§ 213.5 Responsibility for compliance.

(a) Except as provided in paragraph (b) of this section, any owner of track to which this part applies who knows or has notice that the track does not comply with the requirements of this part, shall—

(1) Bring the track into compliance;

(2) Halt operations over that track; or

(3) Operate under authority of a person designated under §213.7(a), who has at least one year of supervisory experience in railroad track maintenance, subject to conditions set forth in this part.

(b) If an owner of track to which this part applies designates a segment of track as "excepted track" under the provisions of §213.4, operations may continue over that track without complying with the provisions of subparts B, C, D, and E of this part, unless otherwise expressly stated.

(c) If an owner of track to which this part applies assigns responsibility for the track to another person (by lease or otherwise), written notification of the assignment shall be provided to the appropriate FRA Regional Office at least 30 days in advance of the assignment. The notification may be made by any party to that assignment, but shall be in writing and include the following—

(1) The name and address of the track owner;

(2) The name and address of the person to whom responsibility is assigned (assignee);

(3) A statement of the exact relationship between the track owner and the assignee;

(4) A precise identification of the track;

(5) A statement as to the competence and ability of the assignee to carry out the duties of the track owner under this part; and

(6) A statement signed by the assignee acknowledging the assignment to him of responsibility for purposes of compliance with this part.

(d) The Administrator may hold the track owner or the assignee or both responsible for compliance with this part and subject to penalties under §213.15.

(e) A common carrier by railroad which is directed by the Surface Transportation Board to provide service over the track of another railroad under 49 U.S.C. 11123 is considered the owner of that track for the purposes of the application of this part during the period the directed service order remains in effect.

(f) When any person, including a contractor for a railroad or track owner, performs any function required by this part, that person is required to perform that function in accordance with this part.
persons to supervise restorations and renewals of track under traffic conditions. Each person designated shall have—

1. At least—
   (i) 1 year of supervisory experience in railroad track maintenance; or
   (ii) A combination of supervisory experience in track maintenance and training from a course in track maintenance or from a college level educational program related to track maintenance;
2. Demonstrated to the owner that he or she—
   (i) Knows and understands the requirements of this part;
   (ii) Can detect deviations from those requirements; and
   (iii) Can prescribe appropriate remedial action to correct or safely compensate for those deviations; and
3. Written authorization from the track owner to prescribe remedial actions to correct or safely compensate for deviations from the requirements in this part.

(b) Each track owner to which this part applies shall designate qualified persons to inspect track for defects. Each person designated shall have—

1. At least—
   (i) 1 year of experience in railroad track inspection; or
   (ii) A combination of experience in track inspection and training from a course in track inspection or from a college level educational program related to track inspection;
2. Demonstrated to the owner that he or she—
   (i) Knows and understands the requirements of this part;
   (ii) Can detect deviations from those requirements; and
   (iii) Can prescribe appropriate remedial action to correct or safely compensate for those deviations; and
3. Written authorization from the track owner to prescribe remedial actions to correct or safely compensate for deviations from the requirements in this part.

(c) Individuals designated under paragraphs (a) or (b) of this section that inspect continuous welded rail (CWR) track or supervise the installation, adjustment, and maintenance of CWR track in accordance with the written procedures of the track owner shall have:

1. Current qualifications under either paragraph (a) or (b) of this section;
2. Successfully completed a comprehensive training course specifically developed for the application of written CWR procedures issued by the track owner;
3. Demonstrated to the track owner that the individual—
   (i) Knows and understands the requirements of those written CWR procedures;
   (ii) Can detect deviations from those requirements; and
   (iii) Can prescribe appropriate remedial action to correct or safely compensate for those deviations; and
4. Written authorization from the track owner to prescribe remedial actions to correct or safely compensate for deviations from the requirements in those procedures and successfully completed a recorded examination on those procedures as part of the qualification process.

