



DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 215

[Docket No. FRA-2025-0118]

RIN 2130-AD54

Removing Stenciling Requirement for Freight Cars Used for Tourist, Historic, Excursion, Educational, Recreational, or Private Purposes and Not Interchanged

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: FRA proposes to exclude railroad freight cars used exclusively for tourist, historic, excursion, educational, recreational, or private purposes and that are not interchanged from the requirement that all restricted freight cars, including cars more than 50 years old, be stenciled with specific information.

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-2025-0118 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-2025-0118), and Regulatory Identification Number (RIN) for this rulemaking (2130-AD54). 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: Steven Zuiderveen, Railroad Safety Specialist, Office of Railroad Safety, at email: steven.zuiderveen@dot.gov or telephone: (202) 493-6337 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 exempt freight cars used for tourist, historic, excursion, educational, recreational, or private purposes (THEERP) from the general stenciling requirement applicable to restricted cars, provided such THEERP cars are not interchanged among railroads, for the reasons discussed in the below section-by-section analysis.

II. Section-by-Section Analysis

Section 215.303 Stenciling of Restricted Cars

Section 215.303 currently requires any car described in “§ 215.205(a)” of this part to be stenciled or marked to display certain information relevant to restricted freight cars, such as the car's age and those components needed to completely indicate the basis for the restricted operation of the car. FRA proposes to exempt THEERP cars from this

requirement based on requests from the owners and operators of such cars and the review and recommendations of FRA's Railroad Safety Advisory Committee (RSAC) working group assigned to this topic.¹ In addition, FRA intends to correct the reference to § 215.205(a), which is a typographical error, with the correct reference to § 215.203(a).

The proposed exclusion of THEERP freight cars from the general stenciling requirement applicable to restricted cars is intended to reduce burdens on the owners and operators of this equipment. This regulatory relief would incorporate long-standing waivers granted by FRA to individual THEERP owners and operators. This relief would also not diminish safety, as each freight car that is a restricted car, as freight cars are under § 215.203(a) when they become more than 50 years old, is still subject to § 215.203(a) and its safety requirements.²

In addition to petitions for waivers from stenciling requirements, FRA has also historically received petitions from many of the same THEERP car owners or operators requesting that FRA waive reflectorization requirements. FRA published an NPRM on the subject of reflectorization on July 21, 2022 (87 FR 43467) and intends that any final rule following from that NPRM will be consistent with the currently proposed amendments to § 215.303.

III. Regulatory Impact and Notices

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

¹In April 1996, the RSAC formed the Tourist and Historic Railroads and Private Passenger Car Working Group (Working Group). Since that time, the Working Group has considered numerous issues affecting tourist and historic rail operations and, in 2014, identified issues involving FRA's regulatory treatment of tourist, scenic, historic, excursion, educational or recreational rail operations or private passenger rail car operations, including stenciling requirements. See RSAC Meeting Minutes, available at <https://rsac.fra.dot.gov/radems.rsac/File/DownloadFile?id=44>.

² FRA is publishing an NPRM proposing to revise § 215.203(a) concurrently with this NPRM. Thus, FRA proposes to clarify in both § 215.203 and § 215.303 that THEERP cars will be exempted from stenciling requirements, but not from other requirements applicable to restricted cars.

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 (or other owners of THEERP cars) would benefit from this regulatory relief because they would not incur the costs of stenciling and marking cars that are used for tourist, historic, excursion, educational, recreational, or private purposes and not interchanged. In addition, the proposed amendments would reduce costs for the owners of these cars as they would no longer be required to file individual petitions for waivers from the stenciling requirements.

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.”³ 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.⁴

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

³ Executive Office of the President. *Executive Order 14192 of January 31, 2025. Unleashing Prosperity Through Deregulation.* 90 FR 9065-9067. Feb. 6, 2025.

⁴ 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.

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 1996,⁵ 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 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

⁵ Pub. L. 104–121, 110 Stat. 857 (Mar. 29, 1996).

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

The recordkeeping and reporting requirements already contained in part 215 became effective when the information collection request was approved by OMB on April 24, 2023. The OMB control number is 2130-0519, and OMB approval expires on April 30, 2026. However, the stenciling requirement for restricted cars has not previously been reported as a burden under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.). This NPRM proposes a deregulatory action and FRA anticipates that the overall burden on owners and operators of restricted cars will be reduced relative to the existing regulatory requirements. FRA requests public comment on any PRA burdens associated with the proposed amendments to § 215.303.

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.”⁶ 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)

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.

⁶ 66 FR 28355 (May 22, 2001).

J. International Trade Impact Assessment

The Trade Agreement Act of 1979⁷ 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 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](http://www.regulations.gov), Docket No. FRA-2025-0118, in the SUMMARY section of this proposed rule.

List of Subjects in 49 CFR Part 215

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

⁷ 19 U.S.C. ch. 13.

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.

§ 215.303 [Amended]

2. Amend § 215.303 by revising paragraph (a) to read as follows:

§ 215.303 Stenciling of restricted cars.

(a) Each restricted railroad freight car that is described in § 215.203(a) of this part, except for railroad freight cars used exclusively for tourist, historic, excursion, educational, recreational, or private purposes and that are not interchanged, shall be stenciled, or marked—

* * * * *

Issued in Washington, DC.

Kyle D. Fields,
Chief Counsel.

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