

either State, local, or Tribal governments, or to the private sector.

H. National Environmental Policy Act

The National Environmental Policy Act (NEPA, 42 U.S.C. 4321 *et seq.*) requires that Federal agencies assess and consider the impact of major Federal actions on the human and natural environment.

PHMSA analyzed this proposed rule in accordance with NEPA and issues this draft Finding of No Significant Impact (FONSI), because it has preliminarily determined that the rulemaking will not adversely affect safety and therefore will not significantly affect the quality of the human and natural environment. The public is invited to comment on the impact of the proposed action.

I. Executive Order 13175

PHMSA analyzed this proposed rule according to the principles and criteria in E.O. 13175 (“Consultation and Coordination with Indian Tribal Governments”; 65 FR 67249 (Nov. 9, 2000)) and DOT Order 5301.1A (“Department of Transportation Tribal Consultation Policies and Procedures”). E.O. 13175 requires agencies to assure meaningful and timely input from Tribal government representatives in the development of rules that significantly or uniquely affect Tribal communities by imposing “substantial direct compliance costs” or “substantial direct effects” on such communities or the relationship or distribution of power between the Federal government and Tribes.

PHMSA assessed the impact of the proposed rule and determined that it will not significantly or uniquely affect Tribal communities or Indian Tribal governments. The rulemaking’s regulatory amendments have a broad, national scope; therefore, this proposed rule will not significantly or uniquely affect Tribal communities, much less impose substantial compliance costs on Native American Tribal governments or mandate Tribal action. For these reasons, PHMSA has concluded that the funding and consultation requirements of E.O. 13175 and DOT Order 5301.1A do not apply.

J. Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) and its implementing regulations at 5 CFR 1320.8(d) requires that PHMSA provide interested members of the public and affected agencies with an opportunity to comment on information collection and recordkeeping requests. This rulemaking will not create, amend, or

rescind any existing information collections.

K. Executive Order 13609 and International Trade Analysis

E.O. 13609 (“Promoting International Regulatory Cooperation”; 77 FR 26413 (May 4, 2012)) requires agencies consider whether the impacts associated with significant variations between domestic and international regulatory approaches are unnecessary or may impair the ability of American business to export and compete internationally. In meeting shared challenges involving health, safety, labor, security, environmental, and other issues, international regulatory cooperation can identify approaches that are at least as protective as those that are or would be adopted in the absence of such cooperation. International regulatory cooperation can also reduce, eliminate, or prevent unnecessary differences in regulatory requirements.

Similarly, the Trade Agreements Act of 1979 (Pub. L. 96–39), as amended by the Uruguay Round Agreements Act (Pub. L. 103–465), prohibits Federal agencies from establishing any standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. For purposes of these requirements, Federal agencies may participate in the establishment of international standards, so long as the standards have a legitimate domestic objective, such as providing for safety, and do not operate to exclude imports that meet this objective. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards.

PHMSA engages with international standards setting bodies to protect the safety of the American public. PHMSA has assessed the effects of the proposed rule and has determined that its regulatory amendments will not cause unnecessary obstacles to foreign trade.

L. Cybersecurity and Executive Order 14028

E.O. 14028 (“Improving the Nation’s Cybersecurity”; 86 FR 26633 (May 17, 2021)) directed the Federal government to improve its efforts to identify, deter, and respond to “persistent and increasingly sophisticated malicious cyber campaigns.” PHMSA has considered the effects of the proposed rule and has determined that its regulatory amendments would not materially affect the cybersecurity risk profile for pipeline facilities.

List of Subjects in 49 CFR Part 191

Pipeline Safety.

For the reasons set forth above, PHMSA proposes to amend 49 CFR part 192 as follows:

PART 192—TRANSPORTATION OF NATURAL AND OTHER GAS BY PIPELINE: MINIMUM FEDERAL SAFETY STANDARDS

■ 1. The authority citation for 49 CFR part 192 continues to read as follows:

Authority: 30 U.S.C. 185(w)(3), 49 U.S.C. 5103, 60101 *et seq.*, and 49 CFR 1.97.

■ 2. In § 192.1, add paragraph (b)(6) to read as follows:

§ 192.1 What is the scope of this part?

* * * * *

(b) * * *

(6) Any in-plant piping system.

