

TECHNICAL BULLETINS

SUBJECT: Title 49 CFR, Part 217 - Railroad Operating Rules and Practices

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Interpretations of Title 49 CFR Part 217, Railroad Operating Rules and Practices are as follows:

1. The regulation does not require a railroad to have operating rules, employee timetables or timetable special instructions.

2. If a railroad has operating rules, or timetables, or timetable instructions, or any combination thereof, it is required periodically to conduct the operational tests and inspections called for in Section 217.9. It is also required to have a program for such tests and inspections.

3. A railroad having operating rules is also required to periodically instruct employees on the meaning and application of those rules, and to have a program for such instructions.

4. The regulation establishes no standards related to the quality or quantity of inspections, tests, instructions, or programs. However, if a railroad has a program referred to in item 2 or 3 and copies of the program have been furnished the FRA as required, it must act in accordance with that program.

5. The term "operational tests and instructions" used in the regulation is construed to mean any observed performance test or inspection conducted by a carrier official to determine compliance with operating rules, timetables or timetable special instructions. It does not include written tests.

6. Interpretation of Section 217.11 is contained in the attached memo from FRA Chief Counsel to the United Transportation Union dated April 30, 1975.

Attachment



DEPARTMENT OF TRANSPORTATION
FEDERAL RAILROAD ADMINISTRATION
WASHINGTON, D.C. 20590

OFFICE OF
THE CHIEF COUNSEL

APR 30 1975

Mr. J. R. Snyder
National Legislative Director
United Transportation Union
400 First Street, N.W. Suite 704
Washington, D.C. 20001

Dear Mr. Snyder:

This is in response to your letter of April 1, 1975 to Mr. Robert H. Wright, concerning the meaning of Federal Railroad Administration regulations, Part 217, Railroad Operating Rules. Your letter has been referred to this Office for interpretation of the regulation.

Section 217.11(a) requires each carrier to ensure that each of its employees whose activities are governed by the railroad's operating rules understands those rules. Each carrier is to ensure this knowledge on the part of its employees by conducting periodic instruction on the meaning and application of those rules. Section 217.11 does not prescribe the nature and content of such an instructional program. The development of an adequate program to ensure compliance with the requirement that the carrier ensure employee knowledge of its rules is a management decision for each carrier. However, I would direct your attention to language related to this provision in the preamble of this rule which appeared at page 41176 of the Federal Register on November 25, 1974. This states that the FRA believes the provision of a method to assure correct rule understanding and interpretation during the instruction period is an essential part of an instruction program. This could be provided by testing of any kind, including written examinations. Again, the exact nature of a particular program is a management decision for each carrier. In order to comply with Section 217.11(a), a carrier's program must not only instruct employees, but must also ensure their understanding of the operating rules as a result of that instruction.

Under Section 217.11(a) a carrier is required to instruct each employee whose activities are governed by operating rules, and Section 217.11(b)(3) and (5) require the carrier's instructional program to include both a schedule for completing initial instruction of all such present employees and a provision for initial instruction of future employees. In order to comply with this provision of Federal regulations, a carrier must not only require all such employees to attend the periodic instruction program, but must also ensure that such attendance is realized within the limits of the schedule filed with the FRA pursuant to Section 217.11(b)(3).

Such a provision of Federal regulations supersedes any conflicting agreement between labor and management with respect to instruction in operating rules.

The regulation does not in any way address the question of compensation of employees for actions taken in compliance with its requirements. FRA believes that the question of compensation is a concern of labor and management, and is not the proper subject matter of a Federal regulation intended to promote safety in railroad operations.

I trust that this discussion has been responsive to your inquiry. Please do not hesitate to call upon us for any further interpretation of FRA regulations.

Sincerely,

Donald W. Bennett
Donald W. Bennett
Chief Counsel