

# INDIANA HARBOR BELT RAILROAD

## FITNESS FOR DUTY POLICY

EFFECTIVE JUNE 1, 2020

### Purpose

The Indiana Harbor Belt Railroad (IHB) is committed to promoting a safe work environment for its employees, customers and surrounding communities. This is only possible when each employee is able to perform his/her job duties in a safe, secure and effective manner and remains able to do so throughout their entire shift. Employees who are not fit for duty may present a safety risk to themselves and/or to others. Being fit for duty is an essential job function of every employee and includes being both mentally and physically fit as well as free from the influence of drugs or alcohol. As such, in addition to the IHB's current Drug and Alcohol Policy, the IHB is implementing a fitness for duty policy to help ensure the safety of everyone involved in and affected by the company's operations.

### Scope

**Pre-Employment-** Applicants given a conditional job offer will be required to submit to a pre-employment medical examination with an IHB company physician or facility as a condition of employment. The examination may consist of a drug and alcohol screening as well as a physical examination consistent with the requirements for the position for which they are applying.

**Promotion/Transfer-** Any current IHB employee who is conditionally offered a transfer or promotion to a different position within the company may be required to submit to a fitness for duty medical examination with an IHB company physician or facility. The examination may consist of a drug and alcohol screening as well as a physical examination consistent with the requirements for the position they are transferring to or being promoted to.

**All Employees-** Any current IHB employee may be required to submit to a fitness for duty medical examination with an IHB company physician or facility at the request of IHB management when the exam is job-related and consistent with business necessity. The examination may consist of a drug and alcohol screening as well as a physical examination consistent with the requirements for the position held by the employee. These examinations may be used to evaluate accommodation requests when the potential disability or need for accommodation is not known or obvious, or when the IHB has a reasonable belief based on objective evidence that an employee's ability to perform essential job functions will be impaired by a medical condition or an employee may pose a direct threat to themselves or others due to a medical condition.

### **Cost and Confidentiality**

The cost of any of the above listed medical examinations required and performed by a physician or facility designated by the company will be paid for by the IHB. All examination records will be treated as confidential and will only be viewed by appropriate Human Resource Personnel. Any follow-up care with the employee's own healthcare provider for their own medical condition that is required as a result of the exam for qualification for duty, will be at the expense of the employee.

### **Reporting Prescription Drugs**

Any employee with safety sensitive job functions must report any drug(s) prescribed by their healthcare provider to the company prior to beginning use of the drug(s) or prior to reporting for duty once use of the drug(s) has begun. This should be done via the employee submitting a completed form MD1000, Safety Sensitive Employee Drug Report (found on the IHB's website), to the Human Resources Department. Employees with safety sensitive job functions may not work once they have begun taking any prescription drug(s) until use of the drug(s) has been approved by the IHB's medical consultant. If an employee with safety sensitive job functions reports for duty while taking a drug(s) that has not been approved for use while at work, they may be removed from service until such time as a determination can be made by the IHB's medical consultant regarding the effects of such drug(s). Any questions regarding the use of prescription drugs should be directed to the IHB's Human Resource Department.

In cases where an employee is prescribed a drug(s) that is not approved for use while performing their safety sensitive job functions, the employee must discuss with their healthcare provider other medication options that may have the same benefits for their condition but may not have side effects that prohibit them from performing their safety sensitive job functions. They must also provide their healthcare provider with a functional job description for the position they hold for their review. If no other medications are available for the employee's health condition and the drug(s) is necessary, the employee may be medically disqualified until such time as they are no longer taking the unapproved drug(s).

In cases where an employee is prescribed a drug(s) that is not approved for use within a certain time frame of performing their safety sensitive job functions, the employee will be asked to certify stating that they will not take the noted drug(s) while on duty or within the specified amount of time stated prior to reporting for duty.

**Reporting Medical Conditions**


Any employee who is injured while at work must report the injury to the company immediately.

Any employee who receives a medical diagnosis of an occupational illness, must report the occupational illness to the company immediately.

All employees are responsible for reporting to work fit for duty and for notifying the company when they are not fit for duty, including as a result of a non-workplace injury or illness.

*Failure to comply with any portion of this policy may result in discipline and/or medical disqualification.*

*No provision of this policy shall be applied or interpreted in a manner inconsistent with federal, state and local law. If this policy conflicts with an employee's applicable Collective Bargaining Agreement (CBA), the CBA will take precedence over this policy. If you believe any portion of this policy conflicts with your CBA, you must notify the Human Resource Department. You must comply with this policy until such time as any claim or grievance is resolved.*



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Nicole Moore Parchem  
Director of Human Resources and Labor Relations

5/21/2020  
Date



U.S. Department  
of Transportation

**Federal Railroad  
Administration**

SEP 13 2018

1200 New Jersey Avenue, SE  
Washington, DC 20590



The Federal Railroad Administration (FRA) is continuously striving to improve the safety of railroad operations, which depend upon alert and fully functional professionals who are not adversely affected by drug use—even when that use is medically authorized.

