



DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 216

[Docket No. FRA-2025-0085]

RIN 2130-AD12

Administrative Updates to the Federal Railroad Administration's Special Notice and Emergency Order Procedures: Railroad Track, Locomotive, and Equipment

AGENCY: Federal Railroad Administration (FRA), U.S. Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: This rule makes administrative updates to FRA's special notice and emergency order procedures: railroad track, locomotive and equipment, including updating addresses.

DATES: Effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Veronica Chittim, Senior Attorney, Office of Safety Law, Office of the Chief Counsel, FRA, 1200 New Jersey Avenue, SE, Washington, DC 20590 (telephone 202-480-3410), veronica.chittim@dot.gov; or Lucinda Henriksen, Senior Advisor, Office of Railroad Safety, FRA (telephone 202-657-2842), lucinda.henriksen@dot.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Consistent with the deregulatory agenda of President Donald J. Trump and Secretary of Transportation Sean P. Duffy, which seeks to unleash America's economic prosperity without compromising transportation safety, and as described in more detail

below, this rule is making miscellaneous, administrative updates to its special notice and emergency order procedures: railroad track, locomotive and equipment in 49 CFR part 216. These changes include updating addresses that are no longer valid.

II. Section-by-Section Analysis

§ 216.7 Penalties

To avoid the need to update this section every time the civil penalty amounts are adjusted for inflation, FRA is changing § 216.7 by replacing references to specific penalty amounts with general references to the minimum civil monetary penalty, ordinary maximum civil monetary penalty, and aggravated maximum civil monetary penalty.

FRA is adding language to this section referring readers to 49 CFR part 209, appendix A, where FRA will continue to specify statutorily provided civil penalty amounts updated for inflation. To be consistent with other definitions of “person,” such as 49 CFR 270.5, FRA is updating the reference in the section from 1 U.S.C. 1 to 49 U.S.C. 21301.

§§ 216.11, 216.13, 216.14, and 216.15 Special notices for repairs

FRA is amending §§ 216.11(b), 216.13(b), 216.14(b), and 216.15(b) to update the references from “FRA Regional Administrator” to “Division of FRA’s Office of Railroad Safety” for the relevant technical discipline (i.e., Motive Power and Equipment (MP&E) or Track and Structures Division). These amendments are being made to ensure information gets to the agency subject matter expert in the specific discipline.

§ 216.17 Appeals

FRA is amending § 216.17 to replace references of “FRA Regional Administrator” with “FRA Staff Director” for the relevant technical discipline. FRA is also replacing the outdated language in § 216.17(a), “[t]he appeal shall be made by letter or telegram,” with “[t]he appeal must be made by e-mail to the relevant FRA Staff Director.”

§ 216.21 Notice of track conditions

FRA is amending 49 CFR 216.21(a) to replace references of “FRA Regional Administrator” with “FRA Track and Structures Division Staff Director” and remove a reference to “FRA Regional Track Engineer.” In § 216.21(b), FRA is also replacing references of “FRA Regional Track Engineer” with “FRA Track and Structures Division Staff Director.”

§ 216.23 Consideration of recommendation

FRA is amending 49 CFR 216.23 to replace references of “FRA Regional Administrator” with “FRA Track and Structures Division Staff Director.” FRA is also replacing a reference of “FRA Regional Track Engineer” with “FRA District Track Specialist.”

§ 216.25 Issuance and review of emergency order

FRA is amending 49 CFR 216.25(a) to replace a reference of “FRA Regional Administrator” with “FRA Track and Structures Division Staff Director.” FRA is amending the language in § 216.25(b) to require a submission of a request of review of an emergency order to FRALegal@dot.gov. FRA is removing the mailing address for the Office of the Chief Counsel.

III. Public Participation

Under the Administrative Procedure Act (APA), an agency may waive the normal notice and comment procedures if the action is a rule of agency organization, procedure, or practice. 5 U.S.C. 553(b)(A). Additionally, under the APA, an agency may waive notice and comment procedures when the agency for good cause finds that notice and public procedure are impracticable, unnecessary, or contrary to the public interest. 5 U.S.C. 553(b)(B). Since this final rule merely makes miscellaneous, administrative updates to the CFR, such as updating web addresses, it would not benefit from public comment, and notice and comment is not necessary.

