

Crane Safety

In 1998, the BMW petitioned FRA to issue new regulations governing the safety of on-track railroad maintenance cranes. Currently, the safety of railroad crane operations is governed generally by OSHA regulations at 29 CFR 1910.180. Through its petition, the BMW sought to reduce the number of railroad crane operators who are killed or seriously injured when cranes accidentally tip over due to shifting loads, excessive loads, defective equipment, supervisor misjudgment, or operator error.

However, this rule is not intended to cover crane safety as envisioned by the petition. For example, this rule does not address those elements of crane safety involving the lifting and transferring of loads. Further, FRA makes clear that this rule is not intended to displace OSHA's regulations governing crane safety at 29 CFR 1910.180. FRA has made a commitment to gather additional data and information regarding crane safety. Upon completing that effort, FRA will consult with members of the Task Group and, if appropriate, seek the advice of the RSAC about the necessity of issuing FRA regulations as called for in the BMW's petition.

Section-by-Section Analysis

FRA is amending 49 CFR part 214 by adding a new subpart D specifically devoted to the prevention of accidents and casualties caused by the operation of on-track roadway maintenance machines and hi-rail vehicles. FRA is also amending subpart A of part 214 by adding new definitions to § 214.7 that describe and categorize the types of on-track roadway maintenance machines and hi-rail vehicles that subpart D addresses.

Section 214.7 Definitions

Section 214.7 contains additional entries which are particularly important to the understanding of the types of equipment that are to be covered by the new rule. Subpart D addresses two general types of roadway maintenance machines. "On-track roadway maintenance machines" are defined as self-propelled, rail-mounted, non-highway roadway maintenance machines whose light weight is in excess of 7,500 pounds and whose purpose is not for the inspection of railroad track. "Hi-rail vehicles" are defined as roadway maintenance machines that are manufactured to meet Federal Motor Vehicle Safety Standards and are equipped with retractable flanged wheels so that the vehicles may

travel over the highway or on railroad tracks.

Both on-track roadway maintenance machines and hi-rail vehicles are further classified as "new" for the purposes of this rule. A "new" on-track roadway maintenance machine is defined as an on-track roadway maintenance machine which is ordered after December 26, 2003 and completed after September 27, 2004. Whereas, a "new" hi-rail vehicle is defined as a hi-rail vehicle which is ordered after December 26, 2003 or completed after September 27, 2004. The result of these somewhat different definitions is to afford new on-track roadway maintenance machines more time to be built in compliance with the rule, due to the concern that it would take longer to do so for such machines than for hi-rail vehicles. On-track roadway maintenance machines are further classified as "existing," comprising any on-track roadway maintenance machines covered by this subpart which do not meet the definition of "new" on-track roadway maintenance machines. Hi-rail vehicles are not further classified as "existing" in the text of this rule, due to the structure of the rule. However, when the term "hi-rail vehicle" is used in the rule text, in distinction to the term "new hi-rail vehicle," any hi-rail vehicle covered by this subpart is included, whether "new" or not. Nevertheless, in some portions of this rule's preamble FRA does refer to "existing" hi-rail vehicles for added clarity in explaining when a specific section of the rule addresses all hi-rail vehicles covered by this subpart.

Roadway maintenance machines not included within the scope of subpart D are "on-track roadway maintenance machines" whose light weight does not exceed 7,500 pounds, off-track equipment such as bulldozers, backhoes, and road graders, as well as that class of antiquated equipment referred to as motor cars. Although this equipment is not covered under the scope of subpart D, it nevertheless meets the general definition of "roadway maintenance machines" as defined in this section for purposes of the Roadway Worker Protection regulations contained in subpart C of this part.

In addition, it is important to note here that the term "employer" as defined in subpart A includes both railroads and contractors of railroads. In subpart D, FRA has used the term "employer" as defined; that is, both railroads and their contractors are subject to the requirements of subpart D.

One commenter, Loram, objected to the definition of "new" roadway maintenance equipment, stating that the proposed definition was confusing and

provided a lead-time that is too short. The commenter also questioned the definition's apparent assumption that all roadway maintenance machines are ordered to specifications when in fact some machines are built in anticipation of future orders. The commenter suggested that the definition of "new" machines be "any machines completely manufactured more than one year after issuance of the final rule." After discussion of the comment, the Task Group voted unanimously that the definition already developed by its members and approved by the entire RSAC is a more effective definition to apply to the regulation. FRA agrees with the reasoning of the Task Group; therefore, no change has been made.

Section 214.501 Purpose and Scope

The purpose for the minimum safety standards prescribed under this subpart is the protection of roadway workers during the lawful operation of on-track roadway maintenance machines and hi-rail vehicles. This subpart prescribes minimum safety standards for on-track roadway maintenance machines and hi-rail vehicles, although railroads and railroad contractors (referred to collectively as "employer" throughout subpart D, as the term is defined in subpart A) may adopt more stringent standards as long as they are consistent with this subpart. As it has done in other regulations, FRA is including railroad contractors within the scope of this regulation. A good deal of track maintenance is performed by contractors to railroads, so it is important for those entities to fall within the requirements for safe performance of that work.

This section further states that any working condition which involves the protection of railroad employees engaged in roadway maintenance duties but which is not specifically addressed in this subpart (for example, noise exposure) continues to be governed by the regulations of OSHA. The purpose of this section is to avoid the unintentional displacement of OSHA safety regulations governing the roadway maintenance machine work environment.

Furthermore, all of the provisions set forth in subpart A to this part, which concerns the purpose and scope of this part, apply to subpart D as well.

FRA received no comments in response to this section of the proposed rule; therefore, no changes from the proposed rule have been made.