



Brotherhood of Locomotive Engineers and Trainmen

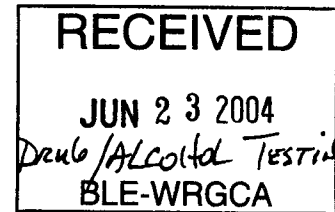
A Division of the Rail Conference-International Brotherhood of Teamsters

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*Vice President &
 National Legislative Representative*

Via FAX Transmittal and U.S. Mail



MEMORANDUM

TO: State Legislative Board Chairmen
 General Chairmen

FROM: R. A. Holmes, VP & NLR

DATE: June 23, 2004

SUBJECT: Drug/Alcohol Testing Regulations

Due to an increase in random drug and alcohol positive test results of covered service employees, the Federal Railroad Administration (FRA) has requested our immediate intervention. Rail labor organizations and representatives from FRA and all Class I railroads met in Jacksonville, FL recently to discuss these alarming results.

As Locomotive Engineers, our drug and alcohol responsibilities fall under three different parts of the DOT/FRA Federal Code of Regulations. Parts 240, 40 and 219 involve random testing, certification and post-accident testing.

Under FRA 49 CFR, Part 219:

“219.608 b) The Administrator’s decision to increase or decrease the minimum annual percentage rate for random alcohol testing is based on the violation rate for the entire industry.

219.608 (c)(1)

(1) When the minimum annual percentage rate for random alcohol testing is 25 percent or more, the Administrator may lower this rate to 10 percent of all covered employees if the Administrator determines that the data received under the reporting requirements of §219.800 for two consecutive calendar years indicate that the violation rate is less than 0.5 percent.

219.608(c)(2)

(2) When the minimum annual percentage rate for random alcohol testing is 50 percent, the Administrator may lower this rate to 25 percent of all covered employees if the Administrator determines that the data received under the

reporting requirements of §219.800 for two consecutive calendar years indicate that the violation rate is less than 1.0 percent but equal to or greater than 0.5 percent.”

In a similar way the Administrator determines the drug testing rate.

“219.602 (c) When the minimum annual percentage rate for random drug testing is 50 percent, the Administrator may lower this rate to 25 percent of all covered employees if the Administrator determines that the data received under the reporting requirements of §219.800 for two consecutive calendar years indicate that the reported positive rate is less than 1.0 percent.

219.602(d)(d) When the minimum annual percentage rate for random drug testing is 25 percent, and the data received under the reporting requirements of §219.800 for any calendar year indicate that the reported positive rate is equal to or greater than 1.0 percent, the Administrator will increase the minimum annual percentage rate for random drug testing to 50 percent of all covered employees.”

Further, FRA revealed increased incidents of employees purposely contaminating samples during testing and/or refusing to take the test. As a result, DOT will consider a new Notice of Proposed Rulemaking [*Federal Register*, April 13, 2004] (See Memo of April 19, 2004), that will mandate carriers to test employees using hair, skin and saliva samples. A Class I railroad already uses a form of this testing for application of employment.

Under the provisions of §219.401-219.407, “Identification of Troubled Employees”, FRA has allowed for carriers to develop programs for employees, such as Redblock and OpStop. It was noted in these meetings that some carriers are no longer supporting (self-help) programs.

Therefore, it is imperative that this vital information be posted at job locations and discussed at Division meetings.

**cc: D. M. Hahs, President
E. W. Rodzicz, FVP
W. C. Walpert, GST
Advisory Board**