



DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 238

[Docket No. FRA-2025-0106]

RIN 2130-AD41

Administrative Updates to the Passenger Equipment Safety Standards Regulations

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

ACTION: Final rule.

SUMMARY: This rule makes administrative updates to FRA's passenger equipment safety standards regulations, including updating addresses in those regulations.

DATES: Effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Veronica Chittim, Senior Attorney, Office of Safety Law, Office of the Chief Counsel, FRA, 1200 New Jersey Avenue, SE, Washington, DC 20590 (telephone 202-480-3410), veronica.chittim@dot.gov; or Lucinda Henriksen, Senior Advisor, Office of Railroad Safety, FRA (telephone 202-657-2842), lucinda.henriksen@dot.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Consistent with the deregulatory agenda of President Donald J. Trump and Secretary of Transportation Sean P. Duffy, which seeks to unleash America's economic prosperity without compromising transportation safety, and as described in more detail below, this rule is making miscellaneous, administrative updates to its regulations in 49 CFR part 238. These changes include updating addresses that are no longer valid.

II. Section-by-Section Analysis

Part 238

§ 238.11 Penalties

FRA is amending § 238.11(a) by replacing references to specific penalty amounts with general references to the minimum civil monetary penalty, ordinary maximum civil monetary penalty, and aggravated maximum civil monetary penalty. FRA is adding language to this section referring readers to 49 CFR part 209, appendix A, where FRA will continue to specify statutorily provided civil penalty amounts updated for inflation. FRA is also amending this section to update the web address from www.fra.dot.gov to <https://railroads.dot.gov/>.

§ 238.21 Special approval procedure

FRA is amending 49 CFR 238.21(b), (c), and (d) to require that an e-mail address be provided for the primary contact to be contacted with respect to a petition for special approval, a petition for special approval of alternative compliance, and a pre-revenue service acceptance testing plan. FRA is also amending § 238.21(d) to require that the petition for special approval of the pre-revenue service acceptance testing plan be submitted to FRAwaivers@dot.gov.

§ 238.203 Static end strength

FRA is amending § 238.203(d) to require that an e-mail address be provided for the primary person to be contacted with respect to a petition for grandfathering.

FRA is also amending § 238.203(e) to require that each petition be submitted to FRAwaivers@dot.gov. FRA is adding the word “Railroad” before “Safety” in the term “Associate Administrator for Safety.” FRA is also removing the mailing address.

§ 238.229 Safety appliances – general

FRA is amending § 238.229(d) by updating the web address from www.fra.dot.gov to <https://railroads.dot.gov/>.

§ 238.230 Safety appliances – new equipment

FRA is amending 49 CFR 238.230(c) and (e) by updating the web address from www.fra.dot.gov to <https://railroads.dot.gov/>.

§ 238.505 Program approval procedure

FRA is amending § 238.505(a) to require submission of an inspection, testing, and maintenance program via e-mail to FRAwaivers@dot.gov. FRA is amending this section by adding a requirement that the program must contain an e-mail address of the primary person to be contacted with respect to review of the program. FRA is adding the word “Railroad” before “Safety” in the term “Associate Administrator for Safety.” FRA is removing the mailing address.

FRA is amending § 238.505(b) by requiring submission of a comment via e-mail to FRAwaivers@dot.gov.

Appendix H Rigid Locomotive Design Computer Model Input Data and Geometrical Depiction

FRA is amending the fourth sentence of paragraph (b) in appendix H to part 238 by updating the web address from http://www.fra.dot.gov/eLib/details/L01292#p4_z50_gD_IRT to https://railroads.dot.gov/elibrary/technical-criteria-and-procedures-evaluating-crashworthiness-and-occupant-protection#p4_z50_gD_IRT.

III. Public Participation

Under the Administrative Procedure Act (APA), an agency may waive the normal notice and comment procedures if the action is a rule of agency organization, procedure, or practice. 5 U.S.C. 553(b)(A). Additionally, under the APA, an agency may waive notice and comment procedures when the agency for good cause finds that notice and public procedure are impracticable, unnecessary, or contrary to the public interest. 5 U.S.C. 553(b)(B). Since this final rule merely makes miscellaneous, administrative

updates to the CFR, such as updating web addresses, it would not benefit from public comment, and notice and comment is not necessary.

