



DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 215

[Docket No. FRA-2025-0119]

RIN 2130-AD55

Regulatory Relief for End of Car Cushioning Units

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: FRA proposes to amend regulations concerning freight car draft arrangement and end-of-car cushioning units (EOCCs) to make regulatory relief now provided by waiver permanent. The amendments would allow a freight car to remain in service if the EOCC is operative and equipped with a unit condition indicator (UCI) that indicates a non-discharged EOCC. This change would permit those EOCCs to remain in service despite the presence of clearly formed oil droplets on the unit. The amendments, if finalized, preserve the requirement to repair or replace an EOCC with clearly formed oil droplets if the unit does not have a UCI.

DATES: Comments on the proposed rule must be received by [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. FRA may consider comments received after that date, but only to the extent practicable.

ADDRESSES: *Comments:* Comments related to Docket No. FRA-2025-0119 may be submitted by going to <https://www.regulations.gov> and following the online instructions for submitting comments.

Instructions: All submissions must include the agency name, docket number (FRA-2025-0119), and Regulatory Identification Number (RIN) for this rulemaking

(2130-AD55). All comments received will be posted without change to <https://www.regulations.gov>; this includes any personal information. Please see the Privacy Act heading in the **SUPPLEMENTARY INFORMATION** section of this document for Privacy Act information related to any submitted comments or materials.

Docket: For access to the docket to read background documents or comments received, go to <https://www.regulations.gov> and follow the online instructions for accessing the docket.

FOR FURTHER INFORMATION CONTACT: Caleb Rogers, Mechanical Engineer, Office of Railroad Safety, at email: caleb.rogers@dot.gov or telephone: 202-579-5198 or Elliott Gillooly, Attorney Adviser, at email: elliott.gillooly@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, FRA is reviewing its regulatory requirements in parts 200 through 299 of title 49, Code of Federal Regulations (CFR). Title 49 CFR part 215 establishes railroad freight car safety requirements. Some of the requirements contained in part 215 can be updated to reduce burdens, make technical or conforming changes, or otherwise adjust to advancing technology without any adverse effect on railroad safety. FRA proposes in this NPRM to address a request from the Association of American Railroads (AAR) to incorporate regulatory relief now granted through an FRA waiver into part 215 by allowing freight cars with an EOCC that has leaked clearly formed droplets to remain in service if the cushioning unit is otherwise operational and equipped with a UCI that shows the unit has adequate pressure despite the presence of leaked oil on the exterior of the unit.

An EOCC is a device installed on the ends of railroad freight cars designed to absorb shocks and forces during rail operations (similar to shock absorbers on motor vehicles). These units are designed to absorb energy from buff and draft forces and impacts, preventing cargo from shifting and damage to the freight car draft system that could lead to a derailment. An EOCC must contain sufficient oil for the unit to function as designed (i.e., for the unit adequately to absorb energy from in-train forces and potential impacts). Accordingly, FRA's Railroad Freight Car Safety Standards, 49 CFR part 215, prohibit a rail car from continuing in service if its EOCC is broken or inoperative (§ 215.129), which is a requirement that FRA does not intend to remove. Instead, FRA is proposing to remove § 215.127(c), which contains the prohibition that a freight car cannot continue in service if the EOCC is leaking "clearly formed droplets," even though the EOCC may still be operational. FRA will also make conforming changes to § 215.129 as detailed in the Section-by-Section Analysis, below, to address the difference between EOCCs that have a UCI and those that do not.

UCIs are devices that railroad employees can use to monitor the condition of EOCCs. Insufficient internal pressure can be detected when a button on the UCI is pressed. If there is insufficient pressure in the EOCC, the button will remain depressed. Accordingly, in 2013, FRA granted AAR member railroads relief from § 215.127(c)(1) if a railroad freight car's cushioning unit is equipped with a UCI that indicates the unit is not defective.¹ This relief prevents railroad employees from having to unnecessarily remove functioning cushioning units that may be leaking clearly formed droplets of oil but are still functioning properly. Cushioning units are heavy and require freight cars to be jacked to be removed, and as such, the process presents inherent safety risks to railroad employees. The use of UCIs has allowed railroads to avoid unnecessary repairs of functioning cushioning units.

¹ See Docket No. FRA-2013-0077, available at <https://www.regulations.gov>.

