

Proposed Amendments to Part 215

1. Amend § 215.3, Application, as follows:

(a) Except as provided in paragraphs (b), (c) and (d) of this section, this part applies to each railroad freight car in service on:

(1) Standard gage track of a railroad; or

(2) Any other standard gage track while the car is being operated by, or is otherwise under the control of, a railroad.

(d) Subparts C and D of this part do not apply to a THR car as defined in § 215.5(e) of this part.

2. Amend § 215.5, Definitions, as follows:

a. Insert the following definition:

Tourist/historic railroad (THR) car means a railroad freight car which is owned or controlled by a person or railroad carrier that conducts tourist, scenic, historic or excursion operations (whether on or off the general railroad system of transportation) as defined in 49 CFR § 238.5 and that is subject to the following limitations and conditions:

(1) The car is not used to transport freight for hire;

(2) The car is not used in the same train with cars required to be placarded by the Hazardous Materials Regulations (49 CFR part 172);

(3) The car is not operated at speeds of more than 30 mph (or such lower speed as required by Appendix E of this part);

(4) The car is used solely on the railroad which owns or controls it and is not interchanged or otherwise offered to any other railroad without FRA approval; and

(5) The railroad complies with appendix E of this part

b. Revise the following definition:

In service when used in connection with a railroad freight car, means each railroad freight car subject to this part unless the car:

(1) Has a “bad order” or “home shop for repairs” tag or card containing the prescribed information attached to each side of the car and is being handled in accordance with § 215.9 of this part;

(2) Is in a repair shop or on a repair track (or, in the case of a THR car, the owning or controlling railroad has designated the car as out of service for repair);

(3) Is on a storage track and is empty; or

(4) Has been delivered in interchange but has not been accepted by the receiving carrier.

3. Amend § 215.303, Stenciling of restricted cars, as follows:

(a) Each restricted railroad freight car that is described in 215.203(a) of this part shall be stenciled, or marked--

(1) In clearly legible letters; and

(2) In accordance with paragraphs (b) and (c) of this section.

4. Insert appendix E to part 215 as follows:

APPENDIX E TO PART 215—CONDITIONS APPLICABLE TO THR CARS

To be treated as a “THR car”, as defined by § 215.5(e), the car must comply with the requirements of this appendix. In the event that a car does not meet the requirements of this appendix, FRA will expect that the car will be compliant with all applicable requirements in 49 CFR part 215, subparts B, C, and D.

The following conditions are required with respect to maintenance, inspection, use and recordkeeping for THR cars as defined in § 215.5(e) of this part.

- (1) A person or railroad carrier which owns or controls one or more THR cars must maintain a record for each THR car that contains the following information:
 - (a) Identifies by name the person or railroad carrier that owns or controls the car.
 - (b) States whether the car is in service or has been removed from service.
 - (c) For each THR car that is in service, shows the car has received the maintenance and inspections required by this appendix.
 - (d) For each THR car removed from service, the reason(s) for the removal.

The records described above must be kept at the railroad’s business office and be made available for FRA inspection on request.

- (2) In the event a railroad removes a THR car with a defective condition from service, the railroad must correct any defect and all conditions requiring the car’s removal from service before the car may return to service.

- (3) Each THR car must receive a comprehensive shop inspection by a designated inspector prior to being placed in service and not less than once every 24 months thereafter.

(4) Each THR car must receive a comprehensive center plate inspection and lubrication with a particular emphasis on cracked bowls and loose attachments prior to the car being placed in service. Thereafter, each THR car must receive such a center plate inspection:

(a) Not later than 1472 service days, or 15 years since the last center plate inspection, whichever occurs first, if the railroad documents THR car service days, or

(b) Not later than once every five years since the last center plate inspection if the railroad does not document THR car service days.

(5) The following conditions apply to any THR car equipped with cast iron and/or steel wheels listed in appendix A of 49 CFR part 215:

(a) Each calendar year, the wheels of each such car shall receive an inspection of the wheels to determine if each wheel meets the requirements of 49 CFR § 215.103, with particular emphasis on cracks, flats, and shelled spots,

(b) The car shall not be loaded beyond 50% of the rated capacity of its trucks (as determined by journal size) and

(c) The maximum operating speed of the car shall be limited to 25 mph (if the railroad restricts the speed of the car to a speed lower than 25 mph, the lower speed will govern).

