

State Inspector Standards of Professionalism

Introduction

Certified State inspectors acting under the authority of the Federal Railroad Administration to conduct railroad safety inspections are required to adhere to standards of professional conduct. Similar standards of professional conduct apply to Federal railroad safety inspectors. These standards cover the following areas:

Inspection Quality/Performance Review

Inspectors will adhere to the policies and procedures of the relevant discipline compliance manuals to ensure the uniform application and enforcement of Federal railroad safety laws and regulations. FRA specialists will conduct a formal review of a State inspector's work quality at the request of the State manager or the regional administrator. FRA specialists may also conduct a formal review of a State inspector's work quality on their own initiative. The State manager and the regional administrator will be apprised of any formal review of a State inspector's work prior to the review. Following the review, the specialist will advise the State manager of the result of the performance assessment. If an inspector's performance is unsatisfactory, the specialist will document all facts relating to the lack of proficiency. A written report will be provided to the regional administrator and to the State manager. The report shall:

1. Specify job duties that the inspector has not performed at the proficiency level required by the appropriate FRA Field Training Manual and Orientation Guide;
2. Contain a recommendation for interventions to raise the inspector to a proficient performance level; and
3. Contain a recommendation regarding the inspector's certification status during retraining. Options include maintaining certification or suspension of certification, in whole or in part, during retraining.

The regional administrator will discuss the specialist's report with the State manager and reach an agreement on a proper retraining regimen to remedy unsatisfactory inspection quality. Retraining will be completed when the inspector demonstrates performance of designated job duties at the proficiency level required by the appropriate FRA Field Training Manual and Orientation Guide.

Inspection Quantity

Inspectors will accumulate at least 50 inspection days each calendar year. An "inspection day" is defined as any day in which at least one Form FRA 6180.96 is completed. Certified State inspectors must record 50 inspection days per calendar year to qualify for reimbursement of travel and subsistence expenses associated with technical training during the subsequent year. Inspectors that do not generate 50 inspection days during the year will be required to attend training the following year; however, States will have to assume all costs for training assignments.

Inspectors hired or certified during the year are not subject to the policy if they could not reasonably be expected to reach 50 inspection days. States may seek a waiver from the requirement for

personal circumstances and other valid reasons. State inspectors who supervise other State inspectors will be expected to record a minimum of 40 inspection days each year.

Conflicts of Interest

Inspectors must conduct themselves with a consistent and professional attitude in all aspects of their regulatory and investigative interactions with railroads, shippers, or suppliers. It is required that all Federal inspection activities be performed in an impartial and professional manner, without any regard for personal self-interest or bias. Inspectors may not promote or participate in any commercial interest in his or her capacity as a representative of the State or FRA.

Training Attendance

Inspectors must attend FRA-scheduled training classes to maintain technical proficiency. Inspectors may be excused from a class and rescheduled for a different class for legitimate personal or work-related reasons. Advance approval to reschedule training must be secured. Missing two training classes without receiving proper advance approval within a 3-year period will ordinarily result in a revocation of an inspector's certification, in accordance with FRA's training policy.

Personal Safety

Inspectors will adhere to all provisions of the General Manual pertaining to personal safety. These provisions concern personal protective equipment requirements, safe work practices and procedures, and prohibited actions. When hired, State inspectors will be provided with a copy of FRA's General Manual and become familiar with personal safety requirements for rail safety inspectors. The State manager and the regional specialist will be advised of any reports of inspectors failing to adhere to provisions of the General Manual pertaining to personal safety. If allegations are determined to be true, the inspector will receive a written notice signed by the RA and the State manager. The notice will identify the personal safety requirement violated and advise the inspector that any subsequent, willful violation of personal safety requirements will result in permanent revocation of the inspector's certification. In all cases, inspectors will be allowed to explain their actions. Relatively minor infractions will not ordinarily result in suspension, except for repeated offenses and ignoring previous warnings.

Reporting Requirements

1. Inspection reports should be uploaded weekly, if possible, but in all cases within 10 business days of conducting the inspection.
2. Violation reports should be submitted to the discipline specialist within 30 days of recording the violation on a Form 96 report.
3. Assigned investigative reports should be submitted within specified time frames.
4. Travel vouchers for FRA-paid training classes should be mailed within 3 business days following the conclusion of the class.
5. Inspector compliance with reporting requirements will be assessed at the request of the State manager or the regional administrator. FRA specialists may also conduct

a formal review of a State inspector's compliance with reporting requirements on their own initiative. Unsatisfactory performance could result in suspension of certification and retraining.

Technical Direction and Coordination

FRA supervisory specialists are regional subject matter experts for each discipline. Inspectors will comply with all technical directives issued by the discipline specialists regarding the conduct of inspection activities.

Media Relations and Rail Accidents

Inspectors are cautioned not to respond to requests by the news media for information regarding FRA activities. Such requests should be referred to the FRA's Office of Public Affairs or the State manager. Inspectors may, at an accident scene, State:

1. The accident is being investigated by inspectors of FRA and the State;
2. The cause has not yet been determined, and;
3. When the accident investigation is complete, a report of the investigation will be made available upon request to FRA.