■ 3. In § 192.3, add a definition for “in-plant piping system” in alphabetical order to read as follows:

§ 192.3 Definitions

* * * * *

In-plant piping system means piping that is located on the grounds of a plant and used to move gas between plant facilities or between plant facilities and a pipeline or other mode of transportation, not including any device and associated piping that are necessary to control pressure in a pipeline. The point of demarcation between a pipeline and an in-plant piping system is the inlet of the pressure control device if the pipeline is moving gas out of the plant or the outlet of the pressure control device if the pipeline is moving gas into the plant. If there is no such pressure control device located on the grounds of the plant, an in-plant piping system extends to the plant boundary.

* * * * *

Issued in Washington, DC, on June 26, 2025, under the authority delegated in 49 CFR 1.97.

Benjamin D. Kochman,

Acting Administrator.

[FR Doc. 2025–12130 Filed 6–27–25; 4:15 pm]

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DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 209

[Docket No. FRA–2025–0077]

RIN 2130–AD11

Prosecutorial Discretion of Enforcement Attorneys

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This proposed rule would clarify that FRA's Office of the Chief Counsel has discretion to decline or dismiss a violation, such as a technical violation where challenged conduct does not raise a practical safety issue.

DATES: Comments on the proposed rule must be received by September 2, 2025. FRA may consider comments received after that date, but only to the extent practicable.

ADDRESSES:

Comments: Comments related to Docket No. FRA–2025–0077 may be submitted by going to <https://www.regulations.gov> and following the online instructions for submitting comments.

Instructions: All submissions must include the agency name, docket number (FRA–2025–0077), and Regulatory Identification Number (RIN) for this rulemaking (2130–AD11). All comments received will be posted without change to <https://www.regulations.gov>; this includes any personal information. Please see the Privacy Act heading in the **SUPPLEMENTARY INFORMATION** section of this document for Privacy Act information related to any submitted comments or materials.

Docket: For access to the docket to read background documents or comments received, go to <https://www.regulations.gov> and follow the online instructions for accessing the docket.

FOR FURTHER INFORMATION CONTACT: Amanda Maizel, Attorney Adviser, FRA, telephone: (202) 308–3753, email: Amanda.Maizel@dot.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Consistent with the deregulatory agenda of President Donald J. Trump and Secretary of Transportation Sean P. Duffy, which seeks to unleash America's economic prosperity without compromising transportation safety, FRA is reviewing its regulatory requirements in parts 200 through 299 of title 49, Code of Federal Regulations (CFR). As part of this effort, on Apr. 3, 2025, DOT issued a request for information in which it asked the public to assist in identifying existing regulations, guidance, paperwork requirements, and other regulatory obligations that can be modified or repealed, consistent with law, to ensure that DOT administrative actions do not undermine the national interest and that DOT achieves meaningful burden

reduction while continuing to meet statutory obligations and ensure the safety of the U.S. transportation system.¹ DOT received 955 comments, including some that were rail-related and specifically a comment from the Association of American Railroads (AAR). In addition to other proposals, AAR requested that FRA clarify in 49 CFR part 209 that FRA's Office of the Chief Counsel has discretion to dismiss a technical violation where the challenged conduct does not raise a practical safety issue.

FRA intends to adopt this request and to clarify that attorneys in the Office of the Chief Counsel have enforcement discretion in all phases of a potential enforcement action. FRA has broad discretion to enforce the Federal railroad safety laws and regulations, including determining the appropriate method of addressing any violation it finds.² Accordingly, similar to the discretion that FRA has in determining whether to transmit or decline an enforcement action, FRA also has discretion to dismiss a violation, such as a technical violation where the challenged conduct does not raise a practical safety issue. Even where FRA has transmitted a violation and decides not to dismiss it, FRA continues to have the discretion to reduce the civil penalty, but not below the respective statutory minimum amount, adjusted annually for inflation.³ This clarification would streamline the enforcement process, relieve enforcement burdens on regulated entities, and promote due process and fairness. In addition, this proposal is consistent with the Mar. 11, 2025, DOT Memorandum, *Procedural Requirements for Enforcement Actions*.⁴

¹ 90 FR 14593 (Apr. 3, 2025).

² *Railway Labor Executives Ass'n v. Dole*, 760 F.2d 1021, 1025 (9th Cir. 1985) (finding “nothing in the railroad safety legislation to indicate Congress intended to make prosecutorial discretion subject to judicial review,” and upholding the dismissal of a challenge to the Secretary of Transportation's safety plan that stressed cooperation with railroads in finding and remedying safety problems).

