

Chapter 1

General Information

Introduction

The Motive Power and Equipment Compliance Manual prescribes guidance for Federal and State Motive Power & Equipment (MP&E) Inspectors that engage in inspection, investigative and surveillance activities to assure compliance with Federal laws, regulations, orders and standards issued by the Federal Railroad Administration (FRA). This manual is the property of the FRA and is intended solely for use by FRA personnel only. The information in the manual is intended to provide internal guidance and does not provide any basis for a private party to challenge FRA's exercise of enforcement discretion in a particular case. The contents in this manual may be revoked or modified without prior notice at any time by FRA. This manual supersedes all previous MP&E Enforcement Manuals.

This manual was written to furnish clear, uniform instructions and guidance that will help Federal and State Inspectors perform inspections and investigations which may lead to enforcement action and civil penalties. Discussions of the safety standards in this manual provide interpretations, policies, and guidance for specific regulatory sections. Only the sections of the regulations that have an interpretation or policy, as established by the agency, are included in this manual. However, they are not to be construed as a modification, alteration, or revision of any of the regulations. They are intended to aid the Inspector in conducting inspections and investigations.

This manual is a complement to the *Safety Assurance and Compliance Program General Manual* (June 1998), hereafter called the *General Manual*. The General Manual provides detailed information regarding FRA's overall operations, history and statutory authority, rulemaking process, and inspection and investigation procedures. Both manuals are specifically intended for the safety Inspectors and technical specialists throughout the country who monitor compliance with Federal safety regulations and standards that apply to the railroad industry. Using both manuals will achieve uniformity and consistency, as well as enable FRA's front line representatives to successfully promote the agency's safety mission.

Inspectors should use the Compliance Manual as an aid to help gain a better understanding of the laws and regulations governing the safety of railroad rolling equipment. However, having a thorough knowledge and understanding of the laws and regulations alone is not enough to be a good Inspector. The success and effectiveness of FRA's safety assurance and compliance programs hinge on the ability of the Inspector to use good judgment and strategies with the railroad industry, so that compliance with the regulations is achieved. Inspectors have considerable enforcement discretion and this manual should be used to guide the individual on how to exercise that discretion. If the manual does not provide adequate guidance for a "particular" situation, or

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if there is any doubt as to the meaning of any of the information provided in this manual, the Inspector should seek the assistance of the regional specialist or supervisor.

Compliance with the directives in this manual will result in uniform application and enforcement of federal laws and safety regulations throughout the nation. This uniformity is necessary for effective program management and is mandated by the Federal Railroad Safety Act of 1970 (P.L. 91-458). These directives will also help to achieve maximum effective use of the limited available resources.

All activities shall be conducted in accordance with the Program Goals contained in Part I Chapter 1 of the General Manual.

Questions about information or interpretations contained in this manual should be referred to the MP&E Headquarters Staff - RRS-14 for a prompt response. Suggested improvements or corrections to the manual should also be submitted to regional specialists or supervisors, who will then forward them to RRS-14.

Program Goals

The goal of the MP&E inspection program is to administer an effective safety program and to achieve safe operating and mechanical practices in the railroad industry, through compliance with all Federal laws and regulations which are designed to promote railroad safety as it relates to employees, passengers and the general public. The MP&E inspection program is primarily responsible for monitoring compliance for the following railroad safety regulations, Title 49 Code of Federal Regulations (CFR):

Part 210 - Railroad Noise Emission Compliance Regulations

Part 215 - Railroad Freight Car Safety Standards

Part 218, Subpart B - Railroad Operating Practices - Blue Signal Protection
Subpart D - Prohibition Against Tampering with Safety Devices

Part 221 - Rear End Marking Device - Passenger, Commuter and Freight Trains

Part 223 - Safety Glazing Standards - Locomotives, Passenger Cars, and Cabooses

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Part 229 - Railroad Locomotive Safety Standards

Part 230 - Steam Locomotive Inspection and Maintenance Standards

Part 231 - Railroad Safety Appliance Standards

Part 232 - Brake System Safety Standards for Freight and Other Non-passenger
Trains and Equipment: End-of-train Devices

Part 238 - Passenger Equipment Safety Standards

Part 239 - Passenger Train Emergency Preparedness

Basis for Regulation and Inspection

The Statutory authority for the regulations and inspections conducted by the MP&E Inspectors comes from Title 49 of the United States Code (U.S.C.), effective July 5, 1994, Subtitle V - Rail Programs. A discussion about the specific Acts and Chapter numbers can be found in Part II, Chapter 1 of the General Manual.