IV. Regulatory Impact and Notices

A. Executive Order (E.O.) 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

FRA has evaluated this final rule in accordance with E.O. 12866, Regulatory Planning and Review (58 FR 51735, Oct. 4, 1993), and DOT Order 2100.6B, Policies and Procedures for Rulemaking (Mar. 10, 2025). The Office of Information and Regulatory Affairs within the Office of Management and Budget (OMB) determined that this final rule is not a significant regulatory action under section 3(f) of E.O. 12866.

Because this final rule makes administrative changes such as replacing references to specific penalty amounts with general references to the minimum civil monetary penalty, ordinary maximum civil monetary penalty, and aggravated maximum civil monetary penalty, referring readers to the CFR, and updating web addresses, this final rule imparts no additional burdens on regulated entities. Moreover, this rule will provide some qualitative benefits to regulated entities and the U.S. government, by clarifying the language of part 238 and directing the regulated entities to the appropriate sites in the CFR. Additionally, this final rule allows electronic methods, such as email, for petitions. This will expedite the speed at which documents are delivered while also reducing costs that would otherwise exist from having to physically print, mail, and process documents.

B. E.O. 14192 (Unleashing Prosperity Through Deregulation)

E.O. 14192, Unleashing Prosperity Through Deregulation (90 FR 9065, Jan. 31, 2025), requires that for “each new [E.O. 14192 regulatory action] issued, at least ten prior

regulations be identified for elimination.”¹ Implementation guidance for E.O. 14192 issued by OMB (Memorandum M-25-20, March 26, 2025) defines two different types of E.O. 14192 actions: an E.O. 14192 deregulatory action, and an E.O. 14192 regulatory action.²

An E.O. 14192 deregulatory action is defined as “an action that has been finalized and has total costs less than zero.” This final rule is expected to have total costs less than zero, and therefore it would be considered an E.O. 14192 deregulatory action.

C. Regulatory Flexibility Act and E.O. 13272

The Regulatory Flexibility Act of 1980 ((RFA), 5 U.S.C. 601 *et seq.*) and E.O. 13272 (67 FR 53461, Aug. 16, 2002) require an agency to prepare and make available to the public a regulatory flexibility analysis that describes the effect of the rule on small entities (*i.e.*, small businesses, small organizations, and small governmental jurisdictions). A regulatory flexibility analysis is not required when a rule is exempt from notice and comment rulemaking. FRA has determined that this rule is exempt from notice and comment rulemaking. Therefore, a regulatory flexibility analysis is not required for this rule.

D. Paperwork Reduction Act

This rule offers regulatory flexibilities, and there are no new information collection requirements, in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Therefore, an information collection submission to the Office of Management and Budget (OMB) is not required. The recordkeeping and reporting requirements already contained in part 238 became effective when it was approved by OMB on June 7, 2024. The OMB control number is 2130-0576, and OMB approval

¹ Executive Office of the President. *Executive Order 14192 of January 31, 2025. Unleashing Prosperity Through Deregulation.* 90 FR 9065-9067. Feb. 6, 2025.

² Executive Office of the President. Office of Management and Budget. *Guidance Implementing Section 3 of Executive Order 14192, Titled “Unleashing Prosperity Through Deregulation.”* Memorandum M-25-20. Mar. 26, 2025.

expires on June 30, 2027.

E. Environmental Assessment

FRA has analyzed this rule for the purposes of the National Environmental Policy Act of 1969 (NEPA). In accordance with 42 U.S.C. 4336 and DOT NEPA Order 5610.1C, FRA has determined that this rule is categorically excluded pursuant to 23 CFR 771.118(c)(4), “[p]lanning and administrative activities that do not involve or lead directly to construction, such as: [p]romulgation of rules, regulations, and directives.”

