



## **DEPARTMENT OF TRANSPORTATION**

### **Federal Railroad Administration**

#### **49 CFR Part 218**

**[Docket No. FRA-2025-0086]**

**RIN 2130-AD13**

### **Administrative Updates to the Federal Railroad Administration's Railroad**

#### **Operating Practices Regulations**

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

**ACTION:** Final rule.

**SUMMARY:** This rule makes administrative updates to FRA's railroad operating practices regulations, 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](mailto:veronica.chittim@dot.gov); or Lucinda Henriksen, Senior Advisor, Office of Railroad Safety, FRA (telephone 202-657-2842), [lucinda.henriksen@dot.gov](mailto: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 railroad operating

practices regulations in 49 CFR part 218. These changes include updating addresses that are no longer valid.

## **II. Section-by-Section Analysis**

### *Part 218*

#### *§ 218.9 Civil penalty.*

FRA is changing § 218.9 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. FRA is also updating the web address from [www.fra.dot.gov](http://www.fra.dot.gov) to <https://railroads.dot.gov/>. To be consistent with other definitions of “person,” such as 49 CFR 270.5, FRA is updating the reference in the parenthetical from 1 U.S.C. 1 to 49 U.S.C. 21301.

#### *§§ 218.41, 218.55, 218.57, and 218.59*

FRA is amending §§ 218.41, 218.55, 218.57, and 218.59 to update the web address from [www.fra.dot.gov](http://www.fra.dot.gov) to <https://railroads.dot.gov/>.

## **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 such as 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, referring readers to the CFR, and updating web 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 the language of part 218 and directing the regulated entities to the appropriate cites in the CFR. This final rule makes administrative updates to FRA's railroad operating practices regulations, including updating addresses.

**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.”<sup>1</sup> 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.<sup>2</sup>

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

<sup>2</sup> 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.

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**

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 218 became effective when they were approved by OMB on January 18, 2024. The OMB Control No. is 2130-0035 and the expiration date is January 31, 2027.

**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 218**

Locomotives, Occupational safety and health, Penalties, Railroad employees, Railroad safety, Tampering.

### **The Final Rule**

In consideration of the foregoing, FRA amends part 218 of chapter II, subtitle B of title 49, Code of Federal Regulations as follows:

#### **PART 218—RAILROAD OPERATING PRACTICES**

1. The authority citation for part 218 continues to read as follows:

**Authority:** 49 U.S.C. 20103, 20107, 20131, 20138, 20144, 20168, 28 U.S.C. 2461 note; and 49 CFR 1.89.

2. Revise § 218.9 to read as follows:

#### **§ 218.9 Civil penalty.**

(a) Any person who 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; and 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 § 218.41 to read as follows:

**§ 218.41 Noncompliance with hump operations rule.**

A person (including a railroad and any manager, supervisor, official, or other employee or agent of a railroad) who fails to comply with a railroad’s operating rule issued pursuant to § 218.39 is subject to a penalty. See FRA’s website at <https://railroads.dot.gov/> for a statement of agency civil penalty policy.

4. Revise § 218.55 to read as follows:

**§ 218.55 Tampering prohibited.**

Any individual who willfully disables a safety device is subject to a civil penalty and to disqualification from performing safety-sensitive functions on a railroad if found unfit for such duties under the procedures provided for in 49 CFR part 209. See FRA’s website at <https://railroads.dot.gov/> for a statement of agency civil penalty policy.

5. Revise § 218.57 to read as follows:

**§ 218.57 Responsibilities of individuals.**

Any individual who knowingly operates a train, or permits it to be operated, when the controlling locomotive of that train is equipped with a disabled safety device, is subject to a civil penalty and to disqualification from performing safety-sensitive functions on a railroad if found to be unfit for such duties. See appendix B to this part for a statement of agency enforcement policy concerning violations of this section. See FRA's website at <https://railroads.dot.gov/> for a statement of agency civil penalty policy.

6. Revise the second sentence of § 218.59 to read as follows:

**§ 218.59 Responsibilities of railroads.**

Any railroad that operates a train when the controlling locomotive of a train is equipped with a disabled safety device is subject to a civil penalty. See FRA's website at <https://railroads.dot.gov/> for a statement of agency civil penalty policy.

Issued in Washington, DC.

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