IV. Regulatory Impact and Notices

A. Executive Order (E.O.) 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

FRA has evaluated this final rule in accordance with E.O. 12866, Regulatory Planning and Review (58 FR 51735, Oct. 4, 1993), and DOT Order 2100.6B, Policies and Procedures for Rulemaking (Mar. 10, 2025). The Office of Information and Regulatory Affairs within the Office of Management and Budget (OMB) determined that this final rule is not a significant regulatory action under section 3(f) of E.O. 12866. Because this final rule makes administrative changes to FRA’s special notice and emergency order procedures: railroad track, locomotive and equipment, including updating addresses, this final rule imparts no additional burdens on regulated entities. Moreover, this rule will provide some qualitative benefits to regulated entities and the U.S. government, by clarifying, simplifying, and updating the language and references of part 216.

B. E.O. 14192 (Unleashing Prosperity Through Deregulation)

E.O. 14192, Unleashing Prosperity Through Deregulation (90 FR 9065, Jan. 31, 2025), requires that for “each new [E.O. 14192 regulatory action] issued, at least ten prior regulations be identified for elimination.”¹ Implementation guidance for E.O. 14192 issued by OMB (Memorandum M-25-20, March 26, 2025) defines two different types of E.O. 14192 actions: an E.O. 14192 deregulatory action, and an E.O. 14192 regulatory action.²

An E.O. 14192 deregulatory action is defined as “an action that has been finalized and has total costs less than zero.” This final rule is expected to have total costs less than zero, and therefore it would be considered an E.O. 14192 deregulatory action.

C. Regulatory Flexibility Act

¹ Executive Office of the President. *Executive Order 14192 of January 31, 2025. Unleashing Prosperity Through Deregulation.* 90 FR 9065-9067. Feb. 6, 2025.

² Executive Office of the President. Office of Management and Budget. *Guidance Implementing Section 3 of Executive Order 14192, Titled “Unleashing Prosperity Through Deregulation.”* Memorandum M-25-20. Mar. 26, 2025.

The Regulatory Flexibility Act of 1980 ((RFA), 5 U.S.C. 601 *et seq.*) and E.O. 13272 (67 FR 53461, Aug. 16, 2002) require an agency to prepare and make available to the public a regulatory flexibility analysis that describes the effect of the rule on small entities (*i.e.*, small businesses, small organizations, and small governmental jurisdictions). A regulatory flexibility analysis is not required when a rule is exempt from notice and comment rulemaking. FRA has determined that this rule is exempt from notice and comment rulemaking. Therefore, a regulatory flexibility analysis is not required for this rule.

D. Paperwork Reduction Act

There is no new collection of information requirements contained in this final rule, and in accordance with the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.*, therefore, an information collection submission to the Office of Management and Budget (OMB) is not required. The recordkeeping and reporting requirements already contained in part 216 became effective when they were approved by OMB on February 27, 2023. The OMB Control No. is 2130-0504, and OMB approval expires on February 28, 2026.

E. Environmental Assessment

FRA has analyzed this rule for the purposes of the National Environmental Policy Act of 1969 (NEPA). In accordance with 42 U.S.C. 4336 and DOT NEPA Order 5610.1C, FRA has determined that this rule is categorically excluded pursuant to 23 CFR 771.118(c)(4), “[p]lanning and administrative activities that do not involve or lead directly to construction, such as: [p]romulgation of rules, regulations, and directives.” This rulemaking is not anticipated to result in any environmental impacts, and there are no unusual or extraordinary circumstances present in connection with this rulemaking.

F. Federalism Implications

This final rule will not have a substantial effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Thus, in accordance with E.O. 13132, “Federalism” (64 FR 43255, Aug. 10, 1999), preparation of a Federalism Assessment is not warranted.

