

49 CFR PART 217

Program of Operational Tests and Inspections

THE REGULATION
49 CFR PART 217

- **REQUIREMENT:** Periodically conduct operational tests and inspections to determine the extent of compliance with operating rules, timetables, and timetable special instructions in accordance with a written program.

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49 CFR PART 217

- **WRITTEN PROGRAM MUST:**
 - (1) Provide for testing and inspection under the various operating conditions on the railroad
 - > Train Service
 - > Maintenance of Way
 - > Mechanical
 - > Dispatcher
 - > Clerical.

THE REGULATION
49 CFR PART 217

(2) Describe each type of test and inspection adopted, including the means and procedures used to carry it out

- > Observation Test –
Where direct observation is made during the normal course of duties
- > Set-up Test –
Where the conditions are physically changed for the purpose of the test.

THE REGULATION
49 CFR PART 217

(3) State the purpose of each type of test and inspection

- > Specific rule compliance

(4) State the frequency with which each type of test and inspection is conducted

- > Annually, Quarterly...etc...
- > Based on your specific operation.

Purpose & Philosophy

Regard operational testing as an opportunity to:

- Facilitate performance improvement...*what you see wrong that needs addressing*
- Identify training opportunities
- Leverage influence as safety advocates.

Purpose & Philosophy

Monitor & verify that employees are working safely and in compliance with the rules...*something that should in some way be a positive experience for the employees.*

Purpose & Philosophy

When compliance is evident...the employee(s) should be recognized for a job well done...

Does this fit **your** personal value system?

Purpose & Philosophy

- All too often, managers place more emphasis on deficiencies than positive results when they discuss operational testing
- True...we all need to learn from our mistakes
- However, can we not learn at least as much from good performance?

Purpose & Philosophy

Think of it as...
"Positive Performance"

Example:

Employee performs one (1) non-compliant act out of ten (10) observed...

9 / 10 = 90% compliant (positive performance rate).

Testing is a two sided coin!

- Deficiencies must be documented and addressed...
AND
- Success and excellence must be documented and recognized
- If not...the program may be feared and actively resisted or resented because of the perception that management measures success only by deficiencies.

Feedback

- Feedback allows a person to distinguish between the **right, wrong, or best** way to perform the job tasks
- Without knowledge of the results, people are unable to take the appropriate steps to improve their performance.

Effective Feedback

- Feedback is most effective when it is:
 - Immediate
 - Be mindful of employee body language
 - Specific
 - Directed
 - Balanced
 - Documented
 - Follow-up.

Effective Feedback / Follow-up

- Re-test employee on same failed rule ASAP
- Document the results.

Feedback Suggestions

- Successful feedback reinforces and supports how employees perform their tasks
"Yes, I did that right, and I can do it again".
- An unsuccessful task requires **accurate** and **timely** feedback to help modify or change behaviors to achieve the desired results
"Now I see what I've been doing wrong, and I think I know how to do it right the next time".

Feedback Suggestions

- Feedback is most helpful when it is precise and directly related to the tasks and performance you observed
- Avoid general comments as feedback
- You are more effective when you keep personalities out of the discussion.

Balanced Feedback

- The employee needs to know what is **right**, what is **wrong**, and what they should do to perform as expected
- When employees only get "**bad news**" it is impossible for them to feel good about change
- Discuss the observed actions in a way that holds on to the positive parts and overcomes any weakness.

Why Evaluate...isn't training enough?

- Well trained people are important to any organization...but, if you stop there, how do you know that all is working well?
- All too often, training is conducted with the expectation that employees will work. Many times, this isn't the case.

Learning Organizations Know

1. Leading is more than providing training and issuing instructions
2. We must constantly observe, explain, demonstrate, and reinforce the concepts and skills we teach
3. Without evaluation, job performance cannot be measured.

Foundations of Operational Testing

Objectives:

- Reducing variations in behavior
- Improving compliance with rules
- Determining where training is required
- Validating the effectiveness of the training
- Measuring the effectiveness of supervision.

Foundations of Operational Testing

We achieve our objectives by:

- Communicating our expectations
- Reinforcing compliance (+ & -)
- Providing corrective intervention
- Influencing the culture so that everyone wants to work as safely as possible.

Foundations of Operational Testing

- Forming partnerships to foster safer work practices and continuous performance improvement...*at the end of the day, we all want to be able to say with certainty: "I did a good job today, and as a result of my efforts the railroad is safer."*

2008 New Federal Operating Rule / Human-Factor Regulations 49CFR Part 218

23

New 2008 Regulations

The regulations in this program are in effect now and affect every railroad employee and manager. Many of our current operating rules are now federalized, opening the possibility of willful, federal civil penalties issued *to employees and managers who knowingly violate them.*

Once fully trained in the new regulations we will be held accountable by both our employer and the federal government to obey the regulation.