³ See Federal Civil Penalties Inflation Adjustment Act of 1990, Public Law 101–410, as amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (2015 Act), Public Law 114–74, 129 Stat. 599, codified at 28 U.S.C. 2461 note.

⁴ See *Procedural Requirements for Enforcement Actions*, Mar. 11, 2025, available at <https://www.transportation.gov/sites/dot.gov/files/2025-03/Procedural%20Requirements%20for%20DOT%20Enforcement%20Actions.Cote%20Memo.Signed.03-11-2025.pdf>.

II. Section-by-Section Analysis

Appendix A to Part 209—Statement of Agency Policy Concerning Enforcement of Federal Railroad Safety Laws

As discussed above, FRA proposes to clarify that the Office of the Chief Counsel has discretion to decline to enforce a violation, such as a technical violation where the challenged conduct does not raise a practical safety issue. FRA proposes to add this statement to the discussion of FRA's Civil Penalty Process in appendix A to part 209.

III. Regulatory Impact and Notices

A. Executive Order (E.O.) 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

FRA has considered the impact of this NPRM under E.O. 12866 (58 FR 51735, Oct. 4, 1993), Regulatory Planning and Review and DOT Regulatory Policies and Procedures. The Office of Information and Regulatory Affairs within the Office of Management and Budget (OMB) determined that this NPRM is not a significant regulatory action under section 3(f) of E.O. 12866.

FRA analyzed the potential costs and benefits of this proposed rule. This proposed rule would clarify that FRA's Office of the Chief Counsel has discretion to decline or dismiss a violation, such as when the challenged conduct does not raise a practical safety issue. By providing this clarification, regulated entities would benefit from a streamlined enforcement process, relief from enforcement burdens, and the promotion of due process and fairness. This clarification would also help to eliminate any confusion on the Office of the Chief Counsel's discretionary authority to decline to enforce or to dismiss a technical violation where the challenged conduct does not raise a practical safety issue. FRA does not anticipate any costs from this proposed rule, but welcomes comments from the public on the impacts of this proposal.

B. E.O. 14192 (Unleashing Prosperity Through Deregulation)

E.O. 14192 (90 FR 9065, Jan. 31, 2025), *Unleashing Prosperity Through Deregulation*, requires that for “each new [E.O. 14192 regulatory action] issued, at least ten prior regulations be identified for elimination.”⁵ Implementation guidance for E.O. 14192 issued by OMB (Memorandum M–25–20, Mar. 26, 2025) defines two different types of E.O. 14192 actions: an E.O.

⁵ Executive Office of the President, *Executive Order 14192 of January 31, 2025. Unleashing Prosperity Through Deregulation*. 90 FR 9065–9067 (Feb. 6, 2025).

14192 deregulatory action, and an E.O. 14192 regulatory action.⁶

An E.O. 14192 deregulatory action is defined as “an action that has been finalized and has total costs less than zero.” This proposed rulemaking is expected to have total costs less than zero, and therefore it would be considered an E.O. 14192 deregulatory action upon issuance of a final rule. While FRA affirms that each amendment proposed in this NPRM has a cost that is negligible or “less than zero” consistent with E.O. 14192, FRA still requests comment on the extent of the cost savings for the changes proposed in this NPRM.

C. Regulatory Flexibility Act and E.O. 13272

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996,⁷ requires Federal agencies to consider the effects of the regulatory action on small business and other small entities and to minimize any significant economic impact. Accordingly, DOT policy requires an analysis of the impact of all regulations on small entities, and mandates that agencies strive to lessen any adverse effects on these businesses. The term *small entities* comprises small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000 (5 U.S.C. 601(6)).

No regulatory flexibility analysis is required, however, if the head of an Agency or an appropriate designee certifies that the rule will not have a significant economic impact on a substantial number of small entities. This proposed rule would not preclude small entities from continuing practices that comply with part 209; it merely offers clarity that could result in some benefits. By extending this regulatory relief, many regulated entities, including small entities, would experience benefits. Consequently, FRA certifies that the proposed action would not have a significant economic impact on a substantial number of small entities.

In accordance with section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub.

