

DEPARTMENT OF TRANSPORTATION**Federal Railroad Administration****49 CFR Part 214**

[Docket No. FRA-2008-0059, Notice No. 7]

RIN 2130-AC37

Railroad Workplace Safety; Adjacent-Track On-Track Safety for Roadway Workers

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Final rule; delay of effective date.

SUMMARY: This document delays the effective date of the final rule published November 30, 2011, and scheduled to take effect on July 1, 2013. The final rule mandates that roadway workers comply with specified on-track safety procedures that railroads must adopt to protect those workers from the movement of trains or other on-track equipment on “adjacent controlled track.” FRA received two petitions for reconsideration of the final rule, and five comments in response to the March 8, 2012, final rule that requested comments on the petitions for reconsideration. The petitions and comments raised a number of substantive issues requiring a detailed response. As FRA’s response to those petitions and comments is still being reviewed, this document delays the effective date of the final rule until July 1, 2014.

DATES: The effective date for the final rule published November 30, 2011, at 76

FR 74586, and delayed on March 8, 2012, at 77 FR 13978, is further delayed until July 1, 2014.

FOR FURTHER INFORMATION CONTACT: Kenneth Rusk, Staff Director, Track Division, Office of Safety Assurance and Compliance, FRA, 1200 New Jersey Avenue SE., RRS-15, Mail Stop 25, Washington, DC 20590 (telephone 202-493-6236); or Joseph St. Peter, Trial Attorney, Office of Chief Counsel, FRA, 1200 New Jersey Avenue SE., RCC-12, Mail Stop 10, Washington, DC 20590 (telephone 202-493-6052).

SUPPLEMENTARY INFORMATION: On November 30, 2011, FRA published a final rule amending its regulations on railroad workplace safety to further reduce the risk of serious injury or death to roadway workers performing work with potentially distracting equipment near certain adjacent tracks. *See* 76 FR 74586. In particular, the rule requires that roadway workers comply with specified on-track safety procedures that railroads must adopt to protect those workers from the movement of trains or other on-track equipment on “adjacent controlled track.” In response to the final rule, FRA received two petitions for reconsideration that raised substantive issues, requiring a detailed response from FRA. The effective date of the 2011 final rule was to be May 1, 2012; however, due to the complexity of the issues raised in the petitions, as well as in consideration of the railroads’ safety training schedules, FRA published a final rule delaying the effective date of the 2011 final rule until July 1, 2013, and establishing a 60-day comment period in order to permit

interested parties an opportunity to respond to the petitions for reconsideration. *See* 77 FR 13978 (March 8, 2012). FRA received five comments on the petitions for reconsideration, a number of which raise additional substantive issues or provide further detailed information on the issues already raised. FRA’s response to the petitions and comments is still being reviewed, and may not be published before the 2011 final rule’s current effective date of July 1, 2013. Accordingly, in order to accommodate railroads’ normal training schedules and to allow railroads to incorporate any amendments that FRA’s response to the petitions and comments on the petitions may make to the final rule, this document delays the effective date of the November 30, 2011, final rule until July 1, 2014. Therefore, railroads and roadway workers need not comply with any requirements imposed by the 2011 final rule until July 1, 2014.

List of Subjects in 49 CFR Part 214

Occupational safety and health, Penalties, Railroad safety.

The Final Rule

In consideration of the foregoing, FRA delays the effective date of the November 30, 2011, final rule until July 1, 2014.

Issued in Washington, DC, on May 30, 2013.

Joseph C. Szabo,
Administrator.

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