Definitions and Roles

Specialist: As used hereafter in this manual, refers specifically to Regional MP&E Railroad Safety Specialists. The Specialist is responsible for technical evaluation and oversight of all motive power and equipment inspections, analyses, and activities within the region and provides technical guidance, training, and advice in the MP&E areas. (See General Manual - Part I, Chapter 3.) Headquarters Specialists are subject to the same requirements and guidance of this Manual.

Inspector: As used hereafter in this manual, refers to a Federal MP&E Inspector or a Qualified State Equipment Inspector. Inspectors are the front line representatives of the agency and must conduct themselves in a safe, professional, ethical, courteous, and thorough manner. (See General Manual - Part I, Chapter 4.)

State Equipment Inspector: As used hereafter in this manual refers to either a Qualified State Car Inspector, Qualified State Locomotive Inspector, or Qualified State MP&E Inspector who has been trained, examined, and recognized by the FRA to conduct equipment inspections in a

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state that is permitted by regulation to participate in enforcement activities by agreement or certification.

Customers: Includes those the agency regulates as well as those it serves. Some partner with FRA to develop safety initiatives and technology, while others help review, develop, and/or enforce FRA's safety regulations. **All customers** depend on FRA to fulfill its mission to: *promote a safe, environmentally sound, successful railroad transportation to meet current and future needs.*

Credentials

Inspectors must have their credentials on their person while on duty. Any request to provide identification should be complied with in a prompt and courteous manner. Inspectors should not permit their credentials to be photocopied. Additionally, Inspectors are encouraged to obtain and provide business cards to customers, as conditions warrant. Inspectors should consult with their supervisors on procedures for procuring the cards, as conditional reimbursement is permitted.

Personal Safety

The Inspector's first concern is for his or her own safety and that of any accompanying personnel. Inspectors should always remain alert to the dangers of moving equipment and third rail/electrified equipment.

Inspectors must comply with any railroad's request to use safety equipment, such as hard hats, safety shoes, safety glasses, etc. Inspectors should also comply with all of the railroad's safety rules, to the extent that it would not materially interfere with FRA's capability to conduct investigations. FRA Inspectors are **not** required to establish blue signal protection while conducting inspection activities.

Inspectors should read and be familiar with the: (1) Safety Precautions listed in Part IV, Chapter 1 of the General Manual; and (2) Occupational Safety and Health Standards, as well as rules, regulations, and orders established by FRA which can be found in Appendices A-1 and A-2 of the General Manual.

Recommended Safe Work Procedures

Each Inspector is encouraged to refer to a booklet published by the FRA called *Recommended Safe Work Procedures* to assist in the performance of his/her duties. By adhering to the

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information contained in the booklet, staying alert, and never taking your work environment for granted, you will avoid injury to yourself and others. Work procedures and practices are defined as the suggested safe way to perform a job. Following the prescribed procedures will prevent personal injuries. The potential for injuries increases when the prescribed procedures are not properly followed.

Rules and regulations are nothing new to us. FRA has compiled a comprehensive set of safe work procedures for the Inspector to follow in the day to day work activities. They were developed from a study of existing railroad safety rules, and by FRA colleagues in their participation in the various Job Safety Analysis activities. If the information in the booklet is not clear or if it does not provide enough material to make a sound decision, the Inspector should contact the Collateral Duty Officer or a supervisor for additional guidance. Remember, no job is so important and no service is so urgent that we cannot take time to perform all work safely.

Technical Bulletins

The Office of Safety Assurance and Compliance periodically issues Technical Bulletins (TB's) to provide instructions and guidance on a variety of general and discipline oriented issues.

MP&E Inspectors must maintain a current file of all general and MP&E related TB's, which must be readily available to them. It is suggested that current TB's be kept with this manual.