(6) Each THR car that is not subject to 49 CFR part 232 or that is equipped with obsolete air brakes not included in the requirements of AAR Standard S-486-04 (incorporated by reference at 49 CFR § 232.305) must receive a single car air test no less than once every five calendar years.

(7) If a railroad leases a THR car to another entity for photography, filming, or similar purposes, the railroad must provide the lessee with a written notice specifying the conditions of part 215 which are applicable to the use of the car.

Proposed Amendment to Part 224

1. Amend § 224.3 Applicability, as follows:

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:

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

(e) A THR car as defined in 49 CFR § 215.3(e).

Proposed Amendments to Part 230

1. Amend § 230.17, One thousand four hundred seventy-two (1472) service day inspection, as follows:

(b) Filing inspection reports. Within 30 days of completing the 1472 service day inspection, the steam locomotive owner and/or operator shall, for each steam locomotive inspected, file in the place where the steam locomotive is maintained and with the FRA Regional Administrator for that region a report of inspection (FRA Form No. 3), and shall file a completed FRA Form No. 4 with the FRA Associate Administrator for Railroad Safety/Chief Safety Officer (Associate Administrator). See appendix C of this part.

2. Amend § 230.20, Alteration and repair report for steam locomotive boilers, as follows:

(a) Alterations. When an alteration is made to a steam locomotive boiler, the steam locomotive owner and/or operator shall file an alteration report (FRA Form No. 19), detailing the changes to the locomotive with the FRA Associate Administrator within 30 days from the date the work was completed. This form shall be attached to, and maintained with, the FRA

Form No. 4 until such time as a new FRA Form No. 4 reflecting the alteration is submitted to the Associate Administrator. Alteration reports shall be filed and maintained for the life of the boiler. (See appendix B of this part.)

(b) Welded and riveted repairs to unstayed portions of the boiler. Whenever welded or riveted repairs are performed on unstayed portions of a steam locomotive boiler, the steam locomotive owner and/or operator shall file with the FRA Associate Administrator, within 30 days from the time the work was completed, a repair report, FRA Form No. 19, that details the work done to the steam locomotive. Repair reports shall be filed and maintained for the life of the boiler. (See appendix B of this part.)

3. Amend § 230.33, Welded repairs and alterations, as follows:

(a) Unstayed portions of the boiler containing alloy steel or carbon steel with a carbon content over 0.25 percent. Prior to welding on unstayed portions of the boiler, the steam locomotive owner and/or operator shall submit a written request for approval to the FRA Associate Administrator. If the approval is granted, the steam locomotive owner and/or operator shall perform any welding to unstayed portions of the boiler in accordance with an accepted national standard for boiler repairs. The steam locomotive owner and/or operator shall satisfy reporting requirements in § 230.20 at this time.

(c) Wastage. The steam locomotive owner and/or operator shall submit a written request for approval to the FRA Associate Administrator before performing weld build up on wasted areas of unstayed surfaces of the boiler that exceed a total of 100 square inches or the smaller of 25 percent of minimum required wall thickness or 1/2 inch. Wasted sheets shall not be

repaired by weld build up if the wasted sheet has been reduced to less than 60 percent of the minimum required thickness as required by this part.

(d) Flush patches. The steam locomotive owner and/or operator shall submit a written request for approval to the FRA Associate Administrator for the installation of flush patches of any size on unstayed portions of the boiler.

4. Amend § 230.34, Riveted repairs and alterations, as follows:

(a) Alterations to unstayed portions of the boiler. Prior to making riveted alterations on unstayed portions of the boiler, the steam locomotive owner and/or operator shall submit a written request for approval to the FRA Associate Administrator. If approval is granted, the steam locomotive owner and/or operator shall perform any riveting to unstayed portions of the boiler in accordance with established railroad practices or an accepted national standard for boiler repairs. The steam locomotive owner and/or operator shall satisfy reporting requirements in § 230.20 at this time.

5. Amend § 230.96, Main, side, and valve motion rods, as follows:

(b) Repairs. Repairs, and welding of main, side or valve motion rods shall be made in accordance with an accepted national standard. The steam locomotive owner and/or operator shall submit a written request for approval to the FRA Associate Administrator prior to welding defective main rods, side rods, and valve gear components.

