000
236.73 Open-wire transmission line; clearance to other circuits	5,000	7,500
236.74 Protection of insulated wire; splice in underground wire	5,000	7,500
236.76 Tagging of wires and interference of wires or tags with signal apparatus	3,000	4,500
Inspections and Tests; All Systems—		
236.101 Purpose of inspection and tests; removal from service or relay or device failing to meet test requirements	5,000	7,500
236.102 Semaphore or search-light signal mechanism	6,500	9,000
236.103 Switch circuit controller or point detector	6,500	9,000
236.104 Shunt fouling circuit	5,000	7,500
236.105 Electric lock	5,000	7,500
236.106 Relays	5,000	7,500
236.107 Ground tests	5,000	7,500
236.108 Insulation resistance tests, wires in trunking and cables:		

APPENDIX A TO PART 236.—SCHEDULE OF CIVIL PENALTIES ¹—Continued

Section	Violation	Willful violation
(a) Circuit permitted to function on a conductor having insulation resistance value less than 200,000 ohms	6,500	9,000
(b) other violations	5,000	7,500
236.109 Time releases, timing relays and timing devices	5,000	7,500
236.110 Results of tests	1,500	2,500
Subpart B—Automatic Block Signal Systems		
236.201 Track circuit control of signals	6,500	9,000
236.202 Signal governing movements over hand-operated switch	6,500	9,000
236.203 Hand-operated crossover between main tracks; protection	6,500	9,000
236.204 Track signaled for movements in both directions, requirements	6,500	9,000
236.205 Signal control circuits; requirements	8,500	11,000
236.206 Battery or power supply with respect to relay; location	5,000	7,500
Subpart C—Interlocking		
236.207 Electric lock on hand-operated switch; control:		
(a) Approach or time locking of electric lock on hand-operated switch can be defeated by unauthorized use of emergency device which is not kept sealed in the non-release position	6,500	9,000
(b) other violations	5,000	7,500
236.301 Where signals shall be provided	5,000	7,500
236.302 Track circuits and route locking	6,500	7,500
236.303 Control circuits for signals, selection through circuit controller operated by switch points or by switch locking mechanism	6,500	9,000
236.304 Mechanical locking or same protection effected by circuits	6,500	9,000
236.305 Approach or time locking	6,500	9,000
236.306 Facing point lock or switch-and-lock movement	5,000	7,500
236.307 Indication locking	6,500	9,000
236.308 Mechanical or electric locking or electric circuits; requisites	6,500	9,000
236.309 Loss of shunt protection; where required	6,500	9,000
(a) Loss of shunt of five seconds or less permits release of route locking of power-operated switch, movable point frog, or derail	6,500	9,000
(b) Other violations	5,000	7,500
236.310 Signal governing approach to home signal	5,000	7,500
236.311 Signal control circuits, selection through track relays or devices functioning as track relays and through signal mechanism contacts and time releases at automatic interlocking	6,500	9,000
236.312 Movable bridge, interlocking of signal appliances with bridge devices:		
(a) Emergency bypass switch or device not locked or sealed	6,500	9,000
(b) other violations	6,500	9,000
236.314 Electric lock for hand-operated switch or derail:		
(a) Approach or time locking of electric lock at hand-operated switch or derail can be defeated by unauthorized use of emergency device which is not kept sealed in non-release position	6,500	9,000
(b) other violations	6,500	9,000
Rules and Instructions—		
236.326 Mechanical locking removed or disarranged; requirement for permitting train movements through interlocking	5,000	7,500
236.327 Switch, movable-point frog or split-point derail	6,500	9,000
236.328 Plunger of facing-point	5,000	7,500
236.329 Bolt lock	6,500	9,000
236.330 Locking dog of switch and lock movement	5,000	7,500
236.334 Point detector	6,500	9,000
236.335 Dogs, stops and trunnions of mechanical locking	3,000	4,500
236.336 Locking bed	3,000	4,500
236.337 Locking faces of mechanical locking; fit	3,000	4,500
236.338 Mechanical locking required in accordance with locking sheet and dog chart	3,000	4,500
236.339 Mechanical locking; maintenance requirements	3,000	4,500
236.340 Electromechanical interlocking machine; locking between electrical and mechanical levers	3,000	4,500
236.341 Latch shoes, rocker links, and quadrants	3,000	4,500
236.342 Switch circuit controller	6,500	9,000
Inspection and Tests—		
236.376 Mechanical locking	5,000	7,500
236.377 Approach locking	5,000	7,500
236.378 Time locking	5,000	7,500
236.379 Route locking	5,000	7,500
236.380 Indication locking	5,000	7,500
236.381 Traffic locking	5,000	7,500
236.382 Switch obstruction test	6,500	9,000
236.383 Valve locks, valves, and valve magnets	5,000	7,500
236.384 Cross protection	5,000	7,500
236.386 Restoring feature on power switches	5,000	7,500

