

INFORMATION MEMORANDUM #81-X-10 (REVISED)
OSHA CPL 2.4

TO: All OSH Directors, Supervisors and Field Personnel

FROM: William M. Lybrand, Director of OSH

SUBJECT: Inspections in the Railroad Industry

DATE: May 1, 1981

Purpose

The purpose of this memorandum is to provide procedures for conducting inspections in the railroad industry by Safety Specialists and Health Officers; and to provide general guidelines as to working conditions regulated by the Federal Railroad Administration (FRA).

Background

OSHA (federal) Program Directive #200-32, OSHA Inspections in the Railroad Industry, issued on December 23, 1974 provides:

“The scope of State coverage in the railroad industry is expected to be equivalent to that provided by OSHA (federal)---“; and

“--- all employee complaints and fatality and catastrophe investigations involving working conditions in the railroad industry within OSHA jurisdiction---will be referred to the State---“.

The State’s authority to make inspections in the railroad industry is derived from State laws, Rules and Regulations, Commissioner of Labor, the State Plan which is approved according to the Occupational Safety and Health Act of 1970, and the ruling of the Federal Occupational Safety and Health Review Commission.

The Federal Review Commission issued a decision that OSHA (federal) has jurisdiction unless another federal agency has exercised its statutory authority by issuing regulations designed to eliminate or reduce particular hazardous working conditions in an industry, those working conditions are subject to OSHA (federal) jurisdiction.

Action

- a. FRA Jurisdiction. FRA jurisdiction is applicable to those workplace hazards in the railroad industry which may be reduced by FRA under enforceable regulations

issued by that agency. Those hazards exist in the following areas and operations: track conditions; inspection and operation of rolling stock; signal operation; and transportation of hazardous materials. Not all hazards in those areas and operations, however, are preempted by FRA regulations. This includes only those hazards which could be eliminated or reduced under the provisions of the FRA regulations.

- b. OSHA Jurisdiction. Fatality, catastrophe, complaint investigations, and random inspections will be conducted by OSHA field staff in the same manner as in other industries, with respect to all workplace hazards to which FRA has not exercised its statutory authority by issuing enforceable standards which permit FRA to reduce or eliminate those particular conditions. This includes, but is not necessarily limited to, occupational safety and health inspections as to workplace hazards on railroad properties such as:
 - (1) offices, stations, terminals, shops,
 - (2) warehouses, storage areas, loading docks, support facilities,
 - (3) right-of-way,
 - (4) yards,
 - (5) rolling stock to the extent that occupational safety and health hazards are not covered by FRA standards,
 - (6) transportation between duty stations and worksites,
 - (7) living facilities provided by the employer when employees are away from home,
 - (8) all construction installation, and maintenance activities, including but not limited to:
 - a. tracks,
 - b. signal and communication systems,
 - c. power systems,
 - d. bridges,
 - e. buildings,
 - f. other equipment and facilities.

In general, the Safety Specialist or Industrial Hygienist shall operate on the assumption that OSHA has jurisdiction unless there are known FRA standards.

The railroad industry is required to post the official State Poster or have the federal OSHA poster posted.

The railroad industry is not required to maintain logs required under Article III, Rules and Regulations, Commissioner of Labor, State of South Carolina.

- c. Citation Policy. Appropriate citation and penalties should be issued for all violations using appropriate standards—29 CFR 1910 and 1926. Citations and penalties should also be issued in accordance with the Field Operations Manual, violations of the poster requirement.
- d. Recordkeeping. Citations and penalties should not be issued, pending further notification, with respect to recordkeeping violations under Article III, Rules and

Regulations, Commissioner of Labor. However, the Safety Specialist or Industrial Hygienist should request and examine the FRA injury and illness records and utilize them for purposes of inspection. No citations or penalties shall be issued with regard to these records.

- e. Imminent Danger. Where appropriate, imminent danger procedures should be followed. See Compliance Operations Manual, Chapter IX.
- f. Right of Entry. If entry to a railroad workplace is refused, the procedures in the Compliance Operations Manual, Chapter V, shall be followed.
- g. State Office Contact. If a question arises as to the procedures in this directive, or the exercise of FRA statutory authority over specific working conditions, the field staff should contact the Assistant Director/OSH Compliance.

Effective Date

This memorandum is effective upon receipt and will remain in effect until cancelled or superseded.