

candela (a PAR-56, 200-watt, 30-volt lamp) or a lamp capable of producing 3,000 candela at 7.5 degrees and 400 candela at 20 degrees from the centerline of the locomotive when the lamp is aimed parallel to the tracks (either a PAR-56, 200-watt, 30-volt lamp or a PAR-56, 350-watt, 75-volt lamp). The light intensities being specified in the regulation are based on the luminous intensity produced at those angles by a PAR-56, 200-watt, 30-volt lamp (according to data supplied by GE) when such a lamp is aimed parallel to the tracks. FRA believes this is the most appropriate measure because the agency has interpreted the regulations as permitting this light intensity since their inception. Thus, acceptance of a lamp that produces an equivalent or greater intensity at these critical angles is consistent with the intent and purpose of the auxiliary light provisions when originally prescribed and is consistent with FRA's goal of promoting and facilitating new technologies. In furtherance of this goal, FRA also notes that although the modification being made to the regulation identifies specific lamps as meeting the specified criteria, the modification also acknowledges that lamps of equivalent design and capable of producing equivalent light intensities would be considered acceptable by FRA.

#### Related Provisions

Although there are provisions contained in §§ 229.133 and 238.443 that reference the use of lamps producing 200,000 candela, FRA does not intend to change any of the language contained in those provisions at this time. Section 229.133 contains interim locomotive conspicuity measures that were incorporated into the regulations in 1993 while the final provisions related to locomotive auxiliary lights were being developed. See 58 FR 6899; 60 FR 44457; and 61 FR 8881. Although locomotives equipped with one of the specified conspicuity measures were grandfathered as being compliant with the auxiliary light provisions included in § 229.125, that grandfathering expired as of March 6, 2000. See 61 FR 8885 and § 229.125(d). When issuing the final rule related to locomotive auxiliary lights in 1996, FRA did "super-grandfather" certain locomotives if equipped with some of the auxiliary conspicuity measures specified in § 229.133, which included: oscillating lights; strobe lights; and auxiliary lights if spaced at least 44 inches apart. See 61 FR 8885 and § 229.133(c). Of the three types of measures "super-grandfathered," only the provision related to oscillating lights specifies the use of a lamp capable of

producing 200,000 candela. See § 229.133(c)(1) through (c)(3). As there are very few locomotives currently being operated that are equipped with oscillating lights and because FRA has no data related to the impact of utilizing 350-watt lamps in single-lamp oscillating light fixtures, FRA is not in a position to accept the use of such lamps in these devices at this time. However, FRA will continue to accept the use of 350-watt lamps in those circumstances where an oscillating light is used in conjunction with the auxiliary lights described in § 229.125, and in circumstances where an oscillating light under § 229.133(b)(4)(i)(A) consists of a dual-lamp fixture equipped with two operative 350-watt lamps.

The requirements related to Tier II passenger equipment also contain a requirement that Tier II power cars be equipped with headlights that produce at least 200,000 candela. See § 238.443. However, contrary to the headlight provisions in part 229, which require that a locomotive be equipped with a single headlight, the provision in § 238.443 requires each Tier II power car to be equipped with at least two headlights and that each headlight produce no less than 200,000 candela. *Id.* Moreover, the present design of the headlights on Tier II power cars utilizes a single lamp in each of the two required headlight fixtures. Thus, the preceding discussion related to FRA's acceptance of the use of 350-watt lamps in traditional locomotives covered under the provisions of § 229.125(a), is not applicable to the headlights on Tier II power cars which are separately addressed in part 238.

#### General Information

As the modifications contained in this document are intended to merely clarify FRA's intent when issuing the final rule related to auxiliary lights and incorporate existing FRA enforcement policies related to locomotive headlights and auxiliary lights, FRA is issuing this document as an interim final rule with a request for comments. Moreover, this document addresses FRA's continued acceptance of locomotive lamps which have been used throughout the industry for nearly a decade. Thus, FRA views the amendments contained in this document as technical clarifications of the existing regulations. Consequently, pursuant to 5 U.S.C. 553(b)(3)(B), FRA believes that good cause exists for finding that prior public notice of this action is both impracticable and unnecessary. However, FRA is requesting written comments on the content of this interim final rule and, if

any are received, FRA will address them when issuing the final rule.

FRA wishes to inform all potential commenters that anyone is able to search the electronic form of all comments received into any agency docket by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477-78) or you may visit <http://dms.dot.gov>.

#### Regulatory Impact

##### *Executive Order 12866 and DOT Regulatory Policies and Procedures*

This interim final rule has been evaluated in accordance with Executive Order 12866 and DOT policies and procedures. The modifications contained in this interim final rule are not considered significant because they are intended merely to clarify FRA's intent when issuing the final rule related to auxiliary lights and to incorporate existing FRA enforcement policies related to locomotive headlights and auxiliary lights. The economic impact of the modifications and clarifications contained in this interim final rule will not generally affect the cost of compliance with the existing regulations.

##### *Regulatory Flexibility Act*

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) requires a review of rules to assess their impact on small entities. FRA certifies that this interim final rule does not have a significant impact on a substantial number of small entities. Because the modifications contained in this document either clarify existing regulatory requirements, codify existing enforcement policy, or are consistent with FRA's intent when issuing the original regulatory provisions, FRA has concluded that there are no substantial economic impacts on small units of government, businesses, or other organizations.

##### *Paperwork Reduction Act*

This interim final rule does not change any of the information collection requirements contained in the original regulatory provisions being amended.

##### *Environmental Impact*

FRA has evaluated this interim final rule in accordance with its "Procedures for Considering Environmental Impacts" (FRA's Procedures) (64 FR 28545, May 26, 1999) as required by the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*), other environmental