APPENDIX A TO PART 236.—SCHEDULE OF CIVIL PENALTIES ¹—Continued

Section	Violation	Willful violation
236.387 Movable bridge locking	6,500	9,000
Subpart D—Traffic Control Systems Standards		
236.401 Automatic block signal system and interlocking standards applicable to traffic control systems:		
236.402 Signals controlled by track circuits and control operator	8,500	11,000
236.403 Signals at controlled point	8,500	11,000
236.404 Signals at adjacent control points	8,500	11,000
236.405 Track signaled for movements in both directions, change of direction of traffic	8,500	11,000
236.407 Approach or time locking; where required	8,500	11,000
236.408 Route locking	8,500	11,000
236.410 Locking, hand-operated switch; requirements:		
(a) Hand-operated switch on main track not electrically or mechanically locked in normal position where signal not provided to govern movement to main track, movements made at speeds in excess of 20 m.p.h., and train or engine movements may clear main track	6,500	9,000
(b) Hand-operated switch on signaled siding not electrically or mechanically locked in normal position where signal not provided to govern movements to signaled siding, train movements made at speeds in excess of 30 m.p.h., and train or engine movements may clear signaled siding	6,500	9,000
(c) Approach or time locking of electric lock at hand-operated switch can be defeated by use of emergency release device of electric lock which is not kept sealed in non-release position	6,500	9,000
(d) other violations	5,000	7,500
Rules and Instructions—		
236.426 Interlocking rules and instructions applicable to traffic control systems	1,500	2,500
236.476 Interlocking inspections and tests applicable to traffic control systems	1,500	2,500
Subpart E—Automatic Train Stop, Train Control and Cab Signal Systems Standards		
236.501 Forestalling device and speed control	5,000	7,500
236.502 Automatic brake application, initiation by restrictive block conditions stopping distance in advance	6,500	9,000
236.503 Automatic brake application; initiation when predetermined rate of speed exceeded	6,500	9,000
236.504 Operations interconnected with automatic block-signal system	5,000	7,500
236.505 Proper operative relation between parts along roadway and parts on locomotive	3,000	4,500
236.506 Release of brakes after automatic application	6,500	9,000
236.507 Brake application; full service	5,000	7,500
236.508 Interference with application of brakes by means of brake valve	5,000	7,500
236.509 Two or more locomotives coupled	3,000	4,500
236.511 Cab signals controlled in accordance with block conditions stopping distance in advance	5,000	7,500
236.512 Cab signal indication when locomotive enters blocks	6,500	9,000
236.513 Audible indicator	5,000	7,500
236.514 Interconnection of cab signal system with roadway signal system	3,000	4,500
236.515 Visibility of cab signals	5,000	7,500
236.516 Power supply	3,000	4,500
Rules and Instructions; Roadway—		
236.526 Roadway element not functioning properly	3,000	4,500
236.527 Roadway element insulation resistance	3,000	4,500
236.528 Restrictive condition resulting from open hand-operated switch; requirement	5,000	7,500
236.529 Roadway element inductor; height and distance from rail	3,000	4,500
236.531 Trip arm; height and distance from rail	3,000	4,500
236.532 Strap iron inductor; use restricted	3,000	4,500
236.534 Rate of pressure reduction; equalizing reservoir or brake pipe	5,000	7,500
236.551 Power supply voltage	3,000	4,500
236.552 Insulation resistance	3,000	4,500
236.553 Seal, where required	3,000	4,500
236.554 Rate of pressure reduction; equalizing reservoir or brake pipe	5,000	7,500
236.555 Repaired or rewound receiver coil	1,500	2,500
236.556 Adjustment of relay	3,000	4,500
236.557 Receiver; location with respect to rail	3,000	4,500
236.560 Contact element, mechanical trip type; location with respect to rail	3,000	4,500
236.562 Minimum rail current required	3,000	4,500
236.563 Delay time	5,000	7,500
236.564 Acknowledging time	3,000	4,500
236.565 Provision made for preventing operation of pneumatic brake-applying apparatus by double-heading clock; requirement	3,000	4,500
236.566 Locomotive of each train operating in train stop, train control or cab signal territory; equipped ...	3,000	4,500
236.567 Restrictions imposed when device fails and/or is cut out en route:		
(a) Report not made to designated officer at next available point of communication after automatic train stop, train control, or cab signal device fails and/or is cut en route	5,000	7,500
(b) Train permitted to proceed at speed exceeding 79 m.p.h. where automatic train stop, train control, or cab signal device fails and/or is cut out en route when absolute block established in advance of train on which device is inoperative	5,000	7,500

APPENDIX A TO PART 236.—SCHEDULE OF CIVIL PENALTIES ¹—Continued

Section	Violation	Willful violation
(c) other violations	3,000	4,500
236.568 Difference between speeds authorized by roadway signal and cab signal; action	3,000	4,500
Inspection and Tests; Roadway—		
236.576 Roadway element	3,000	4,500
236.577 Test, acknowledgement, and cut-in circuits	3,000	4,500
Inspection and Tests; Locomotive—		
236.586 Daily or after trip test	5,000	7,500
236.587 Departure test:		
(a) Test of automatic train stop, train control, or cab signal apparatus on locomotive not made on departure of locomotive from initial terminal if equipment on locomotive not cut out between initial terminal and equipped territory	6,500	9,000
(b) Test of automatic train stop, train control, or cab signal apparatus on locomotive not made immediately on entering equipped territory, if equipment on locomotive cut out between initial terminal and equipped territory	6,500	9,000
(c) Automatic train stop, train control, or cab signal apparatus on locomotive making more than one trip within 24-hour period not given departure test within corresponding 24-hour period	6,500	9,000
(d) other violations	5,000	7,500
236.588 Periodic test	6,500	9,000
236.589 Relays	5,000	7,500
236.590 Pneumatic apparatus:		
(a) Automatic train stop, train control, or cab signal apparatus not inspected and cleaned at least once every 736 days	5,000	7,500
(b) other violations	5,000	7,500
Subpart F—Dragging Equipment and Slide Detectors and Other Similar Protective Devices; Standards		
236.601 Signals controlled by devices; location	6,500	9,000
Subpart H—Standards for Processor-Based Signal and Train Control Systems		
236.905 Railroad Safety Program Plan (RSPP):		
(a) Failure to develop and submit RSPP when required	6,500	9,000
(b) Failure to obtain FRA approval for a modification to RSPP	6,500	9,000
236.907 Product Safety Plan (PSP):		
(a) Failure to develop a PSP	6,500	9,000
(b) Failure to submit a PSP when required	6,500	9,000
236.909 Minimum Performance Standard:		
(a) Failure to make analyses or documentation available	5,000	7,500
(b) Failure to determine that the standard has been met	6,500	9,000
236.913 Notification to FRA of PSPs:		
(a) Failure to prepare a PSP or PSP amendment as required	6,500	9,000
(b) Failure to submit a PSP or PSP amendment as required	6,500	9,000
(c) Field testing without authorization or approval	8,500	11,000
236.915 Implementation and operation:		
(a) Operation of product without authorization or approval	8,500	11,000
(b) Failure to comply with PSP	5,000	7,500
(c) Interference with normal functioning safety-critical product	8,500	11,000
(d) Failure to determine cause and adjust, repair or replace without undue delay or take appropriate action pending repair	5,000	7,500
236.917 Retention of records:		
(a) Failure to maintain records as required	6,500	9,000
(b) Failure to report inconsistency	6,500	9,000
(c) Failure to take prompt countermeasures	6,500	9,000
(d) Failure to provide final report	3,000	4,500
236.919 Operations and Maintenance Manual	5,000	7,500
236.921 Training and qualification program, general	5,000	7,500
236.923 Task analysis and basic requirements:		
(a) Failure to develop an acceptable training program	3,000	4,500
(b) Failure to train persons as required	3,000	4,500
(c) Failure to conduct evaluation of training program as required	3,000	4,500
(d) Failure to maintain records as required	1,500	2,500
236.925 Training specific to control office personnel	5,000	7,500
236.927 Training specific to locomotive engineers and other operating personnel	5,000	7,500
236.929 Training specific to roadway workers	5,000	7,500

¹ The Administrator reserves the right to assess a civil penalty of up to \$27,000 per day for any violation where circumstances warrant. See 49 CFR part 209, appendix A. A penalty may be assessed against an individual only for a willful violation. The Administrator reserves the right to assess a penalty of up to \$27,000 for any violation where circumstances warrant. See 49 CFR part 209, appendix A. The penalty schedule uses section numbers from 49 CFR part 236. 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, and which may or may not correspond to any subsection designation(s). 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, should they differ.

