

§ 244.21

the requirements prescribed in paragraph (b) of this section.

(2) *By FRA.* FRA may request an applicant to amend its approved Safety Integration Plan from time to time should circumstances warrant.

[67 FR 11604, Mar. 15, 2002, as amended at 67 FR 68045, Nov. 8, 2002]

§ 244.21 Compliance and Enforcement.

(a) After the Surface Transportation Board has approved a transaction subject to this part, a railroad implementing a transaction subject to this part shall operate in accordance with the Safety Implementation Plan approved by FRA until the properties involved in the transaction are completely integrated into the form contemplated in the Surface Transportation Board's approval of the transaction.

(b) FRA may exercise any or all of its enforcement remedies authorized by the Federal railroad safety laws if a railroad fails to comply with paragraph (a) of this section or to execute any measure contained in a Safety Implementation Plan approved by FRA.

APPENDIX A TO PART 244—SCHEDULE OF CIVIL PENALTIES [RESERVED]

PART 245—RAILROAD USER FEES

Subpart A—General

- Sec.
- 245.1 Purpose and scope.
- 245.3 Application.
- 245.5 Definitions.
- 245.7 Penalties.

Subpart B—Reporting and Recordkeeping

- 245.101 Reporting requirements.
- 245.103 Recordkeeping.
- 245.105 Retention of records.

Subpart C—User Fee Calculation

- 245.201 User fee calculation.

Subpart D—Collection Procedures and Duty to Pay

- 245.301 Collection procedures.
- 245.303 Duty to pay.

AUTHORITY: 45 U.S.C. 431, 437, 438, 446; 49 CFR 1.49(m).

SOURCE: 57 FR 30602, July 9, 1992, unless otherwise noted.

49 CFR Ch. II (10–1–03 Edition)

Subpart A—General

§ 245.1 Purpose and scope.

(a) The purpose of this part is to implement section 216 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 446) (the "Safety Act") which requires the Secretary of Transportation to establish a schedule of fees to be assessed equitably to railroads to cover the costs incurred by the Federal Railroad Administration ("FRA") in administering the Safety Act (not including activities described in section 202(a)(2) thereof).

(b) Beginning in the fiscal year ending September 30, 1991, each railroad subject to this part shall pay an annual user fee to the FRA. For fiscal years 1992 through 1995, the user shall be calculated by FRA in accordance with § 245.101. The Secretary's authority to collect user fees shall expire on September 30, 1995, as provided for in section 216(f) of the Safety Act.

§ 245.3 Application.

This part applies to all railroads except those railroads whose entire operations are confined within an industrial installation.

§ 245.5 Definitions.

As used in this part—

(a) *Employee hours* means the number of hours worked by all employees of the railroad during the previous calendar year.

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

(c) *Industrial track* means a switching track serving industries, such as mines, mills smelters, and factories.

(d) *Light density railroad* means railroads with 1200 or less train-miles per road mile.

(e) *Main track* means a track, other than an auxiliary track, extending through yards or between stations, upon which trains are operated by timetable or train order or both, or the use of which is governed by a signal system.

(f) *Passenger service* means both intercity rail passenger service and commuter rail passenger service.

(g) *Railroad* means all forms of non-highway ground transportation that run on rails or electro-magnetic guideways, including (1) commuter or other

short-haul rail passenger service in a metropolitan or suburban area, as well as any commuter rail service which was operated by the Consolidated Rail Corporation as of January 1, 1979, and (2) high speed ground transportation systems that connect metropolitan areas, without regard to whether they use new technologies not associated with traditional railroads. Such term does not include rapid transit operations within an urban area that are not connected to the general railroad system of transportation (See, 45 U.S.C. 431(e)).

(h) *Responsible entity* means the railroad subject to this part as of December 31 of the applicable fiscal year (October 1 to September 30), i.e December 31, 1991, for fiscal year 1992, December 31, 1992, for fiscal year 1993, etc.

(i) *Road miles* means the length in miles of the single or first main track, measured by the distance between terminals or stations, or both. Road miles does not include industrial and yard tracks, sidings, and all other tracks not regularly used by road trains operated in such specific service, and lines operated under a trackage rights agreement.

(j) *Safety Act* means the Federal Railroad Safety Act of 1970 (45 U.S.C. 421 *et seq.*)

(k) *Sliding Scale* means the adjustment made to the mile of road of light density railroads. The sliding scale is as follows:

Train miles per road mile	Scaling factor
Up to 5000
501 to 75025
751 to 100050
1001 to 120075
1201 and above	1.00

The scaling factor is multiplied by the preliminary rate per road mile for each railroad for the year.

(l) *Trackage rights agreement* means an agreement through which a railroad obtains access and provides service over tracks owned by another railroad where the owning railroad retains the responsibility for operating and maintaining the tracks.

(m) *Train* means a unit of equipment, or a combination of units of equipment (including light locomotives) in condi-

tion for movement over tracks by self-contained motor equipment.

(n) *Train mile* means the movement of a train a distance of one mile measured by the distance between terminals and/or stations and includes yard switching miles, train switching miles, and work train miles. Yard switching miles may be computed on any reasonable, supportable, and verifiable basis. In the event actual mileage is not computable by other means, yard switching miles may be computed at the rate of 6 mph for the time actually engaged in yard switching service.

(o) *Yard track* means a system of tracks within defined limits used for the making up or breaking up of trains, for the storing of cars, and for other related purposes, over which movements not authorized by timetable, or by train order may be made subject to prescribed signals, rules or other special instructions. Sidings used exclusively as passing track and main line track within yard limits are not included in the term yard track.

§ 245.7 Penalties.

Any person (including a railroad and any manager, supervisor, official, or other employee or agent of a railroad) who violates any requirement of this part or causes the violation of any such requirement is subject to a civil penalty of at least \$250 and not more than \$10,000 per violation. Civil penalties may be assessed against individuals only for willful violations. Each day a violation continues shall constitute a separate offense. A person may also be subject to the criminal penalties provided for in 45 U.S.C. 438(e) for knowingly and willfully falsifying records or reports required by this part.

Subpart B—Reporting and Recordkeeping

§ 245.101 Reporting requirements.

(a) Each railroad subject to this part shall submit to FRA, not later than March 1st of each year (August 1st, for the fiscal year ending September 30, 1992) a report identifying the railroad's total train miles for the prior calendar year, the total road miles owned, operated under lease, or controlled (but not