This letter is part of FRA's continuing efforts to ensure railroad employees use prescription (Rx) and over-the-counter (OTC) drugs in a manner consistent with the safe performance of their duties. Railroads and their employees who perform safety-sensitive functions must be aware of and understand the potential adverse effects of prescription or OTC drugs that could impair work performance and have a potentially negative impact on rail safety. Please distribute this letter to your member railroads and encourage them to share it with their employees and contractors as appropriate.

FRA regulations prohibit illicit drug use and the unauthorized use of certain controlled substances by regulated service employees (defined as covered service and maintenance-of-way employees). See 49 CFR Part 219, Control of Alcohol and Drug Use. FRA is equally concerned, however, about the potential side effects of some prescription and OTC drugs, particularly those with sedating and impairing effects that may adversely affect an individual's ability to perform safety-sensitive functions.

FRA regulations require that a regulated service employee's physician, with knowledge of the employee's duties and medical history (including the employee's complete prescription and OTC drug use), determine if the use of a substance is consistent with the safe performance of the employee's duties. See 49 CFR § 219.103. However, many potentially impairing drugs, such as sedating antihistamines, do not require a prescription. Therefore, regulated service employees must also be aware of the adverse effects of commonly used OTC drugs, both singly and in combination with other OTC or prescribed drugs.

The U.S. Food and Drug Administration (FDA) maintains the FDA Online Label Repository, which contains the drug listing and label information for prescription and OTC drugs that companies have submitted to the FDA. See 49 CFR Part 207, Railroad Police Officers.

Information contained in the FDA Online Label Repository includes descriptions of the medications, warnings, and information about potential adverse effects and impaired performance that the medicines may cause. FRA has posted a link to the FDA Online Label Repository on its website: <https://www.fra.dot.gov/Page/P0345>. It can also be found at <https://labels.fda.gov>.

FRA encourages railroads to be aware of, and railroad employees to thoroughly discuss with their physicians (or other treating medical professionals), potential side effects or adverse reactions to medications prescribed or recommended by any medical professional as they may relate to the employee's job performance.

Additionally, FRA encourages railroads to educate their employees on the potential dangers of using prescription and OTC medications while performing safety-sensitive functions, particularly regulated service. FRA will soon be releasing an Rx-OTC Training Module for use by the railroad industry.

Thank you for your attention to this important matter. If you have any questions regarding this letter, please contact Mr. Jerry Powers, Drug and Alcohol Program Manager, at 202-493-6313 or [gerald.powers@dot.gov](mailto:gerald.powers@dot.gov).

A similar letter has been sent to other railroad and labor associations.

Sincerely,



 Karl Alexy  
Deputy Associate Administrator

 Displaying title 49, up to date as of 2/15/2022. Title 49 was last amended 2/11/2022.

**Title 49 - Transportation**  
**Subtitle B - Other Regulations Relating to Transportation**  
**Chapter II - Federal Railroad Administration, Department of Transportation**

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## PART 219 - CONTROL OF ALCOHOL AND DRUG USE

**Authority:** 49 U.S.C. 20103, 20107, 20140, 21301, 21304, 21311; 28 U.S.C. 2461, note; Sec. 412, Div. A, Pub. L. 110-432, 122 Stat. 4889 (49 U.S.C. 20140, note); and 49 CFR 1.89.

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### CROSS REFERENCE

[Link to an amendment published at 87 FR 5733, Feb. 2, 2022.](#)

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**Source:** 66 FR 41973, Aug. 9, 2001, unless otherwise noted.

### Subpart A - General

#### § 219.1 Purpose and scope.

- (a) The purpose of this part is to prevent accidents and casualties in railroad operations that result from impairment of employees by alcohol or drugs.
- (b) This part prescribes minimum Federal safety standards for control of alcohol and drug use. This part does not restrict a railroad from adopting and enforcing additional or more stringent requirements not inconsistent with this part.

