

§217.11

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

(1) Provide for operational testing and inspection under the various operating conditions on the railroad;

(2) Describe each type of operational test and inspection adopted, including the means and procedures used to carry it out;

(3) State the purpose of each type of operational test and inspection;

(4) State, according to operating divisions where applicable, the frequency with which each type of operational test and inspection is conducted;

(5) Begin within 30 days after November 21, 1994, or the date of commencing operations, whichever is later; and

(6) Include a schedule for making the program fully operative within 210 days after it begins.

(c) *Records of individual tests and inspections.* Each railroad to which this part applies shall keep a record of the date, time, place, and result of each operational test and inspection that was performed in accordance with its program. Each record shall specify the officer administering the test and inspection and each employee tested. These records shall be retained at the system headquarters of the railroad and at the division headquarters for each division where the tests are conducted for one calendar year after the end of the calendar year to which they relate. These records shall be made available to representatives of the Federal Railroad Administration for inspection and copying during normal business hours.

(d) *Annual summary on operational tests and inspections.* Before March 1 of each calendar year, each railroad to which this part applies, except for a railroad with less than 400,000 total manhours, shall retain, at each of its division headquarters and at the system headquarters of the railroad, one copy of a written summary of the following with respect to its previous year's activities: The number, type, and result of each operational test and inspection, stated according to operating divisions where applicable, that was conducted as required by paragraphs (a) and (b) of this section. These records shall be retained for three calendar years after the end of the calendar year to which they relate and shall be made available to representa-

tives of the Federal Railroad Administration for inspection and copying during normal business hours.

(e) *Electronic recordkeeping.* Each railroad to which this part applies is authorized to retain by electronic recordkeeping the information prescribed in paragraphs (b) through (d) of this section, provided that all of the following conditions are met:

(1) The railroad adequately limits and controls accessibility to such information retained in its electronic database system and identifies those individuals who have such access;

(2) The railroad has a terminal at the system headquarters and at each division headquarters;

(3) Each such terminal has a desk-top computer (*i.e.*, monitor, central processing unit, and keyboard) and either a facsimile machine or a printer connected to the computer to retrieve and produce information in a usable format for immediate review by FRA representatives;

(4) The railroad has a designated representative who is authorized to authenticate retrieved information from the electronic system as true and accurate copies of the electronically kept records; and

(5) The railroad provides representatives of the Federal Railroad Administration with immediate access to these records for inspection and copying during normal business hours and provides printouts of such records upon request.

[39 FR 41176, Nov. 25, 1974, as amended at 59 FR 43070, Aug. 22, 1994]

**§217.11 Program of instruction on operating rules; recordkeeping; electronic recordkeeping.**

(a) To ensure that each railroad employee whose activities are governed by the railroad's operating rules understands those rules, each railroad to which this part applies shall periodically instruct each such employee on the meaning and application of the railroad's operating rules in accordance with a written program retained at its system headquarters and at the division headquarters for each division where the employee is instructed.

(b) On or after November 21, 1994, or 30 days before commencing operations, whichever is later, each railroad to

which this part applies shall retain one copy of its current program for the periodic instruction of its employees as required by paragraph (a) of this section and one copy of each subsequent amendment to that program. The system headquarters of the railroad shall retain one copy of all these records; the division headquarters for each division where the employees are instructed shall retain one copy of all portions of these records that the division applies and enforces. These records shall be made available to representatives of the Federal Railroad Administration for inspection and copying during normal business hours. This program shall—

- (1) Describe the means and procedures used for instruction of the various classes of affected employees;
- (2) State the frequency of instruction and the basis for determining that frequency;
- (3) Include a schedule for completing the initial instruction of employees who are already employed when the program begins;
- (4) Begin within 30 days after November 21, 1994, or the date of commencing operations, whichever is later; and

(5) Provide for initial instruction of each employee hired after the program begins.

(c) Each railroad to which this part applies is authorized to retain by electronic recordkeeping its program for periodic instruction of its employees on operating rules provided that the requirements stated in §217.9(e)(1) through (5) of this part are satisfied.

[39 FR 41176, Nov. 25, 1974, as amended at 59 FR 43071, Aug. 22, 1994]

**§ 217.13 Information collection.**

(a) The information collection requirements in this part have been reviewed by the Office of Management and Budget pursuant to the Paperwork Reduction Act of 1980, Public Law 96-511, and have been assigned OMB control number 2130-0035.

(b) The information collection requirements are found in the following sections:

- (1) Section 217.7.
- (2) Section 217.9.
- (3) Section 217.11.

[50 FR 7919, Feb. 27, 1985. Redesignated and amended at 59 FR 43071, Aug. 22, 1994]

APPENDIX A TO PART 217—SCHEDULE OF CIVIL PENALTIES <sup>1</sup>

Section	Violation	Willful violation
217.7 Operating rules:		
(a) .....	\$2,500	\$5,000
(b) .....	\$2,000	\$5,000
(c) .....	\$2,500	\$5,000
217.9 Operational tests and inspections:		
(a) Program .....	\$5,000	\$7,500
(b) Record of program .....	2,500	\$5,000
(c) Record of tests and inspections .....	\$5,000	\$7,500
(d) Annual summary .....	\$5,000	\$7,500
217.11 Program of instruction on operating rules:		
(a) .....	\$5,000	\$7,500
(b) .....	\$2,500	\$5,000

<sup>1</sup> A penalty may be assessed against an individual only for a willful violation. The Administrator reserves the right to assess a penalty of up to \$22,000 for any violation where circumstances warrant. See 49 CFR part 209, appendix A.

[59 FR 43071, Aug. 22, 1994, as amended at 63 FR 11620, Mar. 10, 1998]

**PART 218—RAILROAD OPERATING PRACTICES**

**Subpart A—General**

Sec.  
218.1 Purpose.

- 218.3 Application.
- 218.5 Definitions.
- 218.7 Waivers.
- 218.9 Civil penalty.
- 218.11 Filing, testing, and instruction.