PART 238—[AMENDED]

Authority: 49 U.S.C. 20103, 20107, 20133, 20141, 20302–20303, 20306, 20701–20702, 21301–21302, 21304; 28 U.S.C. 2461, note; 49 CFR 1.49.

44. Appendix A to part 238 is revised to read as follows:

43. The authority citation for part 238 continues to read as follows:

APPENDIX A TO PART 238.—SCHEDULE OF CIVIL PENALTIES ¹

Section ²	Violation	Willful violation
Subpart A—General		
238.15 Movement of power brake defects:		
(b) Improper movement from Class I or IA brake test	\$6,500	\$9,000
(c) Improper movement of en route defect	5,000	7,500
(2), (3) Insufficient tag or record	1,500	2,500
(4) Failure to determine percent operative brake	5,000	7,500
(d) Failure to follow operating restrictions	6,500	9,000
(e) Failure to follow restrictions for inoperative front or rear unit	5,000	7,500
238.17 Movement of other than power brake defects: ¹		
(c)(4), (5) Insufficient tag or record	1,500	2,500
(d) Failure to inspect or improper use of roller bearings	5,000	7,500
(e) Improper movement of defective safety appliances	5,000	7,500
238.19 Reporting and tracking defective equipment:		
(a) Failure to have reporting or tracking system	8,500	11,000
(b) Failure to retain records	3,000	4,500
(c) Failure to make records available	1,500	2,500
(d) Failure to list power brake repair points	3,000	4,500
Subpart B—Safety Planning and General Requirements		
238.103 Fire protection plan/fire safety:		
(a) Failure to use proper materials	6,500	9,000
(b) Improper certification	1,500	2,500
(c) Failure to consider fire safety on new equipment	6,500	9,000
(d) Failure to perform fire safety analysis	6,500	9,000
(e) Failure to develop, adopt or comply with procedures	6,500	9,000
238.105 Train electronic hardware and software safety:		
(a), (b), (c) Failure to develop and maintain hardware and software safety	6,500	9,000
(d) Failure to include required design features	6,500	9,000
(e) Failure to comply with hardware and software safety program	6,500	9,000
238.107 Inspection, testing, and maintenance plan:		
(b) Failure to develop plan	6,500	9,000
(b)(1)–(5) Failure of plan to address specific item	5,000	7,500
(d) Failure to conduct annual review	6,500	9,000
238.109 Training, qualification, and designation program:		
(a) Failure to develop or adopt program	6,500	9,000
(b)(1)–(4) Failure of plan to address specific item	5,000	7,500
(b)(5)–(12) Failure to comply with specific required provision the program	5,000	7,500
(b)(13) Failure to maintain adequate records	5,000	7,500
238.111 Pre-revenue service acceptance testing plan:		
(a) Failure to properly test previously used equipment	6,500	9,000
(b)(1) Failure to develop plan	6,500	9,000
(b)(2) Failure to submit plan to FRA	6,500	9,000
(b)(3) Failure to comply with plan	6,500	9,000
(b)(4) Failure to document results of testing	6,500	9,000
(b)(5) Failure to correct safety deficiencies or impose operating limits	6,500	9,000
(b)(6) Failure to maintain records	3,000	4,500
(b)(7) Failure to obtain FRA approval	6,500	9,000
238.113 Emergency window exits	5,000	7,500
238.115 Emergency lighting	5,000	7,500
238.117 Protection against personal injury	5,000	7,500
238.119 Rim-stamped straight plate wheels	5,000	7,500
Subpart C—Specific Requirements for Tier I Equipment		
238.203 Static end strength	5,000	7,500
238.205 Anti-climbing mechanism	5,000	7,500
238.207 Link between coupling mechanism and car body	5,000	7,500
238.209 Forward-facing end structure of locomotives	5,000	7,500
238.211 Collision posts	5,000	7,500
238.213 Corner posts	5,000	7,500
238.215 Rollover strength	5,000	7,500
238.217 Side structure	5,000	7,500
238.219 Truck-to-car-body attachment	5,000	7,500
238.221 Glazing	5,000	7,500
238.223 Fuel tanks	5,000	7,500

APPENDIX A TO PART 238.—SCHEDULE OF CIVIL PENALTIES ¹—Continued

Section ²	Violation	Willful violation
238.225 Electrical System	5,000	7,500
238.227 Suspension system	5,000	7,500
239.229 Safety appliances—general:		
(e) Failure to properly identify equipment (per car)	5,000	7,500
(g) Failure to adopt or comply with inspection plan	5,000	7,500
(h) Failure to use qualified person (per car)	5,000	7,500
(i) Failure to properly conduct initial or periodic inspection (per car)	5,000	7,500
(j) Failure to take proper remedial action (per car)	5,000	7,500
(k) Failure to maintain records (per car)	3,000	4,500
238.230 Safety appliance—new equipment:		
(b)(2) Failure to identify welded appliance (per car)	5,000	7,500
(b)(3) Failure to receive approval for use (per car)	5,000	7,500
(c)(2) Failure to make proper repair (per car)	5,000	7,500
238.231 Brake System (a)–(g), (i)–(n)	5,000	7,500
(h)(1), (2) Hand or parking brake missing or inoperative	6,500	9,000
(h)(3) Hand or parking brake inspection or record (per car)	5,000	7,500
(h)(4) Hand or parking brake not applied to hold equipment unattended on grade or prematurely released	6,500	9,000
238.233 Interior fittings and surfaces	5,000	7,500
238.235 Doors	5,000	7,500
238.237 Automated monitoring	5,000	7,500