This rulemaking is not anticipated to result in any environmental impacts, and there are no unusual or extraordinary circumstances present in connection with this rulemaking.

F. Federalism Implications

This final rule will not have a substantial effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Thus, in accordance with E.O. 13132, “Federalism” (64 FR 43255, Aug. 10, 1999), preparation of a Federalism Assessment is not warranted.

G. Unfunded Mandates Reform Act of 1995

This final rule will not result in the expenditure, in the aggregate, of \$100,000,000 or more, adjusted for inflation, in any one year by State, local, or Indian Tribal governments, or the private sector. Thus, consistent with section 202 of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4, 2 U.S.C. 1532), FRA is not required to prepare a written statement detailing the effect of such an expenditure.

H. Energy Impact

E.O. 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use (66 FR 28355, May 22, 2001), requires Federal agencies to prepare a Statement of Energy Effects for any “significant energy action.” FRA has evaluated this rule in accordance with E.O. 13211 and determined that this rule is not a

“significant energy action” within the meaning of E.O. 13211.

I. E.O. 13175 (Tribal Consultation)

FRA has evaluated this final rule in accordance with the principles and criteria contained in E.O. 13175, Consultation and Coordination with Indian Tribal Governments, (Nov. 6, 2000). The final rule would not have a substantial direct effect on one or more Indian tribes, would not impose substantial direct compliance costs on Indian tribal governments, and would not preempt tribal laws. Therefore, the funding and consultation requirements of E.O. 13175 do not apply, and a tribal summary impact statement is not required.

J. International Trade Impact Assessment

The Trade Agreement Act of 1979 prohibits Federal agencies from engaging in any standards or related activities that create unnecessary obstacles to the foreign commerce of the U.S. Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards. This rulemaking is purely domestic in nature and is not expected to affect trade opportunities for U.S. firms doing business overseas or for foreign firms doing business in the U.S.

List of Subjects in 49 CFR Part 238

Fire prevention, Passenger equipment, Penalties, Railroad safety, Reporting and recordkeeping requirements.

The Final Rule

In consideration of the foregoing, FRA amends part 238 of chapter II, subtitle B of title 49, Code of Federal Regulations as follows:

PART 238—PASSENGER EQUIPMENT SAFETY STANDARDS

1. The authority citation for part 238 continues to read as follows:

Authority: 49 U.S.C. 20103, 20107, 20133, 20141, 20302-20303, 20306, 20701-20702, 21301-21302, 21304; 28 U.S.C. 2461 note; and 49 CFR 1.89.

2. In § 238.11, revise paragraph (a) to read as follows:

§ 238.11 Penalties.

(a) Any person, as defined in § 238.5, who violates any requirement of this part or causes the violation of any such requirement is subject to a civil penalty of at least the minimum civil monetary penalty and not more than the ordinary maximum civil monetary penalty per violation. However, penalties may be assessed against individuals only for willful violations, and a penalty not to exceed the aggravated maximum civil monetary penalty per violation may be assessed, where a grossly negligent violation, or a pattern of repeated violations, has created an imminent hazard of death or injury to persons, or a death or injury has occurred. See 49 CFR part 209, appendix A. Each day a violation continues shall constitute a separate offense. See FRA's website at <https://railroads.dot.gov/> for a statement of agency civil penalty policy.

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3. In § 238.21, revise paragraphs (b)(1), (c)(1), and (d) to read as follows:

§ 238.21 Special approval procedure.

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(b) * * *

(1) The name, title, address, e-mail address, and telephone number of the primary person to be contacted with regard to review of the petition;

* * * * *

(c) * * *

(1) The name, title, address, e-mail address, and telephone number of the primary person to be contacted with regard to the petition;

* * * * *

(d) *Petitions for special approval of pre-revenue service acceptance testing plan.*

(1) Each petition for special approval of a pre-revenue service acceptance testing plan shall contain—

(i) The name, title, address, e-mail address, and telephone number of the primary person to be contacted with regard to review of the petition; and

(ii) The elements prescribed in § 238.111.