L. 104–121, 110 Stat. 857), FRA wants to assist small entities in understanding this proposed rule so they can better evaluate its effects on themselves and participate in the rulemaking initiative. If the proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

D. Paperwork Reduction Act

This proposed rule offers regulatory flexibilities, and it contains no new information collection requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

E. Environmental Assessment

FRA has analyzed this rule for the purposes of the National Environmental Policy Act of 1969 (NEPA). In accordance with 42 U.S.C. 4336 and DOT NEPA Order 5610.1C, FRA has determined that this rule is categorically excluded pursuant to 23 CFR 771.118(c)(4), “[p]lanning and administrative activities that do not involve or lead directly to construction, such as: [p]romulgation of rules, regulations, and directives.” This rulemaking is not anticipated to result in any environmental impacts, and there are no unusual or extraordinary circumstances present in connection with this rulemaking.

Pursuant to section 106 of the National Historic Preservation Act and its implementing regulations, FRA has determined this undertaking has no potential to affect historic properties. FRA has also determined that this rulemaking does not approve a project resulting in a use of a resource protected by section 4(f).

F. Federalism Implications

This proposed rule will not have a substantial effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Thus, in accordance with E.O. 13132, “Federalism” (64 FR 43255, Aug. 10, 1999), preparation of a Federalism Assessment is not warranted.

G. Unfunded Mandates Reform Act of 1995

This proposed rule would not result in the expenditure, in the aggregate, of \$100,000,000 or more, adjusted for inflation, in any one year by State, local, or Indian Tribal governments, or the private sector. Thus, consistent with

section 202 of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4, 2 U.S.C. 1532), FRA is not required to prepare a written statement detailing the effect of such an expenditure.

H. Energy Impact

E.O. 13211 requires Federal agencies to prepare a Statement of Energy Effects for any “significant energy action.”⁸ FRA has evaluated this proposed rule in accordance with E.O. 13211 and determined that this proposed rule is not a “significant energy action” within the meaning of E.O. 13211.

I. E.O. 13175 (Tribal Consultation)

FRA has evaluated this proposed rule in accordance with the principles and criteria contained in E.O. 13175, Consultation and Coordination with Indian Tribal Governments, dated November 6, 2000. The proposed rule would not have a substantial direct effect on one or more Indian tribes, would not impose substantial direct compliance costs on Indian tribal governments, and would not preempt tribal laws. Therefore, the funding and consultation requirements of E.O. 13175 do not apply, and a tribal summary impact statement is not required.

J. International Trade Impact Assessment

The Trade Agreement Act of 1979⁹ prohibits Federal agencies from engaging in any standards or related activities that create unnecessary obstacles to the foreign commerce of the U.S. Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards. This rulemaking is purely domestic in nature and is not expected to affect trade opportunities for U.S. firms doing business overseas or for foreign firms doing business in the U.S.

K. Privacy Act Statement

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to <http://www.regulations.gov>, as described in the system of records notice, DOT/ALL–14 FDMS, accessible through www.transportation.gov/privacy. To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely

⁶ Executive Office of the President. Office of Management and Budget. Guidance Implementing Section 3 of Executive Order 14192, Titled “Unleashing Prosperity Through Deregulation.” Memorandum M–25–20. Mar. 26, 2025.

⁷ Public Law 104–121, 110 Stat. 857 (Mar. 29, 1996).

⁸ 66 FR 28355 (May 22, 2001).

⁹ 19 U.S.C. ch. 13.

optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

L. Rulemaking Summary

As required by 5 U.S.C. 553(b)(4), a summary of this rule can be found at [regulations.gov](https://www.regulations.gov), Docket No. FRA–2025–0077, in the **SUMMARY** section of this proposed rule.

List of Subjects in 49 CFR Part 209

Administrative practice and procedure, Enforcement, Hazardous materials transportation, Penalties, Railroad safety, Reporting and recordkeeping requirements.

The Proposed Rule

For the reasons discussed in the preamble, FRA proposes to amend part 209 of chapter II, subtitle B of title 49, Code of Federal Regulations as follows:

PART 209—RAILROAD SAFETY ENFORCEMENT PROCEDURES

■ 1. The authority citation for part 209 continues to read as follows:

Authority: 49 U.S.C. 5123, 5124, 20103, 20107, 20111, 20112, 20114; 28 U.S.C. 2461 note; and 49 CFR 1.89.

■ 2. Revise appendix A to part 209 in the section under the heading “The Civil Penalty Process” to read as follows:

Appendix A to Part 209—Statement of Agency Policy Concerning Enforcement of the Federal Railroad Safety Laws.