Subpart D—Inspection, Testing, and Maintenance Requirements for Tier I Equipment

238.303 Exterior mechanical inspection of passenger equipment:		
(a)(1) Failure to perform mechanical inspection	¹ 5,000	7,500
(a)(2) Failure to inspect secondary brake system	5,000	7,500
(b) Failure to perform inspection on car added to train	¹ 5,000	7,500
(c) Failure to utilize properly qualified personnel	5,000	7,500
(e)(1) Products of combustion not released outside cab	5,000	7,500
(e)(2) Battery not vented or gassing excessively	5,000	7,500
(e)(3) Coupler not in proper condition	5,000	7,500
(e)(4) No device under drawbar pins or connection pins	5,000	7,500
(e)(5) Suspension system and spring rigging not in proper condition	5,000	7,500
(e)(6) Truck not in proper condition	5,000	7,500
(e)(7) Side bearing not in proper condition	5,000	7,500
(e)(8) Wheel not in proper condition:		
(i), (iv) Flat spot(s) and shelled spot(s):		
(A) One spot 2½" or more but less than 3" in length	5,000	7,500
(B) One spot 3" or more in length	6,500	9,000
(C) Two adjoining spots each of which is 2" or more in length but less than 2½" in length	5,000	7,500
(D) Two adjoining spots each of which are at least 2" in length, if either spot is 2½" or more in length	6,500	9,000
(ii) Gouge or chip in flange:		
(A) More than 1½" but less than 1⅝" in length; and more than ½" but less than ⅝" in width	5,000	7,500
(B) 1⅝" or more in length and ⅝" or more in width	6,500	9,000
(iii) Broken rim	6,500	9,000
(v) Seam in tread	5,000	7,500
(vi) Flange thickness of:		
(A) ⅞" or less but more than	5,000	7,500
(B) 1⅜" or less	6,500	9,000
(vii) Tread worn hollow	5,000	7,500
(viii) Flange height of:		
(A) 1½" or greater but less than 1⅝"	5,000	7,500
(B) 1⅝" or more	6,500	9,000
(ix) Rim thickness:		
(A) Less than 1"	5,000	7,500
(B) 1⅜" or less	6,500	9,000
(x) Crack or break in flange, tread, rim, plate, or hub:		
(A) Crack of less than 1"	5,000	7,500
(B) Crack of 1" or more	6,500	9,000
(C) Break	6,500	9,000
(xi) Loose wheel	6,500	9,000
(xii) Welded wheel	6,500	9,000
(e)(10) Improper grounding or insulation	6,500	9,000
(e)(11) Jumpers or cable connections not in proper condition	5,000	7,500
(e)(12) Door or cover plate not properly marked	5,000	7,500
(e)(13) Buffer plate not properly placed	5,000	7,500
(e)(14) Diaphragm not properly placed or aligned	5,000	7,500
(e)(15) Secondary braking system not in operating mode or contains known defect	5,000	7,500
(e)(16) Roller bearings:		
(i) Overheated	8,500	11,000

APPENDIX A TO PART 238.—SCHEDULE OF CIVIL PENALTIES ¹—Continued

Section ²	Violation	Willful violation
(ii) Cap screw loose or missing	5,000	7,500
(iii) Cap screw lock broken or missing	3,000	4,500
(iv) Seal loose, damaged, or leaks lubricant	5,000	7,500
(g) Record of inspection:		
(1), (4) Failure to maintain record of inspection	5,000	7,500
(2) Record contains insufficient information	3,000	4,500
(e)(17) Air compressor inoperative	5,000	7,500
238.305 Interior mechanical inspection of passenger cars:		
(a) Failure to perform inspection	¹ 3,000	4,500
(b) Failure to utilize properly qualified personnel	3,000	4,500
(c)(1) Failure to protect against personal injury	5,000	7,500
(c)(2) Floors not free of condition that creates hazard	5,000	7,500
(c)(3) Access to manual door release not in place	3,000	4,500
(c)(4) Emergency equipment not in place	3,000	4,500
(c)(5) Emergency brake valve not stenciled or marked	3,000	4,500
(c)(6) Door or cover plates not properly marked	3,000	4,500
(c)(7) Safety signage not in place or legible	3,000	4,500
(c)(8) Trap door unsafe or improperly secured	5,000	7,500
(c)(9) Vestibule steps not illuminated	3,000	4,500
(c)(10) Door not safely operate as intended	5,000	7,500
(c)(11) Seat broken, loose, or not properly attached	5,000	7,500
(e) Record of inspection:		
(1), (4) Failure to maintain record of inspection	3,000	4,500
(2) Record contains insufficient information	1,500	2,500
(f) Record of inspection:		
(1), (4) Failure to maintain record of inspection	3,000	4,500
(2) Record contains insufficient information	1,500	2,500
238.307 Periodic mechanical inspection of passenger cars and unpowered vehicles:		
(a) Failure to perform periodic mechanical inspection	¹ 5,000	7,500
(b) Failure to utilize properly qualified personnel	5,000	7,500
(c)(1) Seat or seat attachment broken or loose	5,000	7,500
(c)(2) Luggage rack broken or loose	5,000	7,500
(c)(3) Bed, bunks, or restraints broken or loose	5,000	7,500
(c)(4) Emergency window exit not properly operate	5,000	7,500
(c)(5) Emergency lighting not operational	5,000	7,500
(c)(6) Switches not in proper condition	5,000	7,500
(c)(7) Coupler not in proper condition	5,000	7,500
(c)(8) Truck not equipped with securing arrangement	5,000	7,500
(c)(9) Truck center casting cracked or broken	6,500	9,000
(c)(10) General conditions endangering crew, passengers	5,000	7,500
(c)(13) Hand or parking brake test not performed	5,000	7,500
(d)(1) Manual door release does not operate as intended	5,000	7,500
(d)(2) Hand or parking brake inspection not performed	5,000	7,500
(e)(1) Failure to maintain record of inspection	3,000	4,500
(i)–(iv) Record contains insufficient information	3,000	4,500
(f)(1) Record of inspection:		
(i) Failure to maintain record of inspection	3,000	4,500
(ii) Record contains insufficient information	1,500	2,500
238.309 Periodic brake equipment maintenance:		
(b) Failure to perform on MU locomotive	5,000	7,500
(c) Failure to perform on conventional locomotive	5,000	7,500
(d) Failure to perform on passenger coaches or other unpowered vehicle	5,000	7,500
(e) Failure to perform on cab car	5,000	7,500
(f) Record of periodic maintenance:		
(1), (2) Failure to maintain record or stencil	3,000	4,500
238.311 Single car tests:		
(a) Failure to test in accord with required procedure	5,000	7,500
(b) Failure to utilize properly qualified personnel	5,000	7,500
(c), (e) Failure to perform single car test	5,000	7,500
(f) Improper movement of car for testing	3,000	4,500
(g) Failure to test after repair or replacement of component	3,000	4,500
238.313 Class I brake test:		
(a) Failure to perform on commuter or short distance intercity passenger train	¹ 8,500	11,000
(b) Failure to perform on long-distance intercity passenger train	¹ 8,500	11,000
(c) Failure to perform on cars added to passenger train	6,500	9,000
(d) Failure to utilized properly qualified personnel	6,500	9,000
(f) Passenger train used from Class I brake test with less than 100% operative brakes	6,500	9,000
(g) Partial failure to perform inspection on a passenger train	6,500	9,000
(3) Failure to adjust piston travel (per car)	5,000	7,500
(h) Failure to maintain record	3,000	4,500
(j) Failure to perform additional Class I brake test	8,500	11,000

