

§ 219.1

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49 CFR Ch. II (10–1–03 Edition)

AUTHORITY: 49 U.S.C. 20103, 20107, 20140, 21301, 21304, 21311; 28 U.S.C. 2461, note; and 49 CFR 1.49(m).

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.

§ 219.3 Application.

(a) Except as provided in paragraphs (b) and (c) of this section, this part applies to—

(1) Railroads that operate rolling equipment on standard gauge track which is part of the general railroad system of transportation; and

(2) Railroads that provide commuter or other short-haul rail passenger service in a metropolitan or suburban area (as described by 49 U.S.C. 20102).

(b)(1) This part does not apply to a railroad that operates only on track inside an installation which is not part of the general railroad system of transportation.

(2) Subparts D, E, F and G of this part do not apply to a railroad that employs not more than 15 employees covered by the hours of service laws at 49 U.S.C. 21103, 21104, or 21105, and that does not operate on tracks of another railroad (or otherwise engage in joint operations with another railroad) except as necessary for purposes of interchange.

(3) Subpart I of this part does not apply to a railroad that has fewer than 400,000 total manhours.

(c) Subparts E, F and G of this part do not apply to operations of a foreign railroad conducted by covered service employees whose primary place of service ("home terminal") for rail transportation services is located outside the United States. Such operations and

employees are subject to Subparts A, B, C, and D of this part when operating in United States territory.

§219.5 Definitions.

As used in this part—

Accident or incident reportable under part 225 does not include a case that is classified as “covered data” under §225.5 of this chapter (*i.e.*, employee injury/illness cases reportable exclusively because a physician or other licensed health care professional either made a one-time topical application of a prescription-strength medication to the employee’s injury or made a written recommendation that the employee: Take one or more days away from work when the employee instead reports to work (or would have reported had he or she been scheduled) and takes no days away from work in connection with the injury or illness; work restricted duty for one or more days when the employee instead works unrestricted (or would have worked unrestricted had he or she been scheduled) and takes no other days of restricted work activity in connection with the injury or illness; or take over-the-counter medication at a dosage equal to or greater than the minimum prescription strength, whether or not the employee actually takes the medication).

Class I, Class II, and Class III have the meaning assigned by regulations of the Surface Transportation Board (49 CFR part 1201; General Instructions 1-1).

Controlled substance has the meaning assigned by 21 U.S.C. 802, and includes all substances listed on Schedules I through V as they may be revised from time to time (21 CFR Parts 1301-1316).

Covered employee means a person who has been assigned to perform service subject to the hours of service laws (49 U.S.C. ch. 211) during a duty tour, whether or not the person has performed or is currently performing such service, and any person who performs such service. (An employee is not “covered” within the meaning of this part exclusively by reason of being an employee for purposes of 49 U.S.C. 21106.) For the purposes of pre-employment testing only, the term “covered employee” includes a person applying to perform covered service.

Co-worker means another employee of the railroad, including a working supervisor directly associated with a yard or train crew, such as a conductor or yard foreman, but not including any other railroad supervisor, special agent, or officer.

DOT Agency means an agency (or “operating administration”) of the United States Department of Transportation administering regulations requiring alcohol or controlled substance testing (14 CFR parts 61, 63, 65, 121 and 135; 49 CFR parts 199, 219, 382 and 655) in accordance with Part 40 of this title.

Drug means any substance (other than alcohol) that has known mind- or function-altering effects on a human subject, specifically including any psychoactive substance and including, but not limited to, controlled substances.

FRA means the Federal Railroad Administration, United States Department of Transportation.

FRA representative means the Associate Administrator for Safety of FRA, the Associate Administrator’s delegate (including a qualified State inspector acting under Part 212 of this chapter), the Chief Counsel of FRA, or the Chief Counsel’s delegate.

Hazardous material means a commodity designated as a hazardous material by Part 172 of this title.

Impact accident means a train accident (*i.e.*, a rail equipment accident involving damage in excess of the current reporting threshold (see §225.19(e) of this chapter)) consisting of a head-on collision, a rear-end collision, a side collision (including a collision at a railroad crossing at grade), a switching collision, or impact with a deliberately-placed obstruction such as a bumping post. The following are not impact accidents:

- (1) An accident in which the derailment of equipment causes an impact with other rail equipment;
- (2) Impact of rail equipment with obstructions such as fallen trees, rock or snow slides, livestock, etc.; and
- (3) Raking collisions caused by derailment of rolling stock or operation of equipment in violation of clearance limitations.