

PART 200—INFORMAL RULES OF PRACTICE FOR PASSENGER SERVICE

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AUTHORITY: Sec. 406 of Pub. L. 91-518, 84 Stat. 1327, as amended by sec. 10(2) of Pub. L. 93-146, 87 Stat. 548 and sec. 121 of Pub. L. 96-73, 93 Stat. 537 (49 U.S.C. 24309); 49 CFR 1.49.

SOURCE: 45 FR 64192, Sept. 29, 1980, unless otherwise noted.

§ 200.1 General.

This part prescribes procedures under which applications will be received and heard and by which rules and orders will be issued under subsection 402(e) and section 406 of the Rail Passenger Service Act (45 U.S.C. 562(e) and 566).

§ 200.3 Definitions.

(a) *Act* means the Rail Passenger Service Act (45 U.S.C. 500 *et seq.*).

(b) *Administrator* means the Federal Railroad Administrator, the Deputy Administrator of FRA, or the delegate of either.

(c) *Amtrak* means the National Railroad Passenger Corporation.

(d) *Amtrak trains* means trains operated by or on behalf of Amtrak.

(e) *Chief Counsel* means the Chief Counsel or Acting Chief Counsel of the FRA.

(f) *Downgrading of a facility* means a reduction in track classification as specified in FRA track safety standards (49 CFR part 213), or any other change in facilities which may increase the time required for a passenger train to operate over the route on which such facility is located.

(g) *Facility* means railroad tracks, right-of-way, fixed equipment and facilities, real-property appurtenant thereto, and includes signal systems, passenger station and repair tracks, station buildings, platforms, and adjunct facilities such as water, fuel, steam, electric, and air lines.

(h) *FRA* means the Federal Railroad Administration.

(i) *Railroad* means a person providing railroad transportation for compensation.

(j) *Shipper* means a person contracting with one or more railroads for freight transportation.

§ 200.5 Applications.

(a) Each application and objection under this part shall be submitted in writing to: Docket Clerk, Office of the Chief Counsel, Federal Railroad Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590.

(b) Any procedural issues arising from the submission or consideration of applications under this part, such as timeliness and adequacy, shall be heard and decided by the Administration's panel established under § 200.9.

(c) Any railroad adversely affected by the preference requirement of subsection 402(e) of the Act may apply to the Administrator for an order altering that requirement. Each application shall:

(1) List by endpoints the routes that are so affected; and

(2) Explain for every route listed how the preference requirement of subsection 402(e) will materially lessen the quality of freight service afforded by the applicant to its shippers, including information, data or documents sufficient to support that explanation; and

(3) Include an analysis of whether and by how much Amtrak's compensation to the railroad should be reduced if the preference requirement is altered.

(d) In accordance with section 406 of the Act, any railroad may apply to the Administrator for approval to downgrade or dispose of its facilities. Each application shall:

(1) List the facilities for proposed downgrading or disposal;

(2) Describe and give the location of each such facility and identify the most recent passenger service that made use of such facilities; and

(3) Contain for each facility an analysis of the costs the railroad could avoid if it were not required to maintain or retain the facility in the condition requested by Amtrak, including

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information, data and documents sufficient to support the analysis.

(e) In addition to the data provided with their applications, applicants shall furnish the Administrator with any other information that the Administrator finds necessary in order to make the determinations required by the Act.

(f) Each applicant shall promptly notify, by registered or certified mail, any party affected by any application, whether Amtrak or a railroad, of the submission of such application under this part, and shall provide a copy of the application with such notice. An official United States Postal Service receipt from the registered or certified mailing constitutes *prima facie* evidence of notice.

[45 FR 64192, Sept. 29, 1980, as amended at 74 FR 25171, May 27, 2009]

§ 200.7 Objections.

(a) Amtrak or any other party shall have 30 days from the date an application is received by FRA pursuant to section 402(e) of the Act to object to the proposed alteration of the preference requirement. Such objections shall be in writing and shall reference, by date, railroad, and former passenger routes, the application to which it pertains.

(b) Amtrak shall have 30 days from the date an application is received by FRA pursuant to section 406 of the Act to object to any or all of the facility downgradings or disposals proposed in such application. Such objections shall be in writing and shall reference, by date, railroad, and former passenger routes, the application to which it pertains and shall list, by facility description and location, the specific downgradings or disposals to which Amtrak objects.

§ 200.9 Hearings.

(a) Pursuant to any application under this part, a prehearing conference will be held if found necessary or desirable by the Administrator.

