

## Federal Railroad Administration, DOT

## § 224.5

### APPENDIX C TO PART 224—GUIDELINES FOR SUBMITTING REFLECTORIZAION IMPLI- MENTATION COMPLIANCE REPORTS

AUTHORITY: 49 U.S.C. 20103, 20107, 20148 and 21301; 28 U.S.C. 2461, note; and 49 CFR 1.49.

SOURCE: 70 FR 62176, Oct. 28, 2005, unless otherwise noted.

### Subpart A—General

#### § 224.1 Purpose and scope.

(a) The purpose of this part is to reduce highway-rail grade crossing accidents and deaths, injuries, and property damage resulting from those accidents, by enhancing the conspicuity of rail freight rolling stock so as to increase its detectability by motor vehicle operators at night and under conditions of poor visibility.

(b) In order to achieve cost-effective mitigation of collision risk at highway-rail grade crossings, this part establishes the duties of freight rolling stock owners (including those who manage maintenance of freight rolling stock, supply freight rolling stock for transportation, or offer freight rolling stock in transportation) and railroads to progressively apply retroreflective material to freight rolling stock, and to periodically inspect and maintain that material. Freight rolling stock owners, however, are under no duty to install, clean or otherwise maintain, or repair reflective material except as specified in this part.

(c) This part establishes a schedule for the application of retroreflective material to rail freight rolling stock and prescribes standards for the application, inspection, and maintenance of retroreflective material to rail freight rolling stock for the purpose of enhancing its detectability at highway-rail grade crossings. This part does not restrict a freight rolling stock owner or railroad from applying retroreflective material to freight rolling stock for other purposes if not inconsistent with the recognizable pattern required by this part.

#### § 224.3 Applicability.

This part applies to all railroad freight cars and locomotives that operate over a public or private highway-rail grade crossing and are used for revenue or work train service, except:

(a) Freight rolling stock that operates only on track inside an installation that is not part of the general railroad system of transportation;

(b) Rapid transit operations in an urban area that are not connected to the general railroad system of transportation;

(c) Locomotives and passenger cars used exclusively in passenger service; or

(d) Freight rolling stock that is subject to a reflectorization requirement promulgated by another Federal agency.

#### § 224.5 Definitions.

*Administrator* means the Administrator of the Federal Railroad Administration or the Administrator's delegate.

*Associate Administrator* means the Associate Administrator for Safety, Federal Railroad Administration, or the Associate Administrator's delegate.

*Damaged* means scratched, broken, chipped, peeled, or delaminated.

*Flat car* means a car having a flat floor or deck on the underframe with no sides, ends or roof (including spine cars, articulated and mult-unit intermodal cars).

*Freight rolling stock means:*

(1) Any locomotive subject to part 229 of this chapter used to haul or switch freight cars (whether in revenue or work train service); and

(2) Any railroad freight car (whether used in revenue or work train service).

*Freight rolling stock owner* means any person who owns freight rolling stock, is a lessee of freight rolling stock, manages the maintenance or use of freight rolling stock on behalf of an owner or one or more lessors or lessees, or otherwise controls the maintenance or use of freight rolling stock.

*Locomotive* has the meaning assigned by § 229.5 of this chapter, but for purposes of this part applies only to a locomotive used in the transportation of freight or the operation of a work train.

*Obscured* means concealed or hidden (i.e., covered up, as where a layer of paint or dense chemical residue blocks all incoming light); this term does not refer to ordinary accumulations of dirt,

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grime, or ice resulting from the normal railroad operating environment.

*Person* means an entity of any type covered under 1 U.S.C. 1, including but not limited to the following: A railroad; a manager, supervisor, official, or other employee or agent of a railroad; any owner, manufacturer, lessor, or lessee of railroad equipment, track or facilities; any independent contractor providing goods or services to a railroad; and any employee of such an owner, manufacturer, lessor, lessee, or independent contractor.

*Railroad* means all forms of non-highway ground transportation that run on rails or electromagnetic guideways, including high speed ground transportation systems that connect metropolitan areas, without regard to whether they use new technologies not associated with traditional railroads.

*Railroad freight car* has the meaning assigned by §215.5 of this chapter.

*Tank car* means a rail car, the body of which consists of a tank for transporting liquids.

*Universal Machine Language Equipment Register* means the database containing information on rail equipment maintained by the Association of American Railroads.

*Unqualified Retroreflective Sheeting* means engineering grade sheeting, super engineering grade sheeting (enclosed lens) or high-intensity type sheeting (ASTM Type I, II, III, or IV Sheeting) as described in ASTM International Standard D-4956-04, "Standard Specification for Retroreflective Sheeting for Traffic Control."

*Work train* means a non-revenue service train used for the maintenance and upkeep service of the railroad.

## § 224.7 Waivers.

(a) Any person subject to a requirement of this part may petition the Administrator for a waiver of compliance with such requirement. The filing of such a petition does not affect that person's responsibility for compliance with that requirement while the petition is being considered.

(b) Each petition for waiver under this section shall be filed in the manner and contain the information required by part 211 of this chapter.

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(c) If the Administrator finds that a waiver of compliance is in the public interest and is consistent with railroad safety, the Administrator may grant the waiver subject to any conditions that the Administrator deems necessary.

## § 224.9 Responsibility for compliance.

(a) Freight rolling stock owners, railroads, and (with respect to certification of material) manufacturers of retroreflective material, are primarily responsible for compliance with this part. However, any person that performs any function or task required by this part (including any employee, agent, or contractor of the aforementioned), must perform that function in accordance with this part.

(b) Any person performing any function or task required by this part shall be deemed to have consented to FRA inspection of the person's facilities and records to the extent necessary to determine whether the function or task is being performed in accordance with the requirements of this part.

## § 224.11 Penalties.

(a) Any person (including but not limited to a railroad; any manager, supervisor, official, or other employee or agent of a railroad; any owner, manufacturer, lessor, or lessee of railroad equipment, track, or facilities; any employee of such owner, manufacturer, lessor, lessee, or independent contractor) who violates any requirement of this part or causes the violation of any such requirement is subject to a civil penalty of at least \$650, but not more than \$25,000 per violation, except that: Penalties may be assessed against individuals only for willful violations, and, where a grossly negligent violation or a pattern of repeated violations has created an imminent hazard of death or injury to persons, or has caused death or injury, a penalty not to exceed \$105,000 per violation may be assessed. Each day a violation continues shall constitute a separate offense. Appendix A to this part contains a schedule of civil penalty amounts used in connection with this part.