(2) Each petition for special approval of the pre-revenue service acceptance testing plan shall be submitted to the Associate Administrator, Federal Railroad Administration, via e-mail to *FRAwaivers@dot.gov*.

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4. In § 238.203, revise paragraphs (d)(3)(i) and (e) to read as follows:

§ 238.203 Static end strength.

* * * * *

(d) * * *

(3) * * *

(i) The name, title, address, e-mail address, and telephone number of the primary person to be contacted with respect to the petition;

* * * * *

(e) *Service.* Each petition shall be submitted to the Associate Administrator for Railroad Safety, Federal Railroad Administration, via e-mail to *FRAwaivers@dot.gov*.

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5. In § 238.229, revise the last sentence of paragraph (d) to read as follows:

§ 238.229 Safety appliances—general.

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(d) * * * When appropriate, civil penalties for improperly using or hauling a piece of equipment with a defective welded safety appliance or safety appliance bracket

or support addressed in this section will be assessed as an improperly applied safety appliance pursuant to the penalty schedule on FRA's website at <https://railroads.dot.gov/> under the appropriate defect code contained therein.

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6. In § 238.230, revise the last sentence of the introductory text to paragraph (c) and the last sentence of paragraph (e) to read as follows:

§ 238.230 Safety appliances—new equipment.

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(c) * * * When appropriate, civil penalties for improperly using or hauling a piece of equipment with a defective welded safety appliance or safety appliance bracket or support addressed in this section will be assessed pursuant to the penalty schedule on FRA's website at <https://railroads.dot.gov/> under the appropriate defect code contained therein.

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(e) * * * Civil penalties will be assessed under part 231 of this chapter by using the applicable defect code contained on FRA's website at <https://railroads.dot.gov/>.

7. In § 238.505, revise paragraphs (a) and (b) to read as follows:

§ 238.505 Program approval procedure.

(a) *Submission.* Not less than 90 days prior to commencing passenger operations using Tier II passenger equipment, each railroad to which this subpart applies shall submit for approval an inspection, testing, and maintenance program for that equipment meeting the requirements of this subpart with the Associate Administrator for Railroad Safety, Federal Railroad Administration, via e-mail to FRAwaivers@dot.gov. If a railroad seeks to amend an approved program, the railroad shall file with FRA's Associate Administrator for Railroad Safety a petition for approval of such amendment not less than 60 days prior to the proposed effective date of the amendment. A program

responsive to the requirements of this subpart or any amendment to the program shall not be implemented prior to FRA approval.

(1) Each program or amendment under § 238.503 shall contain:

(i) The information prescribed in § 238.503 for such program or amendment;

(ii) The name, title, address, e-mail address and telephone number of the primary person to be contacted with regard to review of the program or amendment; and

(iii) A statement affirming that the railroad has served a copy of the program or amendment on designated representatives of railroad employees, together with a list of the names and addresses of persons served.

(2) Each railroad shall serve a copy of each submission to FRA on designated representatives of railroad employees responsible for the equipment's operation, inspection, testing, and maintenance under this subpart.

(b) *Comment.* Not later than 45 days from the date of filing the program or amendment, any person may comment on the program or amendment.

(1) Each comment shall set forth specifically the basis upon which it is made, and contain a concise statement of the interest of the commenter in the proceeding.

(2) Each comment shall be submitted to the Associate Administrator for Railroad Safety, Federal Railroad Administration, via e-mail to *FRAwaivers@dot.gov*.

(3) The commenter shall certify that a copy of the comment was served on the railroad.

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8. In appendix H, revise the fourth sentence of paragraph (b) to read as follows:

Appendix H to Part 238—Rigid Locomotive Design Computer Model Input Data and Geometrical Depiction

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(b) * * * The input data is contained in appendix C to FRA's Technical Criteria and Procedures Report, available at

https://railroads.dot.gov/elibrary/technical-criteria-and-procedures-evaluating-crashworthiness-and-occupant-protection#p4_z50_gD_IRT.

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Issued in Washington, DC.

Kyle D. Fields,
Chief Counsel.

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