(b) Pursuant to any application under this part, an oral hearing will be held if required by statute or if found necessary or desirable by the Administrator.

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(c) Hearings shall be conducted by a panel designated by the Administrator, consisting of three FRA employees, including the Chief Counsel or a member of his or her staff who shall serve as chairman of the panel and the Associate Administrator for Intercity Programs or his or her delegate.

(d) Hearings shall be informal fact-finding proceedings, limited to the issues identified by the panel. Sections 556 and 557 of title 5, U.S.C., shall not apply.

(e) All direct evidence shall be reduced to writing and submitted to the Docket Clerk thirty days in advance of the hearing unless this requirement is expressly waived by the panel. Copies shall be furnished to all parties concurrently with the submission to the Docket Clerk.

(f) The panel may provide for oral presentations and cross-examination, and shall apply rules of evidence as it finds necessary.

(g) To the extent deemed appropriate by the panel, interested persons, including members of the public, may participate in the hearings through the submission of written data, oral presentations, or arguments.

§ 200.11 Orders, approvals, and determinations.

(a) The Administrator shall promptly approve the downgrading or disposal of any facility to which Amtrak does not submit a timely objection under this part.

(b) Orders, approvals, and determinations issued by the Administrator's panel under this part constitute the Administrator's action and shall be final.

(c) Determinations under this part are not required to be based exclusively on the record of a hearing.

§ 200.13 Publication.

(a) General notice of any hearing under this subpart shall be published in the *FEDERAL REGISTER* not less than 10 days before the hearing, and shall include (1) a statement of the time, place, and nature of the hearing, (2) a reference to the legal authority under which the hearing is being held and (3) a description of the subject and issues involved.

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(b) Any order, approval, or determination resulting from any hearing held under this part shall be published in the **FEDERAL REGISTER**.

PART 201 [RESERVED]**PART 207—RAILROAD POLICE OFFICERS**

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AUTHORITY: 45 U.S.C. 446; 49 CFR 1.49(ff).

SOURCE: 59 FR 6587, Feb. 11, 1994, unless otherwise noted.

§ 207.1 Application.

This part applies to all railroads as defined in 49 U.S.C. 20103.

[81 FR 88132, Dec. 7, 2016]

§ 207.2 Definitions.

As used in this part:

(a) *Railroad police officer* means a peace officer who is commissioned in his or her state of legal residence or state of primary employment and directly employed by or contracted by a railroad to enforce state laws for the protection of railroad property, personnel, passengers, and/or cargo.

(b) *Commissioned* means that a state official has certified or otherwise designated a railroad employee as qualified under the licensing requirements of that state to act as a railroad police officer in that state.

(c) *Property* means rights-of-way, easements, appurtenant property, equipment, cargo, facilities, and buildings and other structures owned, leased, operated, maintained, or transported by a railroad.

[59 FR 6587, Feb. 11, 1994, as amended at 81 FR 88132, Dec. 7, 2016]

§ 207.3 Designation and commissioning.

(a) A railroad may designate employees to be commissioned by a state authority as railroad police officers to

serve in the states in which the railroad owns property.

(b) Except as provided by § 207.6, the designated railroad police officer shall be commissioned by the railroad police officer's state of legal residence or the railroad police officer's state of primary employment.

[59 FR 6587, Feb. 11, 1994, as amended at 81 FR 88132, Dec. 7, 2016]

§ 207.4 Notice to State officials.

(a) After the designated railroad police officer is commissioned by a state or states, the railroad shall send, by certified mail, written notice to appropriate officials of every other state in which the railroad police officer shall protect the railroad's property, personnel, passengers, and cargo. The notice of commission shall contain the following information:

(1) The name of the railroad police officer;

(2) The badge number, identification number, rank, code, or other identifying information assigned to the railroad police officer;

(3) The date of commission;

(4) The state or states where the railroad police officer is commissioned;

(5) The date the railroad police officer received training or retraining regarding the laws of such state or states;

(6) The name of the railroad official who designated the employee as a railroad police officer; and

(7) Color photographs of the types of badges, identification cards, and other identifying materials the railroad uses to identify its railroad police officers.

(b) The railroad shall keep copies of all such notices at a central location.

(c) The authority set forth in § 207.5 shall be effective upon receipt by such state(s) of written notice conforming to the requirements of this section.

§ 207.5 Authority in States where officer not commissioned.

(a) A railroad police officer who is designated by a railroad and commissioned under the laws of any state is authorized to enforce the laws (as specified in paragraph (b) of this section) of any state in which the railroad owns property and to which the railroad has