

DEPARTMENT OF TRANSPORTATION**Federal Railroad Administration****49 CFR Part 224**

[Docket No. FRA-1999-6689, Notice No. 3]

RIN 2130-AB41

Reflectorization of Rail Freight Rolling Stock

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking.

SUMMARY: FRA is proposing to require retroreflective material on the sides of freight rolling stock (freight cars and locomotives) to enhance the visibility of trains in order to reduce the number of accidents at highway-rail grade crossings in which train visibility is a contributing factor. This document proposes a rule establishing a schedule for the application of retroreflective material and prescribing standards for the application, inspection, and maintenance of the material.

DATES: *Written Comments:* Comments must be received by March 5, 2004. Comments received after that date will be considered to the extent possible without incurring additional expense or delay.

Public Hearing: FRA is planning to conduct a public hearing in Washington, DC, on Tuesday, January 27, 2004, at 9:30 a.m., in order to provide all interested parties the opportunity to comment on the provisions contained in this notice. Any person wishing to participate in the public hearing should notify the Docket Clerk by telephone (202-493-6030) or by mail at the address provided below at least five working days prior to the date of the hearing. The notification should identify the party the person represents, and the particular subject(s) the person plans to address. FRA reserves the right to limit participation in the hearing of persons who fail to provide such notification.

ADDRESSES: You may submit comments identified by DOT DMS Docket Number FRA-1999-6689 by any of the following methods:

- Web site: <http://dms.dot.gov>. Follow the instructions for submitted comments on the DOT electronic docket site.

- Fax: 1-202-493-2251.

- Mail: Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL-401, Washington, DC 20590-001.

- Hand Delivery: Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

- Federal e-Rulemaking Portal: Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.

Instructions: All submissions must include the agency name and docket name and docket number or Regulatory Identification Number (RIN) for this rulemaking. For detailed instructions on submitting comments and additional information on the rulemaking process, see the Public Participation heading of the Supplementary Information section of this document. Note that all comments received will be posted without change to <http://dms.dot.gov>, including any personal information provided. Please see the Privacy Act heading under Regulatory Notices.

Docket: For access to the docket to read background documents or comments received, go to <http://dms.dot.gov> at any time or to Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 am and 5 pm, Monday through Friday, except Federal Holidays.

Public Hearing: The public hearing will be held at the Washington Plaza Hotel, 10 Thomas Circle, NW., Massachusetts Avenue at Fourteenth Street, Washington, DC 20005 (202-842-1300). Written notification of a party's intended participation should identify the docket number and must be submitted to Ms. Ivornette Lynch, Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, RCC-10, 1120 Vermont Ave., NW., Stop 10, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Dr. Tom Blankenship, Mechanical Engineer, Office of Safety, FRA, 1120 Vermont Ave., NW., Mailstop 25, Washington, DC 20590 (telephone: 202-493-6446); Mary Plache, Industry Economist, Office of Safety, FRA, 1120 Vermont Ave., NW., Mailstop 21.1, Washington, DC 20590 (telephone: 202-493-6297); or Lucinda Henriksen, Trial Attorney, Office of Chief Counsel, FRA, 1120 Vermont Ave., NW., Mailstop 10, Washington, DC 20590 (telephone: 202-493-6038).

SUPPLEMENTARY INFORMATION:**Background**

This proposed rule represents a partial solution to a safety problem that has long concerned FRA—the need to reduce the incidence and severity of

collisions between motor vehicles and trains at highway-rail grade crossings throughout the United States.

Approximately 4,000 times each year, a train and a highway vehicle collide at one of this country's 262,000 public and private highway-rail grade crossings. Approximately 23% of all highway-rail grade crossing accidents involve motor vehicles running into trains occupying grade crossings ("RIT" accidents).¹ Almost 80% of these RIT accidents occur during nighttime conditions (dawn, dusk, and darkness) and involve a highway vehicle striking a train after the first two units of the consist. These statistics suggest that a contributing factor to many RIT accidents is the difficulty motorists have in seeing a train consist at a crossing in time to stop their vehicles before reaching the crossing, particularly during periods of limited visibility, such as dawn, dusk, darkness, or during adverse weather conditions.

The physical characteristics of trains, in combination with the characteristics of grade crossings (e.g., grade crossing configuration, type of warning devices at a crossing, rural background environment with low level ambient light, or visually complex urban background environment, etc.), and the inherent limitations of human eyesight, make it difficult for motorists to detect a train's presence on highway-rail grade crossings, particularly during periods of limited visibility. Freight trains lack conspicuity (i.e., the ability to be seen) in some of their different environmental settings. For example, trains are typically painted a dark color and are covered with dirt and grime which are inherent in the rail environment. With the exception of locomotives, trains are usually unlighted and are not equipped with reflective devices. Similarly, a large percentage of crossings are not lighted. Consequently, much of the light from a motor vehicle's headlights is absorbed by the freight cars, instead of being reflected back toward the motorist. The large size of freight cars, which are out of scale relative to a motorist's expectations, also make them difficult to detect. For instance, even if a motorist is looking for a train, if the locomotive has already passed, it is difficult to detect the freight cars because the cars often encompass the motorist's entire field of view and have the tendency to "blend" into the background environment, especially at night. In addition, because most drivers involved in grade crossing accidents are familiar with the crossings and with roadway features at the crossings, the

¹ Based on available data from 1992 through 2001.