APPENDIX A TO PART 238.—SCHEDULE OF CIVIL PENALTIES ¹—Continued

Section ²	Violation	Willful violation
(j)(3) Failure to maintain record	3,000	4,500
238.315 Class IA brake test:		
(a) Failure to perform inspection	¹ 6,500	9,000
(d) Failure to utilize properly qualified personnel	5,000	7,500
(e) Passenger train used from Class IA brake test with improper percentage of operative brakes	6,500	9,000
(f) Partial failure to perform inspection on passenger train	5,000	7,500
238.317 Class II brake test:		
(a) Failure to perform inspection	¹ 5,000	7,500
(b) Failure to utilize properly qualified personnel	5,000	7,500
(c) Improper use of defective equipment from Class II brake test	5,000	7,500
238.319 Running brake tests:		
(a), (b) Failure to perform test	3,000	4,500
238.321 Out-of-service credit	3,000	4,500
Subpart E—Specific Requirements for Tier II Passenger Equipment		
238.403 Crash energy management	5,000	7,500
238.405 Longitudinal static compressive strength	5,000	7,500
238.407 Anti-climbing mechanism	5,000	7,500
238.409 Forward end structures of power car cabs:		
(a) Center collision post	5,000	7,500
(b) Side collision posts	5,000	7,500
(c) Corner posts	5,000	7,500
(d) Skin	5,000	7,500
238.411 Rear end structures of power car cabs:		
(a) Corner posts	5,000	7,500
(b) Collision posts	5,000	7,500
238.413 End structures of trailer cars	5,000	7,500
238.415 Rollover strength	5,000	7,500
238.417 Side loads	5,000	7,500
238.419 Truck-to-car-body and truck component attachment	5,000	7,500
238.421 Glazing:		
(b) End-facing exterior glazing	5,000	7,500
(c) Alternate glazing requirements	5,000	7,500
(d) Glazing securement	1,500	2,500
(e) Stenciling	3,000	4,500
238.423 Fuel tanks:		
(a) External fuel tanks	5,000	7,500
(b) Internal fuel tanks	5,000	7,500
238.425 Electrical system:		
(a) Circuit protection	5,000	7,500
(b) Main battery system	5,000	7,500
(c) Power dissipation resistors	5,000	7,500
(d) Electromagnetic interference and compatibility	5,000	7,500
238.427 Suspension system	5,000	7,500
238.429 Safety Appliances:		
(a) Couplers	6,500	9,000
(b) Hand/parking brakes	6,500	9,000
(d) Handrail and handhold missing	5,000	7,500
(d)(1)–(8) Handrail or handhold improper design	5,000	7,500
(e) Sill step missing	6,500	9,000
(e)(1)–(11) Sill step improper design	5,000	7,500
(g) Optional safety appliances	5,000	7,500
238.431 Brake system	5,000	7,500
238.433 Draft System	5,000	7,500
238.435 Interior fittings and surfaces	5,000	7,500
238.437 Emergency communication	5,000	7,500
238.439 Doors:		
(a) Exterior side doors	5,000	7,500
(b) Manual override feature	5,000	7,500
(c) Notification to crew of door status	5,000	7,500
(d) Emergency back-up power	5,000	7,500
(f) End door kick-out panel or pop-out window	5,000	7,500
(g) Marking and instructions	[Reserved]	
238.441 Emergency roof hatch entrance location	5,000	7,500
238.443 Headlights	5,000	7,500
238.445 Automated monitoring	5,000	7,500
238.447 Train operator's controls and power car cab layout	5,000	7,500

Subpart F—Inspection, Testing, and Maintenance Requirements for Tier II Passenger Equipment

238.503 Inspection, testing, and maintenance requirements:

APPENDIX A TO PART 238.—SCHEDULE OF CIVIL PENALTIES ¹—Continued

Section ²	Violation	Willful violation
(a) Failure to develop inspection, testing, and maintenance program or obtain FRA approval	8,500	11,000
(b) Failure to comply with provisions of the program	6,500	9,000
(c) Failure to ensure equipment free of conditions which endanger safety of crew, passengers, or equipment	5,000	7,500
(d) Specific safety inspections:		
(1)(i) Failure to perform Class I brake test or equivalent	8,500	11,000
(1)(ii) Partial failure to perform Class I brake test or equivalent	6,500	9,000
(2)(i) Failure to perform exterior mechanical inspection	¹ 5,000	7,500
(2)(ii) Failure to perform interior mechanical inspection	¹ 3,000	4,500
(g) Failure to perform scheduled maintenance as required in program	5,000	7,500
(h) Failure to comply with training, qualification and designation program	6,500	9,000
(i) Failure to develop or comply with standard procedures for performing inspection, tests, and maintenance	5,000	7,500
(j) Failure to conduct annual review	6,500	9,000
(k) Failure to establish or utilize quality control program	6,500	9,000

Subpart G—Specific Safety Planning Requirements for Tier II Passenger Equipment

238.603 Safety plan:		
(a) Failure to develop safety operating plan	6,500	9,000
(b) Failure to develop procurement plan	6,500	9,000
(1)–(7) Failure to develop portion of plan	5,000	7,500
(c) Failure to maintain documentation	5,000	7,500

¹ A penalty may be assessed against an individual only for a willful violation. Generally when two or more violations of these regulations are discovered with respect to a single unit of passenger equipment that is placed or continued in service by a railroad, the appropriate penalties set forth above are aggregated up to a maximum of \$11,000 per day. However, failure to perform, with respect to a particular unit of passenger equipment, any of the inspections and tests required under subparts D and F of this part will be treated as a violation separate and distinct from, and in addition to, any substantive violative conditions found on that unit of passenger equipment. Moreover, the Administrator reserves the right to assess a penalty of up to \$27,000 for any violation where circumstances warrant. See 49 CFR part 209, appendix A. Failure to observe any condition for movement of defective equipment set forth in § 238.17 will deprive the railroad of the benefit of the movement-for-repair provision and make the railroad and any responsible individuals liable for penalty under the particular regulatory section(s) concerning the substantive defect(s) present on the unit of passenger equipment at the time of movement. Failure to observe any condition for the movement of passenger equipment containing defective safety appliances, other than power brakes, set forth in § 238.17(e) will deprive the railroad of the movement-for-repair provision and make the railroad and any responsible individuals liable for penalty under the particular regulatory section(s) contained in part 231 of this chapter or § 238.429 concerning the substantive defective condition. The penalties listed for failure to perform the exterior and interior mechanical inspections and tests required under § 238.303 and § 238.305 may be assessed for each unit of passenger equipment contained in a train that is not properly inspected. Whereas, the penalties listed for failure to perform the brake inspections and tests under § 238.313 through § 238.319 may be assessed for each train that is not properly inspected.