6. Amend the APPENDIX D TO PART 230--CIVIL PENALTY SCHEDULE, as follows:

230.20 Alteration and repair reports:

(a) Alterations:

(1) Failure to properly file FRA Form 19.....	[\$]1,000	[\$]1,500
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Proposed Amendments to Part 232

1. Amend § 232.17, Freight and passenger train car brakes, in appendix B as follows:

a. Amend paragraph (b)(2) as follows:

Brake equipment on passenger cars must be cleaned, repaired, lubricated and tested as often as necessary to maintain it in a safe and suitable condition for service but not less frequently than as required in Standard S-4045-13 in the Manual of Standards and Recommended Practices of the AAR.

b. Add paragraph (c) as follows:

For brake systems not included in the current Manual of Standards and Recommended Practices of the AAR, the brake systems must be maintained in a safe and suitable condition for service according to a railroad's written maintenance plan. The maintenance plan must be based upon recognized industry standards and attention periods appropriate to the utilization of the equipment. The railroad shall make its written maintenance plan available to FRA upon request.

2. Amend the title in subdivision II to appendix B as follows:

II. Clarification Effective [Insert date of publication of final rule]

3. Amend appendix B to insert the following:

III. Incorporation by Reference

FRA is incorporating by reference Standard S-4045-13 in the Manual of Standards and Recommended Practices of the Association of American Railroads, which is applicable to the railroads covered by part 232, appendix B, according to the following procedures.

(a) Certain material is incorporated by reference into this subpart with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in this section, FRA must publish notice of change in the Federal Register and the material must be available to the public. All approved material is available for inspection through the FRA Docket Clerk at the Office of Chief Counsel, RCC-10, Mail Stop 10, Federal Railroad Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590, call 202-493-6030 (please refer to Docket No. FRA-2009-0044, Notice No. 2); and is available from the sources indicated below. It is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030 or go to http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.

(b) The following AAR standard is available for purchase from the Association of American Railroads, 425 Third Street SW, Washington, DC 20024, or through www.aar.org.

(1) Standard S-4045-13 in the Manual of Standards and Recommended Practices of the AAR

(2) [Reserved]

(c) Modification of Standard Incorporated by Reference. (1) The AAR or other authorized representative of the railroad industry may seek modification of the Standard S-

4045-13 in the Manual of Standards and Recommended Practices as identified in Appendix B of 49 CFR Part 232. The request for modification shall be submitted to the Associate Administrator for Safety, Federal Railroad Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590 and shall contain:

(A) The name, title, address, and telephone number of the primary person to be contacted with regard to review of the modification;

(B) The modification, in detail, to be substituted for particular procedures prescribed in Standard S-4045-13 in the Manual of Standards and Recommended Practices;

(C) Appropriate data or analysis, or both, for FRA to consider in determining whether the modification will provide at least an equivalent level of safety; and

(D) A statement affirming that the railroad industry has served a copy of the request on the designated representatives of the employees responsible for the equipment's operation, inspection, testing, and maintenance under this part, together with a list of the names and addresses of the persons served.

(2) Federal Register document. Upon receipt of a request for modification, FRA will publish a document in the FEDERAL REGISTER containing the requested modification. The document will permit interested parties 60 days to comment on any requested modification.

(3) FRA review. During the 60 days provided for public comment, FRA will review the petition. If FRA objects to the requested modification, written notification will be provided, within this 60-day period, to the party requesting the modification detailing FRA's objection.

(4) Disposition. (A) If no comment objecting to the requested modification is received during the 60-day comment period, provided by paragraph (2) of this section, or if FRA does

not issue a written objection to the requested modification, the modification will become effective 15 days after the close of the 60-day comment period.

(B) If an objection is raised by an interested party, during the 60-day comment period, or if FRA issues a written objection to the requested modification, the requested modification will be handled as follows:

(i) If FRA finds that the request complies with the requirements of this section and that the proposed modification is acceptable and justified, the request will be granted, normally within 90 days of its receipt. If the request for modification is neither granted nor denied within 90 days, the request remains pending for decision. FRA may attach special conditions to the approval of any request for modification. Following the approval of a request for modification, FRA may reopen consideration of the request for cause.

(ii) If FRA finds that the request does not comply with the requirements of this section and that the proposed modification is not acceptable or justified, the requested modification will be denied, normally within 90 days of its receipt.

(iii) When FRA grants or denies a request for modification, or reopens consideration of the request, written notice is sent to the requesting party and other interested parties.