

Pt. 221, App. C

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Manufacturer: (c) Whelen Engineering Co., Inc., Deep River, Conn. 06417.

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[43 FR 36447, Aug. 17, 1978]

APPENDIX C TO PART 221—SCHEDULE OF CIVIL PENALTIES¹

Section	Violation	Willful violation
221.13 Marking device display: (a) device not present, not displayed, or not properly illuminated (d) device too close to rail	\$5,000 1,000	\$7,500 2,000
221.14 Marking devices: Use of unapproved or noncomplying device	2,500	5,000
221.15 Marking device inspection: (a) Failure to inspect at crew change	2,500	5,000
(b), (c) improper inspection	2,500	5,000
221.16 Inspection procedure: (a) Failure to obtain protection	5,000	7,500
(b) Improper protection	2,500	5,000
221.17 Movement of defective equipment	(¹)	(¹)

¹ A penalty may be assessed against an individual only for a willful violation. The Administrator reserves the right to assess a penalty of up to \$100,000 for any violation where circumstances warrant. See 49 CFR part 209, appendix A. Where the conditions for movement of defective equipment set forth in §221.17 of this part are not met, the movement constitutes a violation of §221.13 of this part.

[53 FR 52930, Dec. 29, 1988, as amended at 69 FR 62818, Oct. 28, 2004; 73 FR 79702, Dec. 30, 2008]

PART 222—USE OF LOCOMOTIVE HORNS AT PUBLIC HIGHWAY-RAIL GRADE CROSSINGS

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APPENDIX F TO PART 222—DIAGNOSTIC TEAM CONSIDERATIONS

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APPENDIX H TO PART 222—SCHEDULE OF CIVIL PENALTIES

AUTHORITY: 28 U.S.C. 2461, note; 49 U.S.C. 20103, 20107, 20153, 21301, 21304; 49 CFR 1.49.

SOURCE: 71 FR 47634, Aug. 17, 2006, unless otherwise noted.

Subpart A—General

§ 222.1 What is the purpose of this regulation?

The purpose of this part is to provide for safety at public highway-rail grade crossings by requiring locomotive horn use at public highway-rail grade crossings except in quiet zones established and maintained in accordance with this part.

§ 222.3 What areas does this regulation cover?

(a) This part prescribes standards for sounding locomotive horns when locomotives approach and pass through public highway-rail grade crossings. This part also provides standards for the creation and maintenance of quiet zones within which locomotive horns need not be sounded.

(b) The provisions of this part are separate and severable from one another. If any provision is stayed or determined to be invalid, it is the intent of FRA that the remaining provisions shall continue in effect.

(c) This part does not apply to any Chicago Region highway-rail grade crossing where the railroad was excused from sounding the locomotive horn by the Illinois Commerce Commission, and where the railroad did not sound the horn, as of December 18, 2003.

§ 222.5 What railroads does this regulation apply to?

This part applies to all railroads except:

(a) A railroad that exclusively operates freight trains only on track which is not part of the general railroad system of transportation;

(b) Passenger railroads that operate only on track which is not part of the general railroad system of transpor-

tation and that operate at a maximum speed of 15 miles per hour over public highway-rail grade crossings; and

(c) Rapid transit operations within an urban area that are not connected to the general railroad system of transportation. See 49 CFR part 209, appendix A for the definitive statement of the meaning of the preceding sentence.

§ 222.7 What is this regulation's effect on State and local laws and ordinances?

(a) Except as provided in paragraph (b) of this section, issuance of this part preempts any State law, rule, regulation, or order governing the sounding of the locomotive horn at public highway-rail grade crossings, in accordance with 49 U.S.C. 20106.

(b) This part does not preempt any State law, rule, regulation, or order governing the sounding of locomotive audible warning devices at any highway-rail grade crossing described in § 222.3(c) of this part.

(c) Except as provided in §§ 222.25 and 222.27, this part does not preempt any State law, rule, regulation, or order governing the sounding of locomotive horns at private highway-rail grade crossings or pedestrian crossings.

(d) Inclusion of SSMS and ASMS in this part or approved subsequent to issuance of this part does not constitute federal preemption of State law regarding whether those measures may be used for traffic control. Individual states may continue to determine whether specific SSMS or ASMS are appropriate traffic control measures for that State, consistent with Federal Highway Administration regulations and the MUTCD. However, except for the SSMS and ASMS implemented at highway-rail grade crossings described in § 222.3(c) of this part, inclusion of SSMS and ASMS in this part does not constitute federal preemption of State law concerning the sounding of the locomotive horn in relation to the use of those measures.

(e) Issuance of this part does not constitute federal preemption of administrative procedures required under State law regarding the modification or installation of engineering improvements at highway-rail grade crossings.