



**ISSUED BY THE HERITAGERAIL ALLIANCE  
REGULATORY COMMITTEE IN CONJUNCTION WITH THE  
RAILROAD PASSENGER CAR ALLIANCE**

## **Advisory Bulletin**

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### **Changes to Title 49, Code of Federal Regulations, Part 219 "Control of Drug and Alcohol Use"**

#### **Background**

49CFR219 Control of Drug and Alcohol Use applies to all railroads connected to the General System of Railroads. Heritage railroads that are part of the General System currently have Drug and Alcohol Testing (DAT) programs in place for Train and Engine (T&E) Service personnel as well as Roadway workers (as applicable). Through a revision to this part, effective March 2, 2022, 49CFR219 now requires Mechanical employees who perform regulated activities on a General System railroad be included in the railroad's drug and alcohol testing program.

This document provides Heritage Railroads with the additional information to modify their DAT programs. Questions not answered by this document or questions regarding General System status should be directed to the Federal Railroad Administration.

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### **Definitions**

As per §219.5:

*Employee* means any individual, (including a volunteer or a probationary employee) performing activities for a [railroad](#), a [contractor](#) to a [railroad](#), or a subcontractor to a [railroad](#).

*Mechanical employee or MECH employee* means –

(1) Any [employee](#) who, on behalf of a [railroad](#), performs mechanical tests or inspections required by part 215, 221, 229, 230, 232, 238, or 299 of this chapter on [railroad rolling equipment](#), or its components, except for:

(i) An [employee](#) who is a member of a train crew assigned to test or inspect [railroad rolling equipment](#) that is part of a train or yard movement the [employee](#) has been called to operate; or

(ii) An [employee](#) who only performs one or more of the following duties:

(A) Cleaning and/or supplying cabooses, locomotives, or passenger cars with ice, food concession items, drinking water, tools, sanitary supplies, or flagging equipment;

(B) Servicing activities on locomotives such as fueling, replenishing engine oils and engine water, sanding, and toilet discharge and recharge;

(C) Checking lading for pilferage or vandalism; or

(D) Loading, unloading, or shifting car loads.

(2) An [employee](#) who only performs work related to the original manufacturing, testing, or inspection of [railroad rolling equipment](#), or its components, on the manufacturer's behalf, is not a [mechanical employee](#) or MECH [employee](#).

*Tourist, scenic, historic, or excursion operations that are not part of the general railroad system of transportation* means a tourist, scenic, historic, or excursion operation conducted only on track used exclusively for that purpose (*i.e.*, there is no freight, intercity passenger, or commuter passenger railroad operation on the track).

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### **Application**

As with the original rule, only those operations who are part of the General System are impacted by the change. §219.3, Application, states –

- (a) *General.* This part applies to all [railroads](#) and contractors, except as provided in paragraphs (b), (c), and (d) of this section, and except for:
- (1) [Railroads](#) that operate only on track inside an installation that is not part of the general [railroad](#) system of transportation (*i.e.*, plant railroads, as defined in [§ 219.5](#));
  - (2) [Tourist, scenic, historic, or excursion operations that are not part of the general railroad system of transportation](#), as defined in [§ 219.5](#);
- or
- (3) Rapid transit operations in an urban area that are not connected to the general [railroad](#) system of transportation.

Referring back to §219.3, Definitions, tourist, scenic, historic, and excursion operations are -

Thus, only if your operation is part of the General System, are you impacted by this change. If you currently don't have a Drug and Alcohol Use Control Plan, you are not required to create one unless your railroad is now part of the General System.

### **Scope of Regulated Activity**

For those to whom this change applies, the Alliance is providing additional guidance to help clarify whom falls under the expanded scope of this rule. This guidance is developed from information provided from the FRA during a meeting with the FRA on March 16, 2022. Per the definition, a MECH employee is defined as one who performs “mechanical tests or inspections required by part 215, 221, 229, 230, 232, 238, or 299.”

A review of the applicable standards identified the following tests or inspections:

*Note: Several of the below inspection could be covered under Transportation Employees (engineer, conductor, fireman, etc.) that are already covered*

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*under 219. These are indicated by "T&E Service Personnel" in parenthesis after the title of the paragraph. Otherwise, non-Transportation Employees such as mechanical forces, including contractors, that perform the below test(s) would be subject to 219 testing under the new program.*

### 49 CFR Part 215 - Railroad Freight Car Safety Standards

*For Tourist and Historic Railroads operating converted freight cars, portions of this Part will apply.*

§ 215.9(a) Movement of defective cars for repair

§ 215.13 Pre-departure inspection

§ 215.15(a) Periodic inspection

### 49 CFR Part 221 - Rear End Marking Device - Passenger, Commuter And Freight Trains

*The scope of this Part does include markers (such as lamps) used to indicate the rear of a train including those that are permanently attached.*

§ 221.15 Marking device inspection

*T&E Service Personnel*

### 49 CFR Part 229 - Railroad Locomotive Safety Standards

§ 229.9(a) Movement of non-complying locomotives

§ 229.21 Daily inspection

*T&E Service Personnel*

§ 229.23(e) Periodic inspection: general

§ 229.25 Tests: Every periodic inspection

*Signature provided in 229.23 but anyone involved in the inspection is regulated, parts replacement is not inspection but a service*

§ 229.27(b) Annual tests

§ 229.29(g) Air brake system calibration, maintenance, and testing

*This does not apply to 3<sup>rd</sup> party air brake shops who service components*

§ 229.31 Main reservoir tests

*Completion of Form [FRA F 6180-49A](#)*

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49 CFR Part 230 - Steam Locomotive Inspection and Maintenance Standards

