

(1) A statement containing a description of the history of the proceedings;

(2) Findings on issues of fact with the reasons therefor; and

(3) Rulings on issues of law.

(b) The presiding officer shall also transmit to the Administrator the transcript of the hearing, the original and all copies of the direct testimony, and written comments. The presiding officer shall attach to the original transcript of the hearing a certificate stating that, to the best of his knowledge and belief, the transcript is a true transcript of the testimony given at the hearing except in such particulars as are specified.

(c) Immediately after receipt of the recommended decision, the Administrator shall give notice thereof in the FEDERAL REGISTER, send copies of the recommended decision to all parties, and provide opportunity for the submission of comments. The recommended decision may be reviewed and/or copied in the Office of the Chief Counsel, Federal Railroad Administration, 400 7th Street, SW., Washington, DC 20590.

(d) Within twenty days after the notice of receipt of the recommended decision has been published in the FEDERAL REGISTER, any interested person may file with the Administrator any written comments on the recommended decision. All comments shall be submitted during the twenty-day period to the Administrator at the above address.

§ 201.23 Administrator's decision.

(a) Upon receipt of the recommended decision and transcript and after the twenty-day period for receiving written comments on the recommended decision has passed, the Administrator's decision may affirm, modify, or set aside, in whole or in part, the recommended findings, conclusions, and decision of the presiding officer. The Administrator may also remand the hearing record to the presiding officer for a fuller development of the record.

(b) The Administrator's decision shall include:

(1) A statement containing a description of the history of the proceeding;

(2) Findings on issues of fact with the reasons therefor; and

(3) Rulings on issues of law.

(c) The Administrator's decision shall be published in the FEDERAL REGISTER. If the Amtrak application is approved in whole or in part, the final order shall be promulgated with the decision.

PART 207—RAILROAD POLICE OFFICERS

Sec.

207.1 Application.

207.2 Definitions.

207.3 Designation and commissioning.

207.4 Notice to State officials.

207.5 Authority in States where officer not commissioned.

AUTHORITY: 45 U.S.C. 446; 49 CFR 1.49(ff).

SOURCE: 59 FR 6587, Feb. 11, 1994, unless otherwise noted.

§ 207.1 Application.

This part applies to all railroads, as such term is defined in section 202(e) of the Federal Railroad Safety Act of 1970, as amended, Public Law 91-458 (45 U.S.C. 431(e)).

§ 207.2 Definitions.

As used in this part:

(a) *Railroad police officer* means a peace officer who is commissioned in his or her state of legal residence or state of primary employment and employed by a railroad to enforce state laws for the protection of railroad property, personnel, passengers, and/or cargo.

(b) *Commissioned* means that a state official has certified or otherwise designated a railroad employee as qualified under the licensing requirements of that state to act as a railroad police officer in that state.

(c) *Property* means rights-of-way, easements, appurtenant property, equipment, cargo, facilities, and buildings and other structures owned, leased, operated, maintained, or transported by a railroad.

§ 207.3 Designation and commissioning.

(a) A railroad may designate employees to be commissioned by a state authority as railroad police officers to serve in the states in which the railroad owns property.

§ 207.4

(b) The designated railroad police officer shall be commissioned by the railroad police officer's state of legal residence or the railroad police officer's state of primary employment.

§ 207.4 Notice to State officials.

(a) After the designated railroad police officer is commissioned by a state or states, the railroad shall send, by certified mail, written notice to appropriate officials of every other state in which the railroad police officer shall protect the railroad's property, personnel, passengers, and cargo. The notice of commission shall contain the following information:

(1) The name of the railroad police officer;

(2) The badge number, identification number, rank, code, or other identifying information assigned to the railroad police officer;

(3) The date of commission;

(4) The state or states where the railroad police officer is commissioned;

(5) The date the railroad police officer received training or retraining regarding the laws of such state or states;

(6) The name of the railroad official who designated the employee as a railroad police officer; and

(7) Color photographs of the types of badges, identification cards, and other identifying materials the railroad uses to identify its railroad police officers.

(b) The railroad shall keep copies of all such notices at a central location.

(c) The authority set forth in § 207.5 shall be effective upon receipt by such state(s) of written notice conforming to the requirements of this section.

§ 207.5 Authority in States where officer not commissioned.

(a) A railroad police officer who is designated by a railroad and commissioned under the laws of any state is authorized to enforce the laws (as specified in paragraph (b) of this section) of any state in which the railroad owns property and to which the railroad has provided notice in accordance with § 207.4.

(b) Under the authority of paragraph (a) of this section, a railroad police officer may enforce only relevant laws for the protection of—

49 CFR Ch. II (10–1–06 Edition)

(1) The railroad's employees, passengers, or patrons;

(2) The railroad's property or property entrusted to the railroad for transportation purposes;

(3) The intrastate, interstate, or foreign movement of cargo in the railroad's possession or in possession of another railroad or non-rail carrier while on the railroad property; and

(4) The railroad movement of personnel, equipment, and materials vital to the national defense.

(c) The authority exercised under this part by an officer for whom the railroad has provided notice in accordance with § 207.4 shall be the same as that of a railroad police officer commissioned under the laws of that state.

(d) The railroad police officer's law enforcement powers shall apply only on railroad property, except that an officer may pursue off railroad property a person suspected of violating the law on railroad property, and an officer may engage off railroad property in law enforcement activities, including, without limitation, investigation and arrest, if permissible under state law.

PART 209—RAILROAD SAFETY ENFORCEMENT PROCEDURES

Subpart A—General

Sec.	
209.1	Purpose.
209.3	Definitions.
209.5	Service.
209.6	Requests for admission.
209.7	Subpoenas; witness fees.
209.8	Depositions in formal proceedings.
209.9	Filing.
209.11	Request for confidential treatment.
209.13	Consolidation.
209.15	Rules of evidence.
209.17	Motions.

Subpart B—Hazardous Materials Penalties

CIVIL PENALTIES

209.101	Civil penalties generally.
209.103	Minimum and maximum penalties.
209.105	Notice of probable violation.
209.107	Reply.
209.109	Payment of penalty; compromise.
209.111	Informal response and assessment.
209.113	Request for hearing.
209.115	Hearing.
209.117	Presiding officer's decision.
209.119	Assessment considerations.
209.121	Appeal.