Since issuance of this waiver, AAR member railroads have seen a significant decrease in the number of cars that must be removed from service because the cushioning unit was identified as leaking. At the same time, the number of cars removed from service because the UCI indicates the cushioning unit is defective has increased. An industry standard (AAR Field Manual Rule 59) governs the use of UCIs to determine whether cushioning units are safe and acceptable for continued service. Using this standard (and as older cushioning units without UCIs age out of service), the number of cars removed from service because of leakage will continue to decline. FRA is proposing to incorporate the terms of the waiver into the Freight Car Safety Standards as follows.

II. Section-by-Section Analysis

Section 215.127 Defective Draft Arrangement

Section 215.127 addresses various components making up the draft arrangement of a freight car. If any of those components are missing or inoperative, the freight car cannot be safely used in service. As stated above, the prohibition on continuing a freight car in service with an inoperative EOCC is being preserved, but it would be moved to § 215.129. Concurrently, FRA proposes to clarify in § 215.129 that an EOCC leaking clearly formed droplets is a condition requiring a car to be held out of service only when the EOCC is not equipped with a UCI.

If the car is equipped with a UCI, railroads should rely on it instead of the formation of oil droplets to determine the condition of the EOCC. Under excessive loading conditions and pressures, some fluid may seep past the unit's seal, with the seepage accumulating and forming "clearly formed droplets." That seepage serves to relieve pressure within the EOCC but does not necessarily mean that the EOCC is not functioning properly.

Section 215.129 Defective Cushioning Device

Section 215.129 currently states that a railroad may not place or continue in service a car if it has an EOCC that is broken, inoperative, or missing a part. To incorporate the relief described above, FRA is proposing to add that a car also cannot be placed or continued in service if the EOCC is leaking clearly formed droplets and not equipped with a UCI, or if it is equipped with a UCI that indicates a discharged cushioning unit.

III. Regulatory Impact and Notices

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

FRA has considered the impact of this NPRM under E.O. 12866 (58 FR 51735, Oct. 4, 1993), Regulatory Planning and Review, and DOT Regulatory Policies and Procedures. The Office of Management and Budget's Office of Information and Regulatory Affairs determined that this NPRM is not a significant regulatory action under section 3(f) of E.O. 12866.

FRA analyzed the potential costs and benefits of this proposed rule. Railroads would benefit from this regulatory relief because they would not be obligated to withhold cars from service based solely on the presence of oil on the exterior of an EOCC. This would reduce costs associated with those freight cars equipped with a UCI that have safe and operational EOCCs by eliminating unnecessary downtime and unnecessary replacement of EOCCs that still have a useful service life. In addition, railroads or their industry association would no longer be required to submit periodic, repetitive waiver requests related to the current regulatory requirement.

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

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

ten prior regulations be identified for elimination.”² Implementation guidance for E.O. 14192 issued by OMB (Memorandum M-25-20, Mar. 26, 2025) defines two different types of E.O. 14192 actions: an E.O. 14192 deregulatory action, and an E.O. 14192 regulatory action.³

An E.O. 14192 deregulatory action is defined as “an action that has been finalized and has total costs less than zero.” This proposed rulemaking is expected to have total costs less than zero, and therefore it would be considered an E.O. 14192 deregulatory action upon issuance of a final rule. While FRA affirms that each amendment proposed in this NPRM has a cost that is “less than zero” consistent with E.O. 14192, FRA requests comment on the extent of the cost savings for the changes proposed in this NPRM.

C. Regulatory Flexibility Act and E.O. 13272

The Regulatory Flexibility Act (5 U.S.C. 601 et seq.), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996,⁴ requires Federal agencies to consider the effects of the regulatory action on small business and other small entities and to minimize any significant economic impact. Accordingly, DOT policy requires an analysis of the impact of all regulations on small entities, and mandates that agencies strive to lessen any adverse effects on these businesses. The term *small entities* comprises small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000 (5 U.S.C. 601(6)).

No regulatory flexibility analysis is required, however, if the head of an Agency or an appropriate designee certifies that the rule will not have a significant economic

² Executive Office of the President. *Executive Order 14192 of January 31, 2025. Unleashing Prosperity Through Deregulation*. 90 FR 9065-9067. Feb. 6, 2025.

³ 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.