G. Unfunded Mandates Reform Act of 1995

This final rule will not result in the expenditure, in the aggregate, of \$100,000,000 or more, adjusted for inflation, in any one year by State, local, or Indian Tribal governments, or the private sector. Thus, consistent with section 202 of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4, 2 U.S.C. 1532), FRA is not required to prepare a written statement detailing the effect of such an expenditure.

H. Energy Impact

E.O. 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use (66 FR 28355, May 22, 2001), requires Federal agencies to prepare a Statement of Energy Effects for any “significant energy action.” FRA has evaluated this rule in accordance with E.O. 13211 and determined that this rule is not a “significant energy action” within the meaning of E.O. 13211.

I. E.O. 13175 (Tribal Consultation)

FRA has evaluated this final rule in accordance with the principles and criteria contained in E.O. 13175, Consultation and Coordination with Indian Tribal Governments, (Nov. 6, 2000). The final rule would not have a substantial direct effect on one or more Indian tribes, would not impose substantial direct compliance costs on Indian tribal governments, and would not preempt tribal laws. Therefore, the funding and consultation requirements of E.O. 13175 do not apply, and a tribal summary impact statement is not required.

J. International Trade Impact Assessment

The Trade Agreement Act of 1979 prohibits Federal agencies from engaging in any standards or related activities that create unnecessary obstacles to the foreign commerce of the U.S. Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards. This rulemaking is purely domestic in nature and is not expected to affect trade opportunities for U.S. firms doing business overseas or for foreign firms doing business in the U.S.

List of Subjects

49 CFR Part 216

Penalties, Railroad safety, Reporting and recordkeeping requirements.

The Final Rule

In consideration of the foregoing, FRA amends part 216 of chapter II, subtitle B of title 49, Code of Federal Regulations as follows:

PART 216—SPECIAL NOTICE AND EMERGENCY ORDER PROCEDURES: RAILROAD TRACK, LOCOMOTIVE AND EQUIPMENT

1. The authority citation for part 216 continues to read as follows:

Authority: 49 U.S.C. 20102-20104, 20107, 20111, 20133, 20701-20702, 21301-21302, 21304; 28 U.S.C. 2461 note; and 49 CFR 1.89.

2. Revise § 216.7 to read as follows:

§ 216.7 Penalties

(a) Any person that violates any requirement of this part or causes the violation of any such requirement is subject to a civil penalty of at least the minimum civil monetary penalty and not more than the ordinary maximum civil monetary penalty per violation. However, penalties may be assessed against individuals only for willful violations, and a penalty not to exceed the aggravated maximum civil monetary penalty per violation may be assessed, where:

(1) A grossly negligent violation, or a pattern of repeated violations, has created an imminent hazard of death or injury to persons, or

(2) A death or injury has occurred. See 49 CFR part 209, appendix A.

(b) “Person” means an entity of any type, covered under 49 U.S.C. 21301, including the following: a railroad; a manager, supervisor, official, or other employee or agent of a railroad; any owner, manufacturer, lessor, or lessee of railroad equipment, track, or facilities; any independent contractor providing goods or services to a railroad; any employee of such owner, manufacturer, lessor, lessee, or independent contractor.

(c) Each day a violation continues shall constitute a separate offense. See FRA’s website at <https://railroads.dot.gov/> for a statement of agency civil penalty policy.

3. Revise § 216.11(b) to read as follows:

§ 216.11 Special notice for repairs—railroad freight car.

* * * * *

(b) The railroad shall notify the Motive Power and Equipment (MP&E) Division of FRA’s Office of Railroad Safety in writing when the equipment is returned to service, specifying the repairs completed.

4. Revise § 216.13(b) to read as follows:

§ 216.13 Special notice for repairs—locomotive.

* * * * *

(b) The carrier shall notify the FRA MP&E Division in writing when the locomotive is returned to service, specifying the repairs completed. The carrier officer or employee directly responsible for the repairs shall subscribe this writing under oath.