Violations of these regulations can result in a federal fine of up to \$16,000 to you as an individual as well as to the railroad.

24

§ 217.9 Program of operational tests and inspections; recordkeeping

- (1) *Each railroad officer who conducts operational tests and inspections (railroad testing officer) shall:*
 - (i) Be qualified on the railroad's operating rules in accordance with § 217.11 of this part
 - (ii) Be qualified on the operational testing and inspection program requirements and procedures relevant to the testing and inspections the officer will conduct
 - (iii) Receive appropriate field training, as necessary to achieve proficiency, on each operational test or inspection that the officer is authorized to conduct; and
 - (iv) *Conduct operational tests and inspections in accordance with the railroad's program of operational tests and inspections.*

25

§ 217.9 Program of operational tests and inspections; recordkeeping

- (2) Written records documenting qualification of each railroad testing officer shall be retained at the railroad's system headquarters and at the division headquarters for each division where the officer is assigned and shall be made available to representatives of the FRA for inspection and copying during normal business hours.

26

§ 217.9 Program of operational tests and inspections; recordkeeping

- (c) *Written program of operational tests and inspections.* Every railroad shall have a written program of operational tests and inspections in effect. The program shall—
 - (1) Provide for operational testing and inspection under the various operating conditions on the railroad. As of Jan.1, 2009, the program must address with particular emphasis those operating rules that cause or are likely to cause the most accidents or incidents, such as those accidents or incidents identified in quarterly reviews, etc.;

27

§ 217.9 Program of operational tests and inspections; recordkeeping

- (2) Require a minimum number of tests and inspections per year covering the requirements of part 218, subpart F of this chapter
- (3) Describe each type of operational test and inspection required, including the means and procedures used to carry it out
- (4) State the purpose of each type of operational test and inspection
- (5) State, according to operating divisions where applicable, the frequency with which each type of operational test and inspection is to be conducted.

28

§ 217.9 Program of operational tests and inspections; recordkeeping

- (6) As of Jan. 1, 2009, identify the officer(s) by name, job title, and, division or system, who shall be responsible for ensuring that the program of operational tests and inspections is properly implemented. The responsibilities of such officers shall include, but not be limited to, **ensuring that the railroad's testing officers are directing their efforts in an appropriate manner to reduce accidents and incidents** and that all required reviews and summaries are completed. A railroad with divisions shall identify at least one officer at the system headquarters who is responsible for overseeing the entire program and the implementation by each division.

29

§ 218.95 Instruction, training, and examination

- (a) *Program.* Effective July 1, 2009, each railroad shall maintain a written program of instruction, training, and examination of employees for compliance with operating rules implementing the requirements of this subpart to the extent these requirements are pertinent to the employee's duties. If all requirements of this subpart are satisfied, a railroad may consolidate any portion of the instruction, training or examination required by this subpart with the program of instruction required under § 217.11 of this chapter. An employee who successfully completes all instruction, training, and examination required by this written program shall be considered qualified
- (1) The written program of instruction, training, and examination shall address the requirements of this subpart, as well as consequences of noncompliance.³⁰

§ 218.95 Instruction, training, and examination

(4) After July 1, 2009, no employee shall perform work requiring compliance with the operating rules implementing the requirements of this subpart unless qualified on these rules within the previous three years

(Training documentation is required)

31

218 Operating Rule Additions

- 218.95 Instruction, Training, and Exam
- 218.97 Good Faith Challenge Procedures
- 218.99 Shoving or Pushing Movements
- 218.101 Leaving equipment in the clear
- 218.103 Hand-operated switches, including crossover switches
- 218.105 Additional requirements for hand-operated main track switches
- 218.107 Additional operational requirements for hand-operated crossover switches
- 218.109 Hand-operated fixed derails.

32

Penalties

Civil penalties, including willful violations, up to \$16,000 may be assessed for non compliance of Part 218 subpart F operating rules

Many of the regulations described in this presentation are already a matter of rule on our railroads today. However, now that these rules have been federalized, individual fines can be assessed by the FRA. Rule non-compliance always puts you and your co-workers at personal risk. With the implementation of this regulation, your risk for financial catastrophe now also is a possibility.

33

"Commanders must remember that the issuance of an order, or the devising of a plan, is only about five per cent of the responsibility of command. The other ninety-five per cent is to insure, **by personal observation**, or through the interposing of staff officers, that the order is carried out."

General George C. Patton

Questions...comments?