[66 FR 41973, Aug. 9, 2001, as amended at 81 FR 37922, June 10, 2016]

#### § 219.3 Application.

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### CROSS REFERENCE

[Link to an amendment published at 87 FR 5733, Feb. 2, 2022.](#)

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- (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

- (5) If an employee tested under the provisions of this part has a test result indicating an alcohol concentration below 0.02, the test is negative and is not evidence of alcohol misuse. A railroad may not use a Federal test result below 0.02 either as evidence in a company proceeding or as a basis for subsequent testing under company authority. A railroad may take further action to compel cooperation in other breath or body fluid testing only if it has an independent basis for doing so. An independent basis for subsequent company authority testing will exist only when, after having a negative Federal reasonable suspicion alcohol test result, the employee exhibits additional or continuing signs and symptoms of alcohol use. If a company authority test then indicates a violation of the railroad's operating rules, this result is independent of the Federal test result and must stand on its own merits.
- (b) **Controlled substance.** "Controlled substance" is defined by § 219.5. Controlled substances are grouped as follows: marijuana, narcotics (such as heroin and codeine), stimulants (such as cocaine and amphetamines), depressants (such as barbiturates and minor tranquilizers), and hallucinogens (such as the drugs known as PCP and LSD). Controlled substances include illicit drugs (Schedule I), drugs that are required to be distributed only by a medical practitioner's prescription or other authorization (Schedules II through IV, and some drugs on Schedule V), and certain preparations for which distribution is through documented over the counter sales (Schedule V only).
- (c) **Railroad rules.** Nothing in this section restricts a railroad from imposing an absolute prohibition on the presence of alcohol or any drug in the body fluids of persons in its employ, whether in furtherance of the purpose of this part or for other purposes.
- (d) **Construction.** This section may not be construed to prohibit the presence of an unopened container of an alcoholic beverage in a private motor vehicle that is not subject to use in the business of the railroad; nor may it be construed to restrict a railroad from prohibiting such presence under its own rules.

[66 FR 41973, Aug. 9, 2001, as amended at 81 FR 37928, June 10, 2016]

#### § 219.102 Prohibition on abuse of controlled substances.

No regulated employee may use a controlled substance at any time, whether on duty or off duty, except as permitted by § 219.103.

[81 FR 37929, June 10, 2016]

#### § 219.103 Prescribed and over-the-counter drugs.

- (a) This subpart does not prohibit the use of a controlled substance (on Schedules II through V of the controlled substance list) prescribed or authorized by a medical practitioner, or possession incident to such use, if -
- (1) The treating medical practitioner or a physician designated by the railroad has made a good faith judgment, with notice of the employee's assigned duties and on the basis of the available medical history, that use of the substance by the employee at the prescribed or authorized dosage level is consistent with the safe performance of the employee's duties;
  - (2) The substance is used at the dosage prescribed or authorized; and
  - (3) In the event the employee is being treated by more than one medical practitioner, at least one treating medical practitioner has been informed of all medications authorized or prescribed and has determined that use of the medications is consistent with the safe performance of the employee's duties (and the employee has observed any restrictions imposed with respect to use of the medications in combination).
- (b) This subpart does not restrict any discretion available to the railroad to require that employees notify the railroad of therapeutic drug use or obtain prior approval for such use.

#### § 219.104 Responsive action.

- (a) **Removal from regulated service.**
- (1) If a railroad determines that a regulated employee has violated § 219.101 or § 219.102, or the alcohol or controlled substances misuse rule of another DOT agency, the railroad must immediately remove the employee from regulated service and the procedures described in paragraphs (b) through (d) of this section apply.
  - (2) If a regulated employee refuses to provide a breath or body fluid specimen or specimens when required to by the railroad under a provision of this part, a railroad must immediately remove the regulated employee from regulated service, and the procedures described in paragraphs (b) through (d) of this section apply. This provision also applies to Federal reasonable cause testing under subpart E of this part (if the railroad has elected to conduct this testing under Federal authority).
- (b) **Notice.** Before or upon removing a regulated employee from regulated service under this section, a railroad must provide written notice to the employee of the reason for this action. A railroad may provide a regulated employee with an initial verbal notice so long as it provides a follow-up written notice to the employee as soon as possible. In addition to the reason for the employee's withdrawal from regulated service, the written notice must also inform the regulated employee that he may not perform any DOT safety-sensitive duties until he completes the return-to-duty process of part 40.
- (c) **Hearing procedures.**
- (1) Except as provided in paragraph (e)(5) of this section, if a regulated employee denies that a test result or other information is valid evidence of a § 219.101 or § 219.102 violation, the regulated employee may demand and must be provided an opportunity for a prompt post-suspension hearing before a presiding officer other than the charging official. This hearing may be consolidated with any disciplinary hearing arising from the same accident or incident (or conduct directly related thereto), but the presiding officer must make separate findings as to compliance with §§ 219.101 and 219.102.
  - (2) The hearing must be convened within the period specified in the applicable collective bargaining agreement. In the absence of an agreement provision, the regulated employee may demand that the hearing be convened within 10 calendar days of the employee's suspension or, in the case of a regulated employee who is unavailable due to injury, illness, or other sufficient cause, within 10 days of the date the regulated employee becomes available for the hearing.
  - (3) A post-suspension proceeding conforming to the requirements of an applicable collective bargaining agreement, together with the provisions for adjustment of disputes under sec. 3 of the Railway Labor Act (49 U.S.C. 153), satisfies the procedural requirements of this paragraph (c).