



U.S. Department
of Transportation

**Federal Railroad
Administration**

Memorandum

Date: June 15, 1998

Reply to Att. of: MP&E 98-58

Subject: Part 215 Appendix D, Freight Car Pre-Departure Inspection: Enforcement Guidance

From: Edward R. English
Director, Office of Safety Assurance and Compliance

To: Regional Administrators, Deputy Regional Administrators,
Motive Power & Equipment Specialists and Inspectors

Recently, FRA inspectors have noted instances of pre-departure mechanical inspections being conducted in an improper manner. FRA is particularly concerned about the practice of conducting pre-departure inspections pursuant to Appendix D of Part 215, while the equipment is moving (i.e., a "roll by" inspection) or by conducting such inspections from locomotives on an adjacent track. While regulations do not specify the physical actions necessary to conduct a proper inspection, FRA believes such inspections require that inspectors position themselves in such a manner that all of the required observations can be safely made.

Appendix D of Part 215 requires that an inspector be able to observe the following conditions:

1. Car body:
 - (a) Leaning or listing to side.
 - (b) Sagging downward.
 - (c) Positioned improperly on truck.
 - (d) Object dragging below.
 - (e) Object extending from side.
 - (f) Door insecurely attached.
 - (g) Broken or missing safety appliance.
 - (h) Lading leaking from a placarded hazardous material car.
2. Insecure coupling.
3. Overheated wheel or journal.
4. Broken or extensively cracked wheel.
5. Brake that fails to release.
6. Any other apparent safety hazard likely to cause an accident or casualty before the train arrives at its destination.

Such observations can not be safely made while equipment is moving or when the inspector is positioned on a locomotive on an adjacent track. While some of the individual conditions may be observable while a train is moving, others are not and a person cannot reasonably be expected to see all of them as a train is rolling by.

FRA inspectors should strongly consider issuing violations whenever they observe the above inspection practices being performed instead of a proper Appendix D inspection. In appropriate circumstances, the inspector may assess a civil penalty for each car in a train that does not receive the proper pre-departure mechanical inspection. These violations should be treated as violations separate and distinct from, and in addition to, any substantive violation conditions found on individual cars. This has been FRA's consistent position on equipment inspection methods.

Furthermore, civil penalties may be assessed or other extraordinary remedies may be sought against any individual who willfully violates the pre-departure inspection requirements pursuant to Part 215. As with any regulatory requirement, inspectors should exercise enforcement discretion to determine the best method of achieving compliance.

See 49 CFR 209, Appendix A, for further guidance.

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