5. Revise § 216.14(b) to read as follows:

§ 216.14 Special notice for repairs—passenger equipment.

* * * * *

(b) The railroad shall notify in writing the FRA MP&E Division when the equipment is returned to service, specifying the repairs completed.

6. Revise § 216.15(b) to read as follows:

§ 216.15 Special notice for repairs—track class.

* * * * *

(b) The railroad shall notify the FRA Track and Structures Division in writing when the track is restored to a condition permitting operations at speeds authorized for a higher class, specifying the repairs completed.

7. Revise § 216.17 to read as follows:

§ 216.17 Appeals.

(a) Upon receipt of a Special Notice prescribed in §§ 216.11, 216.13, 216.14, or 216.15, a railroad may appeal the decision of the Inspector to the relevant FRA Staff Director (i.e., MP&E or Track and Structures Division Staff Director). The appeal must be made by e-mail to the relevant FRA Staff Director. The FRA Staff Director assigns an inspector, other than the inspector from whose decision the appeal is being taken, to reinspect the railroad freight car, locomotive, railroad passenger equipment, or track. The reinspection will be made immediately. If upon reinspection, the railroad freight car, locomotive, or passenger equipment is found to be in serviceable condition, or the track is found to comply with the requirements for the class at which it was previously operated by the railroad, the FRA Staff Director or the Director's delegate will immediately notify the railroad, whereupon the restrictions of the Special Notice cease to be effective. If on reinspection the decision of the original inspector is sustained, the FRA Staff Director notifies the railroad that the appeal has been denied.

(b) A railroad whose appeal to the FRA Staff Director has been denied may, within thirty (30) days from the denial, appeal to the Administrator. After affording an

opportunity for informal oral hearing, the Administrator may affirm, set aside, or modify, in whole or in part, the action of the FRA Staff Director.

(c) The requirements of a Special Notice issued under this subpart shall remain in effect and be observed by a railroad pending appeal to the FRA Staff Director or to the Administrator.

8. Revise § 216.21 to read as follows:

§ 216.21 Notice of track conditions.

(a) When an FRA Track Inspector or State Track Inspector finds track conditions which may require the issuance of an Emergency order removing the track from service under section 203, Pub. L. No. 91-458, 84 Stat. 972, the Inspector may issue a notice to the railroad owning the track. The notice sets out and describes the conditions found by the Inspector and specifies the location of defects on the affected track segment. The Inspector provides a copy to the FRA Track and Structures Division Staff Director.

(b) In the event the railroad immediately commences repairs on the affected track and so advises the FRA Track and Structures Division Staff Director, the Staff Director assigns an Inspector to reinspect the track immediately on the completion of repairs. If upon reinspection the Inspector determines that necessary repairs have been completed, the Inspector withdraws the Notice of Track Conditions.

9. Revise § 216.23 to read as follows:

§ 216.23 Consideration of recommendation.

Upon receipt of a Notice of Track Conditions issued under § 216.21, the FRA Track and Structures Division Staff Director prepares a recommendation to the Administrator concerning the issuance of an Emergency order removing the affected track from service. In preparing this recommendation, the FRA Track and Structures Division Staff Director considers all written or other material bearing on the condition of the track received from the railroad within three (3) calendar days of the issuance of the

Notice of Track Conditions and also considers the report of the FRA District Track Specialist.

10. Amend § 216.25 by revising paragraphs (a) and the first sentence of paragraph (b) to read as follows:

§ 216.25 Issuance and review of emergency order.

(a) Upon recommendation of the FRA Track and Structures Division Staff Director, the Administrator may issue an Emergency order removing from service track identified in the notice issued under § 216.21.

(b) As specified in section 203, Pub. L. No. 91-458, 84 Stat. 972, opportunity for review of the Emergency order is provided in accordance with section 554 of title 5 of the U.S.C. Petitions for such review must be submitted in writing to the Office of the Chief Counsel, Federal Railroad Administration, via e-mail to *FRALegal@dot.gov*. * * *

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Issued in Washington, DC.

Kyle D. Fields,
Chief Counsel.

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