



American Short Line and
Regional Railroad Association

Outback Railroad Association Regulatory Update

Deadwood, SD

April 2, 2024

JR Gelnar, Vice President Safety and Compliance, ASLRRA

Part 271 Risk Reduction Program

- FRA processed data to determine inadequate safety performance (ISP) short lines.
 - 8 identified with fatalities
 - 8 volunteered prior to notification (1 non-fatality)
 - 1 received a notification letter
- ASLRRA with S&T Committee has developed template
 - 14 Sections including Fatigue Management Plan
 - 7 Support Documents

240/242 Audit Process

- Due to an OIG audit of FRA audit processes, FRA has instituted a new audit process for short lines.
- 8 districts performing 10 short line audits per year
 - 2023 reviewed approximately 79
 - 2024 has approximately 60 scheduled
- Provide advance notification letter with checklist
- DSLE qualifications
 - Training documentation
 - Valid certification

240/242 Audit Process (cont.)

- DUIs
- Most demanding service
- Date verification
- Good working relationship with short lines
- Part 217 included in process

Emergency Escape Breathing Apparatus (EEBA)

- Effective Date: March 26, 2024
- Compliance Date: Class I & II – March 26, 2025, Class III – September 26, 2025
- EEBA must be provided when an employee is in the cab of an in-service freight train transporting PIH loads or residues to the following:
 - Any train employee;
 - Any direct supervisor of the train employee;
 - Any employee who is deadheading; and
 - Any other employee designated by the railroad in writing and at the discretion of the railroad.
- Railroad Program for Inspection, Maintenance, Replacement
- Railroad Program for Instruction
- Recordkeeping
- ARR & ASLRRRA discussing program and training development.

Part 243 Training Standards

- Refresher Training
 - Starts May 1, 2023
 - Completed by December 31, 2025 (Grandfathered)
 - Initial Training provided after May 1, 2021, requires refresher on 3-year cycle.
- Common Problems
 - Qualified Date
 - Periodic Oversight
 - Contractor List
 - OJT Checklists for SRREs not maintained
 - Programs to Labor President

Monetary Threshold for Accident Reporting

- 2024 Monetary reporting threshold is \$12,000

Autonomous Track Inspection Program (Continuous Testing)

- FRA is testing rail that does not require testing by regulation
 - Authority under 49 U.S.C. 20107
- Notification Letter
 - FRA rewrote at the request of ASLRRA
- Three phases
 - Testing
 - Identification of suspect areas
 - Hand verification (railroad can deny)
- No hand verification = no defect report

ASLRRA Hours of Service Waiver

- Extended for 5 years on February 9, 2022
- FRA issued new requirement on January 20, 2023
 - Human Factor accidents must be immediately reported to SMT 2 or 8

Future Regulatory Actions - FRA

- Train Crew Staffing (Crew Size)
 - NPRM – July 2022
 - Public Hearing – December 14, 2022
 - Comments submitted – December 21, 2022
 - 198 short lines would not meet exemption (commodities or operating practices)
 - Multiple 12866 meetings with OMB
 - Released by FRA, April 2, 2024
 - FR publication within days
 - ASLRRRA Reviewing
 - Lawsuits likely

Future Regulatory Actions – FRA (cont.)

- Dispatcher Certification

- NPRM – 2023
- September 2023 – ASLRRA & AAR filed joint comments (no safety issue, benefit analysis)
- ASLRRA filed stand alone comments (regulatory flexibility for SB, 243 training requirements, certification of non-employees)

- Signal Employee Certification

- NPRM – 2023
- September 2023 - ASLRRA and AAR submitted joint comments (cost analysis)
- September 2023 - ASLRRA and NRC submitted joint comments (regulatory flexibility for SB)

Request for Information – FRA

- RFI: Creosote – Treated
 - April 2023 FRA RFI on potential uses and options for disposal or repurposing of used ties.
 - June 2023, ASLRRA submitted comments.

Future Regulatory Actions – PHMSA

- Hazardous Materials: FAST Act Requirements for Real-Time Train Consist Information by Rail
 - ANPRM - January 2017
 - NPRM – 2023
 - October 2023 - ASLRRA submitted comments
- Hazardous Materials: Modernizing Regulations to Improve Safety and Efficiency
 - ANPRM – July 2023 (46 topics)
 - December 2023 – ASLRRA & AAR filed joint comments

Future Regulatory Actions – OSHA

- Heat Injury and Illness Prevention in Outdoor and Indoor Work Settings
 - ANPRM – October 27, 2021
 - January 2022 – ASLRRRA, AAR and APTA filed joint comments (FRA territory)
 - SBREFA Panel – August 2023
 - Small Entity Representatives (SER) – 1 railroad testified to panel
 - December 2023 – ASLRRRA filed comments

Future Regulatory Actions – TSA

- Enhancing Surface Cyber Risk Management
 - ANPRM November 2022
- Vetting of Certain Surface Transportation Employees
 - NPRM - May 2023
 - September 2023 – ASLRRA and AAR filed joint comments

Future Regulatory Actions – EPA

- Greenhouse Gas Emissions Standards for Heavy Duty Vehicles – Phase 3
 - NPRM – April 2023 (Revises existing locomotive preemption)
 - June 2023 – ASLRRA and AAR filed joint comments with supplemental individual comments (possible impact to 93% of short line locomotives)
- Revisions to the Air Emissions Reporting Requirements
 - NPRM – August 2023 (additional sources to report criteria)
 - October 2023 – Comments are due (ASLRRA reviewing)

Easing Waiver Path for State Loco Air Regs – EPA

- EPA has finalized without change a measure that eases the regulatory path for California and other states to obtain a preemption waiver for their emissions standards for used locomotives.
- The rule implements a policy change to no longer categorically preempt certain state regulations of non-new locomotives and engines.

RSAC Working Groups

- Roadway Worker Protection (single task force)
- Electronic Devices
- Confidential Close Call Reporting (C3RS)
- Practices to Maximize Alertness and Reduce Fatigue
- Critical Incident Stress Plans/Part 272 Amendments
- Wayside Detectors
- ECP Brakes (multiple task forces)

2024 FRA Safety Bulletins

- FRA
 - SB 2024-01 – Securement of Rolling Equipment (Fatality)
 - SB 2024-02 – Positive Train Control Error and Malfunctions

Questions?

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