² The penalty schedule uses section numbers from 49 CFR part 238. 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, and which may or may not correspond to any subsection designation(s). 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, should they differ.

PART 239—[AMENDED]

Authority: 49 U.S.C. 20102–20103, 20105–20114, 20133, 21301, 21304, and 21311; 28 U.S.C. 2461, note; and 49 CFR 1.49(c), (g), (m).

46. Appendix A to part 239 is revised to read as follows:

45. The authority citation for part 239 continues to read as follows:

APPENDIX A TO PART 239.—SCHEDULE OF CIVIL PENALTIES ¹

Section ²	Violation	Willful violation
Subpart B—Specific Requirements		
239.101 (a) Failure of a railroad to adopt a written emergency preparedness plan	\$8,500	\$11,000
(a)(1) Failure of the plan to provide for:		
(i) Initial or on-board notifications by an on-board crewmember	5,000	7,500
(ii) Notification of outside emergency responders by control center	5,000	7,500
(a)(2) Failure of the plan to provide for:		
(i) Initial or periodic training of on-board personnel	5,000	7,500
(ii) Initial or periodic training of control center personnel	5,000	7,500
(iii) Completion of initial training of all on-board and control center personnel by the specified date	5,000	7,500
(iv) Completion of initial training of all newly hired on-board and control center personnel by the specified date	5,000	7,500
(v) Adequate procedures to evaluate and test on-board and control center personnel for qualification under the emergency preparedness plan	5,000	7,500
(vi) Adequate on-board staffing	5,000	7,500

APPENDIX A TO PART 239.—SCHEDULE OF CIVIL PENALTIES ¹—Continued

Section ²	Violation	Willful violation
(a)(3) Failure of a host railroad involved in joint operations to coordinate applicable portions of the emergency preparedness plan with the railroad or railroads providing or operating a passenger train service operation	5,000	7,500
(a)(4) Failure of the plan to address:		
(i) Readiness procedures for emergencies in tunnels	5,000	7,500
(ii) Readiness procedures for emergencies on an elevated structure or in electrified territory	5,000	7,500
(iii) Coordination efforts involving adjacent rail modes of transportation	5,000	7,500
(a)(5) Failure of the plan to address relationships with on-line emergency responders by providing for:		
(i) The development and availability of training programs	5,000	7,500
(ii) Invitations to emergency responders to participate in emergency simulations	5,000	7,500
(iii) Distribution of applicable portions of the current emergency preparedness plan	5,000	7,500
(a)(6) Failure of the plan to provide for, or the railroad to include on board each train and maintain and replace:		
(i) Emergency equipment	5,000	7,500
(ii) First-aid kits	5,000	7,500
(iii) Emergency lighting	5,000	7,500
(a)(7) Failure of the plan to provide for emergency instructions inside each passenger car or to include additional safety awareness information	3,000	4,500
239.103 Failure to conduct a required full-scale simulation in accordance with the frequency schedule	5,000	7,500
239.105 Debriefing and critique:		
(a) Failure to conduct a debriefing and critique session after an emergency or full-scale simulation	5,000	7,500
(d)(1) Failure to maintain a record	3,000	4,500
(i) Failure to include date or location of the emergency or simulation	1,500	2,500
(ii) Failure to include date or location of the debriefing and critique session	1,500	2,500
(iii) Failure to include names of participants in the debriefing and critique session	1,500	2,500
(d)(2) Failure to make record available	1,500	2,500
239.107 Emergency exits:		
(a)(1), (a)(2):		
(i) Door not marked or instructions not posted	5,000	7,500
(ii) Door improperly marked or instructions 1,000–2,000 improperly posted	5,000	7,500
(b)(1) Failure to provide for scheduled inspection, maintenance, and repair of emergency windows and doors	5,000	7,500
(b)(2):		
(i) Failure to test a representative sample of emergency windows	5,000	7,500
(ii) Emergency windows tested too infrequently	3,000	4,500
(b)(3) Failure to repair an inoperative emergency window or door exit	5,000	7,500
(c):		
(i) Failure to maintain a record	5,000	7,500
(ii) Failure to make record available	1,500	2,500
(d)(1) Insufficient limits or controls on accessibility to records	5,000	7,500
(d)(2) Missing terminal	1,500	2,500
(d)(3) Inability of railroad to produce information in a usable format for immediate review	1,500	2,500
(d)(4) Failure by railroad to designate an authorized representative	1,500	2,500
(d)(5) Failure to make record available	1,500	2,500

Subpart C—Review, Approval, and Retention of Emergency Preparedness Plans

239.201 Filing and approval:		
(a):		
(i) Failure of a railroad to file a written emergency preparedness plan	6,500	9,000
(ii) Failure to designate a primary person to contact for plan review	1,500	2,500
(iii) Failure of a railroad to file an amendment to its plan	5,000	7,500
(b)(1), (b)(2):		
(i) Failure of a railroad to correct a plan deficiency	1,500	2,500
(ii) Failure to provide FRA with a corrected copy of the plan	1,500	2,500
(b)(3):		
(i) Failure of a railroad to correct an amendment deficiency	1,500	2,500
(ii) Failure to file a corrected plan amendment with FRA	1,500	2,500
239.203 Retention of emergency preparedness plan:		
(1) Failure to retain a copy of the plan or an amendment to the plan	5,000	7,500
(2) Failure to make record available	1,500	2,500

Subpart D—Operational (Efficiency) Tests; Inspection of Records and Recordkeeping

239.301 Operational (efficiency) tests:		
(a) Testing Program	5,000	7,500
(b)(1) Failure to maintain a record	5,000	7,500
(b)(2) Record improperly completed	1,500	2,500
(c)(1) Failure to retain a copy of the record	1,500	2,500
(c)(2) Failure to make record available	1,500	2,500
239.303 Electronic recordkeeping:		

APPENDIX A TO PART 239.—SCHEDULE OF CIVIL PENALTIES ¹—Continued

Section ²	Violation	Willful violation
(a) Insufficient limits or controls on accessibility to records	3,000	4,500
(b) Missing terminal	1,500	2,500
(c) Inability of railroad to produce information in a usable format for immediate review	1,500	2,500
(d) Failure by railroad to designate an authorized representative	1,500	2,500
(e) Failure to make record available	1,500	2,500

¹ A penalty may be assessed against an individual only for a willful violation. The Administrator reserves the right to assess a penalty of up to \$27,000 for any violation where circumstances warrant. See 49 U.S.C. 21301, 21304, and 49 CFR part 209, appendix A.

