

POSSIBLE WAIVERS FOR LIGHT RAIL OPERATIONS ON THE GENERAL RAILROAD SYSTEM BASED ON SEPARATION IN TIME FROM CONVENTIONAL OPERATIONS—Continued

Title 49 CFR part	Subject of rule	Likely treatment	Comments
220	Radio communications	Waive, except to extent communications with freight trains and roadway workers are necessary.	State safety oversight.
225	Accident reporting and investigation.	Comply with regard to train accidents and crossing accidents; waive as to injuries; FRA accident investigation authority not subject to waiver.	Employee injuries would be reported under FTA or OSHA rules.
228**	Hours of service record-keeping.	Waive (in concert with waiver of statute); waiver not likely for personnel who dispatch conventional RR or maintain signal system on shared use track.	See note below on possible waiver of statutory requirements.
239	Passenger train emergency preparedness.	Waive	State safety oversight.
240	Engineer certification	Waive	State safety oversight.

* *Safety Appliance Statute.* Certain safety appliance requirements (e.g., automatic couplers) are statutory and can only be waived under the conditions set forth in 49 U.S.C. 20306, which permits exemptions if application of the requirements would "preclude the development or implementation of more efficient railroad transportation equipment or other transportation innovations." If consistent with employee safety, FRA could probably rely on this provision to address most light rail equipment that could not meet the standards.

** *Hours of Service Statute.* Currently, 49 U.S.C. 21108 permits FRA to waive substantive provisions of the hours of service laws based upon a joint petition by the railroad and affected labor organizations, after notice and an opportunity for a hearing. This is a "pilot project" provision, so waivers are limited to two years but may be extended for additional two-year periods after notice and an opportunity for comment.

[65 FR 42546, July 10, 2000]

PART 212—STATE SAFETY PARTICIPATION REGULATIONS

Subpart A—General

Sec.

- 212.1 Purpose and scope.
- 212.3 Definitions.
- 212.5 Filing.

Subpart B—State/Federal Roles

- 212.101 Program principles.
- 212.103 Investigative and surveillance authority.
- 212.105 Agreements.
- 212.107 Certification.
- 212.109 Joint planning of inspections.
- 212.111 Monitoring and other inspections.
- 212.113 Program termination.
- 212.115 Enforcement actions.

Subpart C—State Inspection Personnel

- 212.201 General qualifications of State inspection personnel.
- 212.203 Track inspector.
- 212.205 Apprentice track inspector.
- 212.207 Signal and train control inspector.
- 212.209 Train control inspector.
- 212.211 Apprentice signal and train control inspector.
- 212.213 Motive power and equipment (MP&E) inspector.
- 212.215 Locomotive inspector.
- 212.217 Car inspector.
- 212.219 Apprentice MP&E inspector.

- 212.221 Operating practices inspector.
- 212.223 Operating practices compliance inspector.
- 212.225 Apprentice operating practices inspector.
- 212.227 Hazardous materials inspector.
- 212.229 Apprentice hazardous materials inspector.
- 212.231 Highway-rail grade crossing inspector.
- 212.233 Apprentice highway-rail grade crossing inspector.
- 212.235 Inapplicable qualification requirements.

AUTHORITY: 49 U.S.C. 20103, 20106, 20105, and 20113 (formerly secs. 202, 205, 206, and 208, of the Federal Railroad Safety Act of 1970, as amended (45 U.S.C. 431, 434, 435, and 436)); and 49 CFR 1.49.

SOURCE: 47 FR 41051, Sept. 16, 1982, unless otherwise noted.

Subpart A—General

§ 212.1 Purpose and scope.

This part establishes standards and procedures for State participation in investigative and surveillance activities under the Federal railroad safety laws and regulations.

§ 212.3 Definitions.

As used in this part:

Federal Railroad Administration, DOT

§ 212.101

(a) *Administrator* means the Federal Railroad Administrator or the Deputy Administrator or the delegate of either of them.

(b) *Associate Administrator* means the Associate Administrator for Safety, Federal Railroad Administration (FRA), or the Deputy Associate Administrator for Safety, FRA.

(c) *FRA* means the Federal Railroad Administration.

(d) *Federal railroad safety laws* means the following enactments, together with regulations and orders issued under their authority:

(1) The Federal Railroad Safety Act of 1970, as amended (45 U.S.C. 421, 431-441);

(2) The Safety Appliance Acts, as amended (45 U.S.C. 1-16);

(3) The Locomotive Inspection Act, as amended (45 U.S.C. 22-34);

(4) The Signal Inspection Act, as amended (49 U.S.C. 26);

(5) The Accident Reports Act, as amended (45 U.S.C. 38-42);

(6) The Hours of Service Act, as amended (45 U.S.C. 61-64(b); and

(7) The Hazardous Materials Transportation Act (49 app. U.S.C. 1801 *et seq.*), as it pertains to shipment or transportation by railroad.

(e) *Manufacturer* means a person that manufactures, fabricates, marks, maintains, reconditions, repairs, or tests containers which are represented, marked, certified, or sold for use in the bulk transportation of hazardous materials by railroad.

(f) *Shipper* means a person that offers a hazardous material for transportation or otherwise causes it to be transported.

(g) *Planned compliance inspections* means investigative and surveillance activities described in the annual work plan required by § 212.109 of this part that provide basic surveillance of railroad facilities, equipment and/or operations for the purpose of determining the level of compliance with relevant Federal safety requirements.

[47 FR 41051, Sept. 16, 1982, as amended at 57 FR 28115, June 24, 1992]

§ 212.5 Filing.

Each State agency desiring to conduct investigative and surveillance activities must submit to the Associate

Administrator for Safety, Federal Railroad Administration, 400 Seventh Street, SW., Washington, DC 20590, the documentation which contains the information prescribed by §§ 212.105 and 212.107.

Subpart B—State/Federal Roles

§ 212.101 Program principles.

(a) The purpose of the national railroad safety program is to promote safety in all areas of railroad operations in order to reduce deaths, injuries and damage to property resulting from railroad accidents.

(b)(1) The national railroad safety program is carried out in part through the issuance of mandatory Federal safety requirements and through inspection efforts designed to monitor compliance with those requirements. FRA and State inspections determine the extent to which the railroads, shippers, and manufacturers have fulfilled their obligations with respect to inspection, maintenance, training, and supervision. The FRA and participating States do not conduct inspections of track, equipment, signal systems, operating practices, and hazardous materials handling for the railroads, shippers, and manufacturers.

(2) The national railroad safety program is also carried out through routine inspections, accident investigations, formal and informal educational efforts, complaint investigations, safety assessments, special inquiries, regulatory development, research and similar initiatives.

(c) It is the policy of the FRA to maintain direct oversight of railroad, shipper, and manufacturer conditions and practices relevant to safety by conducting inspections and investigations in concert with participating State agencies.

(d) The principal role of the State Safety Participation Program in the national railroad safety effort is to provide an enhanced investigative and surveillance capability through assumption, by participating State agencies, of responsibility for planned routine compliance inspections. The FRA encourages further State contributions to the national railroad safety program consistent with overall program needs,