

*Section 214.521 Flagging Equipment for On-Track Roadway Maintenance Machines and Hi-Rail Vehicles*

This section requires that flagging kits be available when on-track roadway maintenance machines and hi-rail vehicles are operated over trackage subject to a railroad operating rule requiring flagging. Flagging kits must comply with the requirements specified in the operating rules of the railroads over which the equipment is operated. This requirement applies to each on-track roadway maintenance machine and hi-rail vehicle that is operated alone or as the leading or trailing piece of equipment in a roadway work group operating under the same occupancy authority. Flagging kits are not required for roadway maintenance machines and hi-rail vehicles that are operated in the middle of a single roadway work group. However, the vehicles must be under the same occupancy authority to be considered part of a single group.

In commenting on the proposed rule, Transtar inquired whether employers are already required to equip roadway maintenance machines with flagging kits under the Roadway Worker Protection regulations in subpart C of this part. FRA notes that flagging kits required under this final rule are for operating rule purposes only and do not relate to any requirements under the Roadway Worker Protection regulations in subpart C. FRA received no other comments on this section; therefore, the language of the section remains as proposed.

*Section 214.523 Hi-Rail Vehicles*

This section prescribes certain inspection and record keeping requirements for all hi-rail vehicles, new as well as existing. It also prescribes specific requirements applicable only to new hi-rail vehicles.

By definition, hi-rail vehicles have retractable flanged wheels giving them the ability to operate over the general highway system as well as on railroad track. Operation of these vehicles over the general highway system requires them to be manufactured to meet Federal motor vehicle safety standards.

Paragraph (a) requires that all hi-rail vehicles have the safety-critical components of their hi-rail gear inspected at least once per year. At a minimum, pursuant to this inspection requirement, tram, wheel wear and gage measurements must be checked and adjusted, if necessary, to provide for continued safe operation. This requirement is not necessarily intended to coincide with a calendar year, January to December. Further, FRA has

added language to this final rule that allows up to 14 months between annual inspections. What this means is that the first annual inspection of all existing hi-rail vehicles is due under this rule within one year from the effective date of this final rule. Thereafter, the inspection of such existing hi-rail vehicles comes due each year on the anniversary date of its first inspection required under this rule. However, employers are allowed up to a two-month window in which to perform the inspection once it becomes due. As new hi-rail vehicles enter service, the inspection required by this paragraph is due within one year of the date the vehicles enter service. Thereafter, the inspection of such new hi-rail vehicles comes due each year on the anniversary date of the first inspection required under this rule. Again, employers are allowed up to a two-month window in which to perform the inspection once it becomes due. Any hi-rail vehicle that has not received an annual inspection within the previous 14 months will be deemed in violation of this paragraph.

Wisconsin Central provided the only comment on this paragraph. The operator of Class II and Class III carriers in the Midwest stated that the requirement for an annual inspection of hi-rail vehicles is unnecessary because most such vehicles are assigned to one employee who knows the vehicle and immediately notices when a defect develops. The Task Group disagreed that this requirement is burdensome to railroads and it further noted that the Task Group discussed the provision at length when the proposed rule was being developed. The Group recommended that the language in the final rule remain as proposed. FRA believes that the inspection requirement is necessary as a minimum requirement to provide for the safety of hi-rail vehicles, and has not adopted the Wisconsin Central's comment.

Paragraph (b) specifies a record keeping requirement to document safety inspections. Records may be retained on paper forms devised by the employer, or they may be stored electronically in a computer database. The employer must maintain the record of the last inspection of each vehicle until the next inspection is performed. The employer may choose to keep the record on the hi-rail vehicle itself or at a designated location. In either case, the records must be made available for inspection and copying during normal business hours by representatives of FRA and States participating under part 212 of this chapter.

The requirements specific only to new hi-rail vehicles are contained in

paragraph (c). Each new hi-rail vehicle shall be equipped with an automatic change-of-direction alarm or backup alarm which produces an audible signal that is at least three seconds long and uniquely distinguishable from any surrounding noise. Paragraph (c) does not specify what particular decibel level is required for the change-of-direction or backup alarms on new hi-rail vehicles. In the preamble of the NPRM, FRA proposed that these devices be "loud enough to be heard by roadway workers and other machine operators within the immediate area." Noting in the NPRM that such a standard could invite too many variables, making it difficult for FRA to enforce, FRA requested comment as to whether or not a decibel standard should be required for these devices, and, if so, what that decibel level should be. Consistent with §§ 214.511 and 214.513, the Task Group recommended not setting a decibel standard to address how loud the audible warning devices on new hi-rail vehicles must be, and comments received on this paragraph were the same as those for the other sections cited. As in those other sections, the language of this paragraph in the final rule is the same as that proposed in the NPRM.

Paragraph (c)(2) requires each new hi-rail vehicle to be equipped with an operative warning light or beacon mounted to the roof of the vehicle. The light or beacon must be designed to flash intermittently while rotating 360 degrees or otherwise emitting light in a 360-degree field.

In the NPRM, FRA requested comment about whether or not the final rule should specify a color for the warning light and, if so, what color would be appropriate. In response, the BMWV noted that orange would be an appropriate color for warning lights on hi-rail vehicles because it is the color associated with "caution." The BMWV suggested that if no color is specified, the final rule should require that equipment warning lights be uniform for each railroad. The AAR responded that the rule need not specify a color for hi-rail vehicle warning lights. According to the AAR, some lights cannot display colors as well as others, and sometimes railroads find the use of two colors to be more effective. The AAR believed that the rule should allow the marketplace to experiment and determine which color(s) would work best. In addition, Loram suggested the following specific colors to correspond to the following specific functions: blue would signify "parked"; yellow would signify "operating"; white would designate "front"; and red would designate "rear."