

§ 224.105 represent the optimum configuration of retroreflective material on freight rolling stock, FRA solicits comments as to the feasibility and efficiency of these patterns and any recommendations for alternative patterns of application.

Section 224.107 Application of Retroreflective Sheeting

This section proposes to require that all freight cars subject to this part be equipped with retroreflective sheeting conforming to this part within ten years of the effective date of the final rule, and similarly, that all locomotives subject to this part be equipped within five years. Recognizing the voluntary efforts by many freight rolling stock owners who have already begun reflectorizing their fleets and the practical differences involved in applying reflective materials to freight rolling stock already in use versus newly manufactured stock, FRA has attempted to devise a schedule for the application of retroreflective material which assures the most efficient and cost-effective implementation of the rule. Generally, FRA proposes that retroreflective sheeting be applied to new freight rolling stock at the time of construction and to existing stock when such stock is being repainted, rebuilt, or undergoing other periodic maintenance. As an alternative to this schedule, FRA is also proposing the more flexible approach of allowing freight car owners to designate, in individualized reflectorization implementation plans, a schedule for the reflectorization of their freight car fleets.

Railroad Freight Cars

Newly constructed cars: Paragraph (a)(1) requires that retroreflective sheeting conforming to the rule be applied to cars manufactured after the effective date of the final rule at the time of construction.

Existing cars without retroreflective sheeting: As applied to cars that, as of the date of publication of the final rule, are not equipped with at least one square foot of retroreflective sheeting on each side, paragraph (a)(2) generally requires the application of retroreflective sheeting to the cars as they are repainted, rebuilt, or taken out of service for other scheduled maintenance and/or inspections. Specifically, paragraph (a)(2)(i) requires that conforming retroreflective sheeting be applied to existing freight cars when, after the effective date of the final rule, either (1) the car is repainted or rebuilt, or (2) the car first undergoes a single car air brake test required under 49 CFR 232.305, whichever occurs first.

Paragraph (a)(2)(i)(B) also provides that the application of retroreflective sheeting to a freight car may be deferred until the second single car air brake test, if it is more practicable to apply the sheeting at that time. By allowing the flexibility to defer application of the sheeting until the second single car air brake test, FRA recognizes that conditions at the time of the first single car air brake test may make it impractical to apply retroreflective sheeting at that time.

FRA understands that most rail cars are repainted, on average, every seven years and undergo a major overhaul or rebuild every ten years, depending upon mileage and condition. Similarly, the single car air brake test is required every eight years for new cars and every five years for other cars. See 49 CFR 232.305(c), (d). Accordingly, FRA believes that the schedule set forth in paragraph (a)(2)(i), providing for application of the retroreflective sheeting when cars are out of service for regularly scheduled maintenance, will allow the entire U.S. fleet of freight cars to be reflectorized well within the ten year implementation period and will not require cars to incur any additional downtime outside of the normal maintenance cycle for the purpose of reflectorization.

Although FRA believes the schedule set forth in § 224.107(a)(2)(i) is the most cost-effective and efficient method of reflectorizing freight cars, paragraph (a)(2)(ii) recognizes that some freight car owners may prefer to develop their own schedule for reflectorization. Paragraph (a)(2)(ii) provides that a freight car owner may elect not to follow paragraph (a)(2)(i)'s schedule, if within 60 days of the effective date of the final rule, the owner submits to FRA a Fleet Reflectorization Implementation Plan. This plan must set forth the car numbers constituting the fleet subject to this part and indicate when the identified cars will be reflectorized. The plan must also contain an affirmation that at least 20% of the total fleet will be equipped with retroreflective sheeting conforming to this part within 24 months after the effective date of the final rule and that not less than an additional ten percent of the total fleet will be completed each 12-month period thereafter for the duration of the 10-year implementation period. Absent identification of a car in a Fleet Reflectorization Implementation Plan, retroreflective sheeting conforming to this part will be applied to that car at the time of its first single car air brake test after the effective date of the final rule. See Appendix B for the standard form Fleet Reflectorization

Implementation Plan anticipated by this section.

If a freight car owner elects the procedures of paragraph (a)(2)(ii) and submits a Fleet Reflectorization Implementation Plan to FRA, the owner is thereafter responsible for compliance with the plan. In keeping with the requirements of the Paperwork Reduction Act and the Government Paperwork Elimination Act, FRA anticipates providing car owners with the option of submitting this plan (and any required updates) to FRA electronically. If upon completion of the initial 24-month period an owner fails to reflectorize at least 20% of the freight car fleet, or if after any subsequent 12-month period an owner fails to reflectorize at least an additional 10% of the total fleet, the owner must notify FRA's Associate Administrator of such a failure. Thereafter, the owner will be required to comply with the schedule set forth in paragraph (a)(2)(i), the percentage requirements of paragraph (a)(2)(ii) will continue to apply, and the fleet owner must take any additional action necessary to bring cars under his ownership or control into compliance.

Existing cars already equipped with retroreflective sheeting as of publication date of final rule: Recognizing the voluntary efforts already underway by many railroads and car owners to reflectorize their freight car fleets, paragraph (a)(3) of this section addresses existing freight cars that, as of the publication date of the final rule, are already equipped with retroreflective material. FRA understands that approximately 25% of the domestically-owned freight car fleet is already equipped with some type of reflective material. However, many of the color schemes, the levels of reflectivity of the material, and the per car amount of material in use, differ from the standards proposed in this rule. If car owners are required to replace the retroreflective materials that they voluntarily installed to improve safety, it would have the effect of penalizing owners that demonstrated an extra level of safety consciousness. This would have the unintended effect of discouraging car owners from exploring innovative approaches to improving safety. With this in mind, FRA is proposing that freight cars equipped with at least one square foot of retroreflective material, uniformly distributed over the length of each car side, will be considered in compliance with this part for ten years from the effective date of the final rule, provided that the sheeting is not engineering grade, super engineering grade (enclosed lens), or glass bead