Contacts With News Media

Inspectors are not authorized to grant interviews or respond to representatives of the news media regarding FRA activities. If approached by news media personnel, Inspectors should refer such personnel to FRA's Office of Public Affairs (202-493-6013) for handling. This applies to all news organizations including television and radio news stations, as well as newspapers, magazines, and web-based news outlets. Additionally, this applies to all industry trade publications. ***Inspectors must not provide the news media with information or opinions as to a probable cause of an accident or incident.***

Any requests for information, made under the Freedom of Information Act, should be forwarded to the FRA, Office of Chief Counsel. See Part IV, Chapter 11 of the General Manual for more guidance regarding requests for information

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Cooperation of FRA Personnel with Industry, Labor, and Other Agencies

The Inspector should maintain a cordial relationship with the railroads, manufacturers of railroad equipment, labor union personnel, and other public or governmental agencies. The Inspector must obtain authority from his/her regional supervisor or their representative before cooperation or participation in any project with any of the aforementioned groups or individuals is conducted.

Subpoenas

If subpoenaed or otherwise notified to appear as a witness in any court proceeding, Inspectors must immediately notify their Regional Office and provide information as to the date, place and time of the subpoena served; title of case; party by whom subpoenaed; name and address of that party's attorney; name of court; place, date and time of trial, and circumstances of the incident for which subpoenaed. This also applies to railroad disciplinary investigations. The Inspector **must not** respond to any of these requests independently. Part IV, Chapter 12 of the General Manual provides additional information regarding requests and demands to testify or produce documents to outside parties.

Operating Equipment

An Inspector shall never operate any piece of railroad equipment. *There is no exception to this rule!* However, an Inspector may request that a railroad representative move or operate a piece of equipment, or perform a test for investigation purposes.

Delaying Trains

Inspectors have no authority to prohibit the departure or movement of any train, locomotive, car, etc. Inspectors can issue a Special Notice For Repairs and should point out any hazardous conditions that could result in an accident should the defective train, locomotive, or car depart without appropriate attention. If a railroad elects to move equipment without taking appropriate action, the Inspector should notify their Regional Office immediately and develop information to pursue civil penalties against the railroad and/or initiate enforcement action against an individual. Especially, if a Special Notice For Repairs has been issued and ignored.

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Unusual Occurrences

Signing Release of Liability Inspectors should not sign any documents releasing the railroad or company from liability due to personal injury, loss or damage to property. Inspectors may, when requested, sign a visitor or guest register used to control entry to railroad property, provided such document does not constitute any form of release or waiver of liability.

Refusal To Permit Inspection or Investigation If a railroad representative refuses to permit inspection or investigation activity, good judgment and professionalism should prevail. Attempt to determine the reason for refusal. If a brief, courteous discussion with the railroad representative does not resolve the issue, Inspectors should leave the railroad property and immediately advise their Regional Office of the situation. *Under no circumstances should Inspectors engage in a debate or argument with a railroad representative.*

Strikes and Labor Disputes Inspectors should not enter railroad property that is subject to a strike, picket lines, or work stoppage without consulting their Regional Office. If, after consultation, the decision is made to conduct inspection/investigation activity and such activity requires the passing of picket lines, Inspectors should identify themselves as an FRA Inspector, display their credentials and state the purpose of the inspection. If the Inspector is met with resistance or threats of bodily harm, withdraw from the scene and promptly report the incident to the Regional Office.

National Transportation Safety Board

The "Independent Safety Board Act of 1974" established the National Transportation Safety Board (NTSB) as an independent agency. The NTSB is authorized to investigate railroad accidents and make recommendations based upon the findings of their investigations. If during an accident investigation, NTSB Investigators arrive on the scene, FRA Inspectors should introduce themselves and promptly contact the Regional Office to advise of NTSB's presence. However, unless instructed otherwise, FRA investigation activities should continue independently.

It is the Office of Safety's policy to extend full cooperation to the NTSB in all matters related to railroad safety and accident investigation. If an Inspector is assigned to assist in an NTSB accident investigation, the Inspector must keep the Regional Administrator informed about the progress of the NTSB's investigation. See Part IV, Chapter 9 of the General Manual.