(d) Persons not fully qualified to supervise certain renewals and inspect track as required in paragraphs (a) through (c) of this section, but with at least one year of maintenance-of-way or signal experience, may pass trains over broken rails and pull aparts provided that—

1. The track owner determines the person to be qualified and, as part of doing so, trains, examines, and re-examines the person periodically within two years after each prior examination on the following topics as they relate to the safe passage of trains over broken rails and pull aparts provided that—
   (i) The track owner designates the individual to inspect continuous welded rail (CWR) track or supervise the installation, adjustment, and maintenance of CWR track in accordance with the written procedures of the track owner shall have:
   (ii) Successfully completed a comprehensive training course specifically developed for the application of written CWR procedures issued by the track owner;
   (iii) Demonstrated to the track owner that the individual—
      (i) Knows and understands the requirements of those written CWR procedures;
      (ii) Can detect deviations from those requirements; and
      (iii) Can prescribe appropriate remedial action to correct or safely compensate for those deviations; and
   (iv) Written authorization from the track owner to prescribe remedial actions to correct or safely compensate for deviations from the requirements in those procedures and successfully completed a recorded examination on those procedures as part of the qualification process.

   (d) Persons not fully qualified to supervise certain renewals and inspect track as required in paragraphs (a) through (c) of this section, but with at least one year of maintenance-of-way or signal experience, may pass trains over broken rails and pull aparts provided that—

2. The sole purpose of the examination is to ascertain the person’s ability to effectively apply these requirements and the examination may not be used to disqualify the person from other duties. A minimum of four hours training is required for initial training;
§ 213.9 Classes of track: operating speed limits.

(a) Except as provided in paragraph (b) of this section and §§ 213.57(b), 213.59(a), 213.113(a), and 213.137(b) and (c), the following maximum allowable operating speeds apply—

<table>
<thead>
<tr>
<th>Over track that meets all of the requirements prescribed in this part for—</th>
<th>The maximum allowable operating speed for freight trains is—</th>
<th>The maximum allowable operating speed for passenger trains is—</th>
</tr>
</thead>
<tbody>
<tr>
<td>Excepted track</td>
<td>10</td>
<td>N/A</td>
</tr>
<tr>
<td>Class 1 track</td>
<td>10</td>
<td>15</td>
</tr>
<tr>
<td>Class 2 track</td>
<td>25</td>
<td>30</td>
</tr>
<tr>
<td>Class 3 track</td>
<td>40</td>
<td>60</td>
</tr>
<tr>
<td>Class 4 track</td>
<td>60</td>
<td>80</td>
</tr>
<tr>
<td>Class 5 track</td>
<td>80</td>
<td>90</td>
</tr>
</tbody>
</table>

(b) If a segment of track does not meet all of the requirements for its intended class, it is reclassified to the next lowest class of track for which it does meet all of the requirements of this part. However, if the segment of track does not at least meet the requirements for Class 1 track, operations may continue at Class 1 speeds for a period of not more than 30 days without bringing the track into compliance, under the authority of a person designated under § 213.7(a), who has at least one year of supervisory experience in railroad track maintenance, after that person determines that operations may safely continue and subject to any limiting conditions specified by such person.

§ 213.11 Restoration or renewal of track under traffic conditions.

If during a period of restoration or renewal, track is under traffic conditions and does not meet all of the requirements prescribed in this part, the work on the track shall be under the continuous supervision of a person designated under § 213.7(a) who has at least one year of supervisory experience in railroad track maintenance, and subject to any limiting conditions specified by such person. The term “continuous supervision” as used in this section means the physical presence of that person at a job site. However, since the work may be performed over a large area, it is not necessary that each phase of the work be done under the visual supervision of that person.

§ 213.13 Measuring track not under load.

When unloaded track is measured to determine compliance with requirements of this part, the amount of rail movement, if any, that occurs while the track is loaded must be added to the measurements of the unloaded track.

§ 213.15 Penalties.

(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 $650 and not more than $25,000 per violation, except that: Penalties may be assessed against individuals only for willful violations, and, where a grossly negligent violation or a pattern of repeated violations has created an imminent hazard of death or injury to persons, or has caused death or injury, a penalty not to exceed $100,000 per violation may be assessed. “Person” means an entity of any type covered under 1 U.S.C. 1, including but not limited to the following: a railroad; a manager, supervisor, official, or other employee...