* * * * *

The Civil Penalty Process

* * * Once penalties have been assessed, the railroad is given a reasonable amount of time to investigate the charges. Larger railroads usually make their case before FRA in an informal conference covering a number of case files that have been issued and investigated since the previous conference. Thus, in terms of the negotiating time of both sides, economies of scale are achieved that would be impossible if each case were negotiated separately. The settlement conferences include technical experts from both FRA and the railroad as well as lawyers for both parties. Similar to the discretion that the Office of the Chief Counsel has in determining whether to transmit an enforcement action or to decline to prosecute a recommended violation, the Office also has discretion to dismiss a violation, such as a technical violation where the challenged conduct does not raise a practical safety issue. Even if FRA determines not to dismiss the violation, FRA continues to have the discretion to reduce the penalty, but not below the relevant statutory minimum

amount. In addition to allowing the two sides to make their cases for the relative merits of the various claims, these conferences also provide a forum for addressing current compliance problems. Smaller railroads usually prefer to handle negotiations through email or over the phone, often on a single case at a time. Once the two sides have agreed to an amount on each case, that agreement is put in writing and a payment is submitted to FRA’s accounting division covering the full amount agreed on.

* * * * *

Issued in Washington, DC.

Kyle D. Fields,
Chief Counsel.

[FR Doc. 2025–12123 Filed 6–27–25; 4:15 pm]

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DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 209

[Docket No. FRA–2022–0085]

RIN 2130–AC93

Amendments to the Federal Railroad Administration’s Procedures for Service of Documents in Railroad Safety Enforcement Proceedings

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This proposed rule would update FRA’s railroad safety enforcement procedures and rules of practice to require electronic service of documents. This proposed rule would also establish procedures to implement new authority regarding civil penalties for alleged Federal railroad safety violations. Finally, this proposal would make other necessary administrative updates, such as correcting addresses.

DATES: Comments on the proposed rule must be received by September 2, 2025. FRA may consider comments received after that date, but only to the extent practicable.

ADDRESSES:

Comments: Comments related to Docket No. FRA–2022–0085 may be submitted by going to <https://www.regulations.gov> and following the online instructions for submitting comments.

Instructions: All submissions must include the agency name, docket number (FRA–2022–0085), and Regulatory Identification Number (RIN) for this rulemaking (2130–AC93). All comments received will be posted

without change to <https://www.regulations.gov>; this includes any personal information. Please see the Privacy Act heading in the **SUPPLEMENTARY INFORMATION** section of this document for Privacy Act information related to any submitted comments or materials.

Docket: For access to the docket to read background documents or comments received, go to <https://www.regulations.gov> and follow the online instructions for accessing the docket.

FOR FURTHER INFORMATION CONTACT:

Veronica Chittim, Senior Attorney, Office of Safety Law, Office of the Chief Counsel, FRA, 1200 New Jersey Avenue SE, Washington, DC 20590 (telephone 202–480–3410), veronica.chittim@dot.gov; or Lucinda Henriksen, Senior Advisor, Office of Railroad Safety, FRA (telephone 202–657–2842), lucinda.henriksen@dot.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Consistent with the deregulatory agenda of President Donald J. Trump and Secretary of Transportation Sean P. Duffy, which seeks to unleash America’s economic prosperity without compromising transportation safety, and as described in more detail below, this proposed rule would update FRA’s railroad safety enforcement procedures and rules of practice to require electronic service of documents; establish procedures to implement new authority regarding civil penalties for alleged Federal railroad safety violations; and make other necessary administrative updates, such as correcting addresses.

In 1977, FRA established 49 CFR part 209, which set out certain procedures for carrying out FRA’s safety enforcement mission. 42 FR 56742 (Oct. 28, 1977). Part 209 currently provides procedures for the assessment of civil penalties pursuant to the Federal hazardous materials (hazmat) transportation safety laws, 49 U.S.C. chapter 51, in subpart B; compliance orders pursuant to 49 U.S.C. 5121(a) and/or 20111(b) in subpart C; and administrative proceedings relating to the determination of an individual’s fitness for performing safety-sensitive functions under 49 U.S.C. 20111(c) (individual liability) in subpart D. Subpart A includes general provisions that apply to each of these subparts.¹

¹ Part 209 also includes subpart E, which sets forth provisions regarding the submission of remedial action reports by railroads, and subpart F, which deals with the review of rail routing decisions.