² The penalty schedule uses section numbers from 49 CFR part 239. 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, and which may or may not correspond to any subsection designation(s). 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, should they differ.

PART 240—[AMENDED]

Authority: 49 U.S.C. 20103, 20107, 20135, 21301, 21304, 21311; 28 U.S.C. 2461, note; and 49 CFR 149.

48. Appendix A to part 240 is revised to read as follows:

47. The authority citation for part 240 continues to read as follows:

APPENDIX A TO PART 240.—SCHEDULE OF CIVIL PENALTIES ¹

Section ²	Violation	Willful violation
Subpart B—Component Elements		
240.101 Program Failures:		
(a) Failure to have program	\$8,500	\$11,000
(b) Program that fails to address a subject	5,000	7,500
240.103 Failure to:		
(a) follow Appendix B	1,500	2,500
(d) resubmit, when directed by FRA	1,500	2,500
240.104 Allowing uncertified person to operate non-traditional locomotives	6,500	9,000
240.105 Failure to have or execute adequate procedure for selection of supervisors	5,000	7,500
240.107 Classes of Service:		
(a) Failure to designate classes of service	5,000	7,500
240.109 Limitations on considering prior conduct records:		
(a) Failure to have procedure for determining eligibility	5,000	7,500
(e) Considering excluded data	5,000	7,500
(f), (g) Failure to provide timely review opportunity	5,000	7,500
240.111 Furnishing Motor Vehicle Records:		
(a) Failure to action required to make information available	1,500	2,500
(b) Failure to request:		
(1) local record	1,500	2,500
(2) NDR record	1,500	2,500
(f) Failure to request additional record	1,500	2,500
(g) Failure to notify of absence of license	1,500	2,500
(h) Failure to submit request in timely manner	1,500	2,500
(i) Failure to report within 48 hours or railroad taking certification action for not reporting earlier than 48 hours	1,500	2,500
240.113 Furnishing prior employment information:		
(a) Failure to take action required to make information available	1,500	2,500
(b) Failure to request record	1,500	2,500
240.115 Criteria for considering prior motor vehicle conduct:		
(b) Considering excluded data	5,000	7,500
(c) Failure to:		
(1) consider data	8,500	11,000
(3)–(4) properly act in response to data	3,000	4,500
240.117 Consideration of Operational Rules Compliance Records:		
(a) Failure to have program and procedures	8,500	11,000
(b)–(j) Failure to have adequate program or procedure	5,000	7,500
240.119 Consideration of substance abuse/rules compliance Records:		
(a) Failure to have program and procedures	8,500	11,000
(b)–(e) Failure to have adequate program or procedure	5,000	7,500
240.121 Failure to have adequate procedure for determining acuity	5,000	7,500
(f) Failure of engineer to notify	5,000	7,500
240.123 Failure to have—		
(b) adequate procedures for continuing education	5,000	7,500
(c) adequate procedures for training new engineers	5,000	7,500
240.125 Failure to have—		
(a) adequate procedures for testing knowledge	5,000	7,500

APPENDIX A TO PART 240.—SCHEDULE OF CIVIL PENALTIES ¹—Continued

Section ²	Violation	Willful violation
(d) adequate procedures for documenting testing	5,000	7,500
240.127 Failure to have—		
(a) adequate procedures for evaluating skill performance	5,000	7,500
(c) adequate procedures for documenting skills testing	5,000	7,500
240.129 Failure to have—		
(a)–(b) adequate procedures for monitoring performance	5,000	7,500
Subpart C—Implementation of the Process		
240.201 Schedule for implementation:		
(a) Failure to select supervisors by specified date	1,500	2,500
(b) Failure to identify grandfathered engineers	3,000	4,500
(c) Failure to issue certificate to engineer	1,500	2,500
(d) Allowing uncertified person to operate	5,000	7,500
(e)–(g) Certifying without complying with subpart C	5,000	7,500
(h)–(i) Failure to issue certificate to engineer	1,500	2,500
240.203 (a) Designating a person as a supervisor without determining that—		
(1) person knows and understands this part	5,000	7,500
(2) person can test and evaluate engineers	8,500	11,000
(3) person has experience to prescribe remedies	5,000	7,500
(b) Certifying a person without determining that—		
(1) person meets the eligibility criteria	8,500	11,000
(2) person meets the medical criteria	5,000	7,500
(3) person has demonstrated knowledge	5,000	7,500
(4) person has demonstrated skills	5,000	7,500
(c) Certifying a person without determining that—		
(1) person has completed training program	5,000	7,500
(2) person meets the eligibility criteria	5,000	7,500
(3) time has elapsed	5,000	7,500
240.205 Procedures for determining eligibility based on prior safety conduct:		
(a) Selecting person lacking eligibility	8,500	11,000
(d) Failure to have basis for taking action	5,000	7,500
240.207 Ineligibility based on medical condition:		
(a) Selecting person lacking proper acuity	6,500	9,000
(b) Failure to have basis for finding of proper acuity	1,500	2,500
(c) Acuity examinations performed by unauthorized person	1,500	2,500
(d) Failure to note need for device to achieve acuity	1,500	2,500
(e) Failure to use device needed for proper acuity	1,500	2,500
240.209 Demonstrating knowledge:		
(b) Failure to properly determine knowledge	6,500	9,000
(c) Improper test procedure	5,000	7,500
(d) Failure to document test results	1,500	2,500
(e) Allowing person to operate despite test failure	5,000	7,500
240.211 Demonstrating skills:		
(b) Failure to properly determine knowledge	5,000	7,500
(c) Improper test procedure	3,000	4,500
(d) Failure to document test results	1,500	2,500
(e) Allowing person to operate despite test failure	5,000	7,500
240.213 Completion of approved training program:		
(a) Failure to properly determine	5,000	7,500
(b) Failure to document successful program completion	3,000	4,500
240.215 Supporting information:		
(a), (f)–(h) Failure to have a record	1,500	2,500
(b) Failure to have complete record	1,500	2,500
(i) Falsification of record	(—)	11,000
240.217 Time limits for making determinations:		
(a), (c) Exceeding time limit	3,000	4,500
240.219 Denial of certification:		
(a) Failure to notify or provide opportunity for comment	3,000	4,500
(c) Failure to notify, provide data, or untimely notification	3,000	4,500
240.221 Identification of persons:		
(a)–(c) Failure to have a record	3,000	4,500
(d) Failure to update a record	3,000	4,500
(e)–(f) Failure to make a record available	1,500	2,500
240.223 Certificate criteria:		
(a) Improper certificate	1,500	2,500
(b) Failure to designate those with signatory authority	1,500	2,500
(d) Falsification of certificate	(—)	11,000
240.225 Railroad Relying on Determination of Another:		
(a) Failure to address in program or failure to require newly hired engineer to take entire training program	8,500	11,000
(2) Reliance on wrong class of service	3,000	4,500

