

2008 Rail Safety Improvement Act

Section 401

Minimum Training Standards and Plans Working Group Consensus

RSAC Meeting – December 14, 2010

The working group, consisting of about 70 people from Rail Management, Rail Labor, and Rail Contractor representatives, reached consensus on the draft rule during a teleconference on November 23, 2010

The draft regulation consists of the following major elements:

Purpose and Scope – The purpose is to assure that safety-related railroad employees (as defined in the definitions) are trained and qualified on any Federal railroad safety laws, regulations, and orders the employee is required to comply with.

Application and responsibility for compliance –

This section had the traditional language found in most FRA regulations, but was re-written in November to specifically exclude plant, tourist, scenic, historic, or excursion operations that are not part of the general railroad system of transportation as defined in this particular regulation.

Definitions – There are a number of new definitions, including many particular to the training process, including definitions for formal training, knowledge-based training, on-the-job training, and task-based training.

Definitions (continued) – The definition of “safety-related railroad employee” was the most vigorously discussed definition for the working group. In the end, we reached consensus on eight employee categories that meet both the legislative language and other criteria we believe necessary to regulate.

These categories are as follows:

Safety-related railroad employee means an individual who is engaged or compensated by an employer to:

- (1) Perform work covered under the hours of service laws found at 49 U.S.C. 21101, et seq.;
- (2) Perform work as an operating railroad employee who is not subject to the hours of service laws found at 49 U.S.C. 21101, et seq.;
- (3) In the application of parts 213 and 214 of this chapter, inspect, install, repair, or maintain track, roadbed, and signal and communication systems, including a roadway worker or railroad bridge worker as defined in § 214.7 of this chapter;
- (4) Inspect, repair, or maintain locomotives, passenger cars or freight cars;

- (5) Inspect, repair, or maintain other railroad on-track equipment when such equipment is in a service that constitutes a train movement under part 232 of this chapter:
- (6) Determine that an on-track roadway maintenance machine or hi-rail vehicle may be used in accordance with part 214, subpart D of this chapter, without repair of a non-complying condition;
- (7) Directly instruct, mentor, inspect, or test, as a primary duty, any person while that other person is engaged in a safety-related task; or
- (8) Directly supervise the performance of safety-related duties in connection with periodic oversight in accordance with § 243.205.

Other major topics where consensus was reached:

- The regulated community includes railroads (as specified in the applicability section), contractors (and subcontractors), and training organizations or learning institutions that offer training that is intended to prepare people for employment as safety-related railroad employees.
- A three-year refresher training interval for current safety-related railroad employees, unless otherwise provided for in another FRA safety regulation.
- ASLRRA and NRCMA will develop, and submit for FRA approval, training programs for small railroads and contractors to use if they wish. Other “master organizations”, if they exist, would be permitted to do the same.

Other major topics where consensus was reached:

- Identification of training components employers will submit to FRA for review and approval.
- The overall training program submission, review, and approval process.
- Employee qualification requirements, including the criteria for grandfathering current safety-related railroad employees.
- Recordkeeping requirements, which will mimic Part 217 requirements for electronic recordkeeping.
- Contractors will maintain their own training records, unless a railroad delivers the safety training to the contractor employees.

Other major topics where consensus was reached:

- Modifications in periodic oversight requirements. Previously, the oversight had a requirement for annual employee review, and included all task-related duties an employee could be called on to perform. This was changed to focus on those FRA regulations that are particular to personal or workgroup safety, i.e.- Parts 214, 218, and 220. We believe most or all railroads will modify the programs required by 217.9 to manage the oversight specified in the training regulation.
- Contractors meeting certain criteria will be required to provide oversight for their own employees. Railroads will provide oversight for all employees.
- Annual oversight review applicability (railroads only, with less than 400K employee hours exclusion), and the criteria that will be used for analysis of the oversight data.

Questions And Comments