Under no circumstances should inspectors offer opinions or speculate about the probable cause of an accident or incident. The State manager and the regional specialist will be advised of any reports of an inspector failing to adhere to media relations requirements. If allegations are determined to be true, the inspector will receive a written notice signed by the regional administrator and the State manager. The notice will identify the media relations requirements violated and advise the inspector that any subsequent, willful violation of the media relations requirement will result in a 30-day suspension of the inspector's certification.

Prohibited Activities

1. The inspector must never become involved in an advisory capacity to any person during accident emergency response and recovery operations, except to answer normal questions pertaining to FRA regulations;
2. The inspector must never operate any piece of railroad equipment. However, an inspector may request that the railroad carrier move a piece of equipment for investigation. (An inspector may act directly only in extreme circumstances when necessary to intervene to prevent an imminent accident or injury.);
3. Inspectors must not use any amount of alcohol or drugs, or possess alcohol or drugs, while on railroad property, except for medications prescribed by one's physician or available over-the-counter. Medications may be used only if they will not impair an inspector's ability to work safely;
4. Inspectors may not have unauthorized contact with railroad personnel regarding planned inspection or investigation activities;

5. Inspectors may not make an unauthorized release of information about individual liability actions; and

6. Inspectors may not engage in improper communication with attorneys representing railroads, railroad employees, railroad shippers, or advocacy groups. Improper communication is defined as providing documents or sensitive information outside of normal administrative channels. Requests from attorneys should ordinarily be referred to the State manager, the regional administrator, or the FRA Office of Chief Counsel.

The State manager and the regional specialist will be advised of any reports of an inspector engaging in prohibited activities. The inspector will be instructed by the State manager to refrain from all inspection activities pending an investigation of the prohibited activities allegation. If allegations are determined to be true, the inspector will receive a written notice signed by the regional administrator and the State manager. Serious violations will result in permanent revocation of the inspector's certification. For less serious violations, the notice will identify the prohibited activity and advise the inspector that any subsequent, willful prohibited activity could result in permanent revocation of the inspector's certification. In all cases, inspectors will be allowed to explain their actions. Relatively minor infractions will not ordinarily result in suspension, except for repeated offenses or failure to heed previous warnings.

FRA Work Performance Reviews

FRA specialists will conduct a formal review of a State inspector's performance at the request of the State manager or the regional administrator. FRA specialists may also conduct formal reviews of a State inspector's performance on their own initiative. Any performance review will be signed by the specialist and by the regional administrator or his representative; a copy will be provided to the State manager as well as the State inspector.

Disciplinary Action Process

An inspector who fails to adhere to the standards of professional conduct can be suspended from conducting Federal inspections. A suspension is defined as the temporary removal of FRA inspection authority, including the authority to investigate accidents and incidents and to represent FRA at railroad or community events. Suspensions shall be for cause, by the joint action of the State manager and the regional administrator.

Following a suspension, an inspector will receive instruction and counseling (retraining) which, if successful, will ordinarily lead to a lifting of the suspension. The duration of retraining could be as short as 1 week or as long as 6 months, depending on the training needs of the inspector. Retraining will be completed when the inspector demonstrates performance of designated job duties at the proficiency level required by the appropriate FRA Field Training Manual and Orientation Guide. The regional specialist, in consultation with the State manager and the regional Administrator, will make a determination when retraining has been successfully completed. When retraining is not successful, or when the State manager and regional administrator agree that retraining is not appropriate, the inspector will be decertified. Decertification is the permanent removal of FRA inspection authority, for cause. The State inspector will be notified, in writing, of any action to suspend certification or revoke certification. Written notification to the State inspector of suspension or revocation of certification will be signed by the regional administrator and the State manager.

Disciplinary Action Review Process

All cases of suspension or decertification will receive an automatic review by the Professional Standards Review Committee. The Committee consists of two State managers as designated by the Association of State Rail Safety Program Managers' Executive Committee; one FRA manager, one FRA training manager (preferably possessing the discipline qualifications under review) and one FRA attorney designated by the Assistant Chief Counsel for Safety. The Committee will select a Chairperson who will be authorized to issue the findings of the Committee.

Suspension or decertification will remain in effect pending Committee review, but no decertification is final until the committee has made a determination. Any suspension or decertification will be reviewed to ensure that standards were correctly and fairly applied. The Committee's work will ordinarily be accomplished by review of pertinent documents, although the Committee is free to speak with managers and employees, if necessary.

The Committee will meet or confer as soon as practicable following the action to suspend or decertify a State inspector. An inspector that receives written notice of suspension or decertification may submit material in writing for review by the Professional Standards Review Committee. To be considered by the Committee, written materials provided by the inspector subject to suspension or decertification must be received by the inspector's State manager within 7 days of the date of the suspension or decertification letter.