APPENDIX A TO PART 240.—SCHEDULE OF CIVIL PENALTIES ¹—Continued

Section ²	Violation	Willful violation
(3) Failure to familiarize person with new operational territory	3,000	4,500
(4) Failure to determine knowledge	3,000	4,500
(5) Failure to determine performance skills	3,000	4,500
240.227 Railroad Relying on Requirements of a Different Country:		
(a) Joint operator reliance:		
(1) on person not employed	1,500	2,500
(2) on person who fails to meet Canadian requirements	1,500	2,500
(b) Canadian railroad reliance:		
(1) on person not employed	1,500	2,500
(2) on person who fails to meet Canadian requirements	1,500	2,500
240.229 Requirements for Joint Operations Territory:		
(a) Allowing uncertified person to operate	3,000	4,500
(b) Certifying without making determinations or relying on another railroad	6,500	9,000
(c) Failure of:		
(1) controlling railroad certifying without determining certification status, knowledge, skills, or familiarity with physical characteristics	8,500	11,000
(2) employing railroad to determine person's certified and qualified status for controlling railroad	8,500	11,000
(3) person to notify employing railroad of lack of qualifications	8,500	11,000
(d) Failure to provide qualified person	3,000	4,500
240.231 Persons Qualified on Physical Characteristics in Other Than Joint Operations:		
(a) Person unqualified, no exception applies or railroad does not adequately address in program	8,500	11,000
(b) Failure to have a pilot:		
(1) for engineer who has never been qualified	8,500	11,000
(2) for engineer previously qualified	5,000	7,500
Subpart D—Program Administration		
240.301 Failure to have system for certificate replacement	3,000	4,500
240.303 Monitoring operations:		
(a) Failure to have program	8,500	11,000
(b) Failure to observe each person annually	1,500	2,500
(c) Failure to test each person annually	1,500	2,500
(d) Failure to test properly	1,500	2,500
240.305 Prohibited Conduct:		
(a) Unlawful:		
(1) passing of stop signal	6,500	9,000
(2) control of speed	6,500	9,000
(3) brake tests	6,500	9,000
(4) occupancy of main track	6,500	9,000
(5) tampering or operation with disabled safety device	6,500	9,000
(6) supervisor, pilot, or instructor fails to take appropriate action	6,500	9,000
(b) Failure of engineer to:		
(1) carry certificate	1,500	2,500
(2) display certificate when requested	1,500	2,500
(c) Failure of engineer to notify railroad of limitations or railroad requiring engineer to exceed limitations ..	8,500	11,000
(d) Failure of engineer to notify railroad of denial or revocation	8,500	11,000
240.307 Revocation of Certification:		
(a) Failure to withdraw person from service	3,000	4,500
(b) Failure to notify, provide hearing opportunity, or untimely procedures	3,000	4,500
(c)–(h) Failure of railroad to comply with hearing or waiver procedures	3,000	4,500
(i) Failure of railroad to make record	3,000	4,500
(k) Failure of railroad to conduct reasonable inquiry or make good faith determination	6,500	9,000
240.309 Oversight Responsibility Report:		
(a) Failure to report or to report on time	1,500	2,500
(b)–(h) Incomplete or inaccurate report	3,000	4,500

¹ A penalty may be assessed against an individual only for a willful violation. The Administrator reserves the right to assess a penalty of up to \$27,000 for any violation where circumstances warrant. See 49 CFR part 209, appendix A.

² The penalty schedule uses section numbers from 49 CFR part 240. 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, and which may or may not correspond to any subsection designation(s). 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, should they differ.

PART 241—[AMENDED]

49. The authority citation for part 241 continues to read as follows:

Authority: 49 U.S.C. 20103, 20107, 21301, 21304, 21311; 28 U.S.C. 2461, note; 49 CFR 1.49.

50. Appendix B to part 241 is revised to read as follows:

APPENDIX B TO PART 241.—SCHEDULE OF CIVIL PENALTIES ¹

Section ²	Violation	Willful violation
241.9 (a) Requiring or permitting extraterritorial dispatching of a railroad operation	\$6,500	\$9,000
(b) Failing to notify FRA about extraterritorial dispatching of a railroad operation in an emergency situation	6,500	9,000
241.11 Conducting a railroad operation that is extraterritorially dispatched:		
(a)(1) Generally	6,500	9,000
(a)(2) In an emergency situation—where dispatching railroad fails to notify FRA of the extraterritorial dispatching	1,500	2,500
241.13 Requiring or permitting track to be used for the conduct of a railroad operation that is extraterritorially dispatched:		
(a)(1) Generally	6,500	9,000
(a)(2) In an emergency situation—where dispatching railroad fails to notify FRA of the extraterritorial dispatching	1,500	2,500

¹ A penalty may be assessed against an individual only for a willful violation. The Administrator reserves the right to assess a penalty of up to \$27,000 for any violation where circumstances warrant. See 49 U.S.C. 21301, 21304 and 49 CFR part 209, appendix A.

² The penalty schedule uses section numbers from 49 CFR part 241. 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, and which may or may not correspond to any subsection designation(s). 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, should they differ.

Issued in Washington, DC on November 16, 2006.

Joseph H. Boardman,

Administrator.

[FR Doc. E6–20031 Filed 12–4–06; 8:45 am]

BILLING CODE 4910–06–P