

§ 200.7

information, data and documents sufficient to support the analysis.

(e) In addition to the data provided with their applications, applicants shall furnish the Administrator with any other information that the Administrator finds necessary in order to make the determinations required by the Act.

(f) Each applicant shall promptly notify, by registered or certified mail, any party affected by any application, whether Amtrak or a railroad, of the submission of such application under this part, and shall provide a copy of the application with such notice. An official United States Postal Service receipt from the registered or certified mailing constitutes prima facie evidence of notice.

§ 200.7 Objections.

(a) Amtrak or any other party shall have 30 days from the date an application is received by FRA pursuant to section 402(e) of the Act to object to the proposed alteration of the preference requirement. Such objections shall be in writing and shall reference, by date, railroad, and former passenger routes, the application to which it pertains.

(b) Amtrak shall have 30 days from the date an application is received by FRA pursuant to section 406 of the Act to object to any or all of the facility downgradings or disposals proposed in such application. Such objections shall be in writing and shall reference, by date, railroad, and former passenger routes, the application to which it pertains and shall list, by facility description and location, the specific downgradings or disposals to which Amtrak objects.

§ 200.9 Hearings.

(a) Pursuant to any application under this part, a prehearing conference will be held if found necessary or desirable by the Administrator.

(b) Pursuant to any application under this part, an oral hearing will be held if required by statute or if found necessary or desirable by the Administrator.

(c) Hearings shall be conducted by a panel designated by the Administrator, consisting of three FRA employees, in-

49 CFR Ch. II (10-1-03 Edition)

cluding the Chief Counsel or a member of his or her staff who shall serve as chairman of the panel and the Associate Administrator for Intercity Programs or his or her delegate.

(d) Hearings shall be informal fact-finding proceedings, limited to the issues identified by the panel. Sections 556 and 557 of title 5, U.S.C., shall not apply.

(e) All direct evidence shall be reduced to writing and submitted to the Docket Clerk thirty days in advance of the hearing unless this requirement is expressly waived by the panel. Copies shall be furnished to all parties concurrently with the submission to the Docket Clerk.

(f) The panel may provide for oral presentations and cross-examination, and shall apply rules of evidence as it finds necessary.

(g) To the extent deemed appropriate by the panel, interested persons, including members of the public, may participate in the hearings through the submission of written data, oral presentations, or arguments.

§ 200.11 Orders, approvals, and determinations.

(a) The Administrator shall promptly approve the downgrading or disposal of any facility to which Amtrak does not submit a timely objection under this part.

(b) Orders, approvals, and determinations issued by the Administrator's panel under this part constitute the Administrator's action and shall be final.

(c) Determinations under this part are not required to be based exclusively on the record of a hearing.

§ 200.13 Publication.

(a) General notice of any hearing under this subpart shall be published in the FEDERAL REGISTER not less than 10 days before the hearing, and shall include (1) a statement of the time, place, and nature of the hearing, (2) a reference to the legal authority under which the hearing is being held and (3) a description of the subject and issues involved.

(b) Any order, approval, or determination resulting from any hearing

Federal Railroad Administration, DOT

§ 201.5

held under this part shall be published in the FEDERAL REGISTER.

PART 201—FORMAL RULES OF PRACTICE FOR PASSENGER SERVICE

- Sec.
- 201.1 General.
- 201.3 Definitions.
- 201.4 Scope of regulations.
- 201.5 Applications.
- 201.6 Notice of hearing.
- 201.7 Notification by interested persons.
- 201.8 Presiding officer.
- 201.9 Direct testimony submitted as written documents.
- 201.10 Mailing address.
- 201.11 Inspection and copying of documents.
- 201.12 Ex parte communications.
- 201.13 Prehearing conference.
- 201.14 Final agenda of the hearing.
- 201.15 Determination to cancel the hearing.
- 201.16 Rebuttal testimony and new issues of fact in final agenda.
- 201.17 Waiver of right to participate.
- 201.18 Conduct of the hearing.
- 201.19 Direct testimony.
- 201.20 Cross-examination.
- 201.21 Oral and written arguments.
- 201.22 Recommended decision, certification of the transcript, and submission of comments on the recommended decision.
- 201.23 Administrator's decision.

AUTHORITY: Secs. 402(f) and (h) of Pub. L. 91-518, 84 Stat. 1327, as amended by sec. 10(2) of Pub. L. 93-146, 87 Stat. 548 and sec. 216 of Pub. L. 96-254, 94 Stat. 418 (45 U.S.C. 562 (f) and (h)); sec. 1.49 of Title 49, Code of Federal Regulations.

SOURCE: 46 FR 2614, Jan. 12, 1981, unless otherwise noted.

§ 201.1 General.

This part prescribes procedures under which applications will be received and heard and by which rules and orders will be issued under subsections 402(f) and (h) of the Rail Passenger Service Act (45 U.S.C. 562 (f) and (h)).

§ 201.3 Definitions.

- (a) The definitions set forth in § 200.3 shall apply to this part.
- (b) The following definitions shall also apply to this part:
 - (1) *Party* means—
 - (i) The Administrator or his representative; or
 - (ii) A person who has notified the Administrator by specified dates of his or

her intent to participate in the hearing pursuant to §§ 201.7 and 201.16(b).

(2) *Witness* means any person who submits written direct testimony on an application to the Secretary under this part. A person may be both a party and a witness.

§ 201.4 Scope of regulations.

The procedural regulations in this part govern the practice and procedure in hearings held under subsections 402(f) and (h) of the Act. These hearings will be governed by the provisions of 5 U.S.C. 556 and 557 of the Administrative Procedure Act. The regulations shall be construed to secure the just, speedy, and inexpensive determination of all issues raised with respect to any proposal to increase speeds or to add trains pursuant to subsections 402(f) and (h) of the Act with full protection for the rights of all persons affected thereby.

§ 201.5 Applications.

(a) Each application and objection under this part shall be submitted in writing to: Docket Clerk, Office of the Chief Counsel, Federal Railroad Administration, 400 7th Street, SW., Washington, DC 20590.

(b) Any procedural issues arising from the submission or consideration of applications under this part, such as timeliness and adequacy, shall be heard and decided by the presiding officer appointed under § 201.8.

(c) In accordance with subsection 402(f) of the Act, Amtrak may apply to the Administrator for an order requiring a railroad to permit accelerated speeds by Amtrak trains. Each application shall:

- (1) List by endpoints the routes for which Amtrak desires such acceleration;
- (2) Not list routes of more than one railroad;
- (3) Indicate by route and train the maximum speeds for Amtrak trains permitted by the railroad and the maximum speeds desired by Amtrak;
- (4) Indicate for each route listed the track classification as specified in FRA track safety standards (49 CFR part 213); and