⁴ Pub. L. 104–121, 110 Stat. 857 (Mar. 29, 1996).

impact on a substantial number of small entities. This proposed rule would not preclude small entities from continuing existing practices that comply with part 215; it merely offers flexibilities that could result in cost savings, if a small entity or other regulated entity chooses to utilize those flexibilities. By extending this regulatory relief, many regulated entities, including small entities, would experience a cost savings. Consequently, FRA certifies that the proposed action would not have a significant economic impact on a substantial number of small entities.

In accordance with section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121, 110 Stat. 857), FRA wants to assist small entities in understanding this proposed rule so they can better evaluate its effects on themselves and participate in the rulemaking initiative. If the proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

D. Paperwork Reduction Act

This proposed rule contains 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 OMB is not required. The recordkeeping and reporting requirements already contained in part 215 became effective when it was approved by OMB on April 24, 2023. The OMB control number is 2130-0519, and OMB approval expires on April 30, 2026.

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.

Pursuant to Section 106 of the National Historic Preservation Act and its implementing regulations, FRA has determined this undertaking has no potential to affect historic properties. FRA has also determined that this rulemaking does not approve a project resulting in a use of a resource protected by Section 4(f).

F. Federalism Implications

This proposed 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 proposed rule would 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 requires Federal agencies to prepare a Statement of Energy Effects for any “significant energy action.”⁵ FRA has evaluated this proposed rule in accordance with E.O. 13211 and determined that this proposed rule is not a “significant energy action” within the meaning of E.O. 13211.

I. E.O. 13175 (Tribal Consultation)

⁵ 66 FR 28355 (May 22, 2001).

FRA has evaluated this proposed rule in accordance with the principles and criteria contained in E.O. 13175, Consultation and Coordination with Indian Tribal Governments, dated November 6, 2000. The proposed 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 1979⁶ prohibits Federal agencies from engaging in any standards or related activities that create unnecessary obstacles to the foreign commerce of the United States. 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 United States.

K. Privacy Act Statement

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to <http://www.regulations.gov>, as described in the system of records notice, DOT/ALL-14 FDMS, accessible through www.transportation.gov/privacy. To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you

⁶ 19 U.S.C. ch. 13.

wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

L. Rulemaking Summary

As required by 5 U.S.C. 553(b)(4), a summary of this rule can be found at regulations.gov, Docket No. FRA-2025-0119, in the SUMMARY section of this proposed rule.

List of Subjects in 49 CFR Part 215

Freight, Penalties, Railroad safety, Reporting and recordkeeping requirements.

The Proposed Rule

For the reasons discussed in the preamble, FRA proposes to amend part 215 of chapter II, subtitle B of title 49, Code of Federal Regulations as follows:

PART 215—RAILROAD FREIGHT CAR SAFETY STANDARDS

1. The authority citation for part 215 continues to read as follows:

Authority: 49 U.S.C. 20102-03, 20107, 20171; 28 U.S.C. 2461; and 49 CFR 1.89.

2. Amend § 215.127 by removing paragraph (c) and redesignating paragraphs (d), (e), and (f) as paragraphs (c), (d), and (e), to read as follows:

§ 215.127 Defective draft arrangement.

A railroad may not place or continue in service a car, if—

- (a) The car has a draft gear that is inoperative;
- (b) The car has a broken yoke;
- (c) A vertical coupler pin retainer plate—
 - (1) Is missing (except by design); or
 - (2) Has a missing fastener;
- (d) The car has a draft key, or draft key retainer, that is—
 - (1) Inoperative; or

- (2) Missing; or
- (e) The car has a missing or broken follower plate.

3. Amend § 215.129 by redesignating paragraph (c) as paragraph (e), and adding new paragraphs (c) and (d) and to read as follows:

§ 215.129 Defective cushioning device.

A railroad may not place or continue in service a car if it has a cushioning device that is—

- (a) Broken;
- (b) Inoperative;
- (c) Leaking clearly formed droplets, when not equipped with a unit condition indicator (UCI);
- (d) Equipped with a UCI that indicates a discharged cushioning unit; or
- (e) Missing a part – unless its sliding components have been effectively immobilized.

Issued in Washington, DC.

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[FR Doc. 2025-12187 Filed: 6/27/2025 4:15 pm; Publication Date: 7/1/2025]