



Federal Register

**Tuesday,
December 5, 2006**

Part II

Department of Transportation

Federal Railroad Administration

**49 CFR Parts 213, 214 et al.
Proposed Revisions to the Schedules of
Civil Penalties for a Violation of a
Federal Railroad Safety Law or Federal
Railroad Administration Safety Regulation;
Proposed Rule**

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

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.

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/

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.

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.

⁵FRA 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 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 PENALTIES¹—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 |

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 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 |

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 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 |

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 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 PENALTIES¹

| 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 |

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 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 |
| (3) 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 PENALTIES¹—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) 1⅜" 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 PENALTIES¹

| 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 Caboose 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) |
| (1) 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 PENALTIES¹—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 out 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]

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

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:

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 |

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 U.S.C. 21301, 21304, and 49 CFR part 209, appendix A.

²The 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 |
| (j) 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 |

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 U.S.C. 21301, 21304 and 49 CFR part 209, appendix A.

²The 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