

## Federal Railroad Administration, DOT

## §219.4

and enforcing additional or more stringent requirements not inconsistent with this part.

[66 FR 41973, Aug. 9, 2001, as amended at 81 FR 37922, June 10, 2016]

### §219.3 Application.

(a) *General.* This part applies to all railroads and contractors, except as provided in paragraphs (b), (c), and (d) of this section, and except for:

(1) Railroads that operate only on track inside an installation that is not part of the general railroad system of transportation (*i.e.*, plant railroads, as defined in §219.5);

(2) Tourist, scenic, historic, or excursion operations that are not part of the general railroad system of transportation, as defined in §219.5; or

(3) Rapid transit operations in an urban area that are not connected to the general railroad system of transportation.

(b) [Reserved]

(c) *Small railroad exception.* (1) Subparts E, G, and K do not apply to small railroads, and a small railroad may not perform the Federal requirements authorized by those subparts. For purposes of this part, a small railroad means a railroad that:

(i) Has a total of 15 or fewer employees who are covered by the hours of service laws at 49 U.S.C. 21103, 21104, or 21105, or who would be subject to the hours of service laws at 49 U.S.C. 21103, 21104, or 21105 if their services were performed in the United States; and

(ii) Does not have joint operations, as defined in §219.5, with another railroad that operates in the United States, except as necessary for purposes of interchange.

(2) An employee performing only MOW or MECH activities, as defined in §219.5, does not count towards a railroad's total number of covered employees for the purpose of determining whether it qualifies for the small railroad exception.

(3) A contractor performing MOW or MECH activities exclusively for small railroads also qualifies for the small railroad exception (*i.e.*, is excepted from the requirements of subparts E, G, and K of this part). A contractor is not excepted if it performs MOW or MECH activities for at least one rail-

road that is required to be in full compliance with this part.

(4) If a contractor is subject to all of part 219 because it performs regulated service for multiple railroads, not all of which qualify for the small railroad exception, the responsibility for ensuring that the contractor complies with subparts E and G of this part is shared between the contractor and any railroad using the contractor that does not qualify for the small railroad exception.

(d) *Foreign railroad.* (1) This part does not apply to the operations of a foreign railroad that take place outside the United States. A foreign railroad is required to conduct post-accident toxicological testing or reasonable suspicion testing only for operations that occur within the United States.

(2) Subparts F, G, and K of this part do not apply to an employee of a foreign railroad whose primary reporting point is outside the United States if that employee is:

(i) Performing train or dispatching service on that portion of a rail line in the United States extending up to 10 route miles from the point that the line crosses into the United States from Canada or Mexico; or

(ii) Performing signal service in the United States.

[81 FR 37922, June 10, 2016, as amended at 87 FR 5733, Feb. 2, 2022]

### §219.4 Recognition of a foreign railroad's workplace testing program.

(a) *General.* A foreign railroad may petition the FRA Associate Administrator for Safety for recognition of a workplace testing program promulgated under the laws of its home country as a compatible alternative to the return-to-duty requirements in subpart B of this part and the requirements of subparts E, F, and G of this part with respect to its employees whose primary reporting point is outside the United States but who enter the United States to perform train or dispatching service and with respect to its final applicants for, or its employees seeking to transfer for the first time to, duties involving such service.