TAMPERING WITH SAFETY DEVICES

Any individual who willfully disables a safety device is liable for a civil penalty, as well as being subject to disqualification from performing safety-sensitive functions on a railroad. The penalty against an individual for willfully disabling is up to $7,500. If the employee willfully operates a locomotive with disabled equipment, the fine is up to $5,000.

A "safety device" is defined as any locomotive-mounted equipment that is used either to assure that the locomotive operator is alert, not physically incapacitated, aware of and complying with the indications of a signal system or other operational control system or to record data concerning the operation of that locomotive or the train it is powering.

The specific devices that are intended to be included by FRA are:

- event recorder
- alerters
- deadman controls
- automatic cab signals
- cab signal whistles
- automatic train stop equipment
- automatic train control equipment

(FRA does not consider the following equipment to be followed by the rule: radios, monitors for end of train devices, bells or whistles that are not connected to alerters, deadman pedals, signal system devices, fans for controlling interior temperature of locomotive cabs, and locomotive performance monitoring devices unless they record data such as train speed and airbrake operations).

If an alerter, deadman pedal, or event record becomes defective in route, it will be necessary to notify a designated person of that condition.

In summary, to assess a civil penalty, the FRA will need proof that the individual had intended to disable one of the above listed devices, had acted voluntarily, had in fact disabled the device, and either had knowledge of the law or had recklessly disregarded the law.

When a relief crew boards a moving locomotive while the preceding crew leaves the train, there is no requirement that the relief crew inspect the locomotive. In other words, this rule does not require any new inspections to be performed, but any existing regulations that require inspection must be complied with.

The railroads are strictly liable under this rule for the conduct of its employees when a train is operated with a disabled device. There is no requirement to prove willfulness against the railroad.

49 U.S.C. § 20138
49 C.F.R. §§ 218.51--.61