- § 230.12(b) Movement of non-complying steam locomotives
- § 230.13(a) Daily inspection  
T&E Service Personnel
- § 230.14(a) Thirty-one (31) [service day](#) inspection
- § 230.15(a) Ninety-two (92) [service day](#) inspection
- § 230.16(a) Annual inspection
- § 230.17(b) One thousand four hundred seventy-two (1472) [service day](#) inspection  
*Completion of FRA Form 3*
- § 230.54 Testing and maintenance (T&E Service Personnel)  
*The individuals who perform inspections under the following paragraphs are only required to be in regulated service if their signatures are applied to § 230 Appendix C Forms following the performance of the inspections:*
- § 230.32 Time and method of inspection
- § 230.36 Hydrostatic testing of boilers
- § 230.37 Steam test following [repairs](#) or alterations
- § 230.40(a) Time and method of staybolt testing
- § 230.45 Method of testing
- § 230.50 Time of testing
- § 230.71(a) Orifice testing of compressors
- § 230.72(a) Testing main reservoirs
- § 230.73(b)(c) Air gauges

49 CFR Part 232 - Brake System Safety Standards for Freight and Other  
Non-Passenger Trains and Equipment; End-Of-Train Devices

- § 232.15(a) Movement of defective equipment
- § 232.105(c) General requirements for locomotives
- § 232.305(a) Single Car Test
- § 232.710 General rules; locomotives  
(T&E Service Personnel)
- § 232.712 [Initial terminal](#) road [train](#) airbrake tests  
(T&E Service Personnel)

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§ 232.713 Road [train](#) and intermediate terminal [train air brake](#) tests  
(T&E Service Personnel)

§ 232.714 Inbound brake equipment inspection  
(T&E Service Personnel)

§ 232.716 Running tests  
(T&E Service Personnel)

### 49 CFR Part 238 - Passenger Equipment Safety Standards

*Most heritage passenger equipment is exempt from Part 238. These rules apply to Amtrak capable equipment or Amtrak equipment used on Tourist and Historic Railroads*

§ 238.15 Movement of passenger equipment with power brake defects

§ 238.17 Movement of passenger equipment with other than power brake defects

§ 238.303 Exterior calendar day mechanical inspection of passenger equipment

§ 238.305 Interior calendar day mechanical inspection of passenger cars

§ 238.307 Periodic mechanical inspection of [passenger cars](#) and unpowered vehicles used in passenger trains

§ 238.311 [Single car test](#)

§ 238.313 [Class I brake test](#)

§ 238.315 [Class IA brake test](#)

§ 238.317 [Class II brake test](#)

§ 238.319 [Running brake test](#)

Organizations impacted by this change are encouraged to review the FRA Model for Railroads for the required updates for your program.

### **Individuals Not Associated with a Railroad**

Heritage Tourist Railroads that are connected to the General System are also served by individuals who perform their services on a contractual basis. The Heritage Tourist railroads who hire these individuals to perform regulated

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activities on a contractual basis are now required to add those individuals to their DAT programs. It is the responsibility of the railroads Designated Employee Representative (DER) to determine if the contracted individual requires a pre-employment drug screen and if the individual's term of service requires the individual's placement into the pool for random testing.

Also impacted by this rule change are organizations that own equipment which operates on a General System Railroad. For example, if your organization owns a steam locomotive that routinely operates over a Class 1 or a Heritage Railroad connected to the General System, then your organization must comply with 219 through one of these two options:

- 1) Submit and maintain their own DAT program which includes provisions for the inclusion of contractors who perform services for the railroad or organization. The DER must be an employee (can be non-paid) of the railroad or organization.
- 2) Utilize a 3rd party services provider, such as Integrity Testing, to develop and administer a DAT. As with Option 1, the DER must be an employee (can be non-paid) of the railroad or organization.

Similarly, individuals or organizations who own passenger equipment that operates on a General System Railroad must comply with 49CFR219 if they perform regulated activities on the equipment. If the owners hire individuals to perform regulated activities on a contractual basis, then those individuals must be under a DAT plan. To achieve this, the owner of the passenger equipment must work with a third party provider, such as Integrity Testing, to create a DAT plan which covers individuals who perform regulated services on the privately owned passenger equipment. The DER must be the equipment owner; or an employee of the owner or organization who has contracted the third party provider of the DAT services.

An additional option available for sole proprietors is to join a consortium pool maintained by Integrity Testing. For more information regarding this pool, go to <https://www.integritytesting.net/index.html> or contact the program administrator, Mary Brown-Ybos. Her contact information is –

Email: [Mbrown-ybos@integritytesting.net](mailto:Mbrown-ybos@integritytesting.net)

Office Phone: 586-991-0000

Cell Phone: 248-703-0801

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**Note: If you are an employee of a covered operation for 219, you must have a stand-alone plan if you work as a contractor at other operations.**

### **Additional tools**

The following is available in the HeritageRail Alliance Library:

- FRA PowerPoint Presentation “Highlights of Control of Alcohol and Drug Use: Coverage of Mechanical Employees and Miscellaneous Amendments Published February 2, 2022”
- FRA Model Railroad Plan Submissions for Use on or After March 4, 2022
- FRA Model Railroad Contractor Plan Effective March 4, 2022
- FRA Model Small Railroad Plan Effective March 4, 2022

### **Disclaimer**

This Advisory Bulletin is provided by the HeritageRail and Railroad Passenger Car Alliances for the purpose of assisting users of the bulletin in meeting the requirements of Title 49, Part 219, of the Code of Federal Regulations. Usage of the content of this bulletin is not a guarantee of Federal Railroad Administration acceptance of a Drug and Alcohol Testing program.