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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: Final rule.

SUMMARY: This rule amends freight car draft arrangement and end-of-car cushioning unit (EOCC) regulations to make permanent relief currently provided by waiver. The amendments will 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 will permit such EOCCs to remain in service despite the presence of clearly formed oil droplets on the unit. The amendments preserve the requirement to repair or replace an EOCC with clearly formed oil droplets if the unit does not have a UCI.

DATES: This rule is effective [**INSERT 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER***].

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SUPPLEMENTARY INFORMATION:

I. Background and Comments Received in Response to the NPRM

Consistent with Executive Order (E.O.) 14192, *Unleashing Prosperity Through Deregulation* (90 FR 9065, Feb. 6, 2025), and E.O. 14219, *Ensuring Lawful Governance and Implementing the President's "Department of Government Efficiency" Deregulatory Initiative* (90 FR 10583, Feb. 25, 2025), FRA is reviewing its regulatory requirements in 49 CFR parts 200 through 299 and repealing requirements that are outdated and redundant.

On July 1, 2025, FRA published a notice of proposed rulemaking (NPRM) to address a request from the Association of American Railroads (AAR) to incorporate regulatory relief currently granted through an FRA waiver[1] 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. 90 FR 28636 (July 1, 2025).

An EOCC is a device installed on the ends of railroad freight cars designed to absorb shocks and forces during rail operations (similar in purpose to shock absorbers on motor vehicles). An EOCC must contain sufficient oil for the unit to function as designed (*i.e.*, for the unit to absorb energy adequately 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 remains in force. FRA is removing § 215.127(c), which prohibits a freight car continuing in service if the EOCC is leaking "clearly formed droplets," even though the EOCC may still be operational. FRA is making conforming changes to § 215.129, to address the difference between EOCCs that have a UCI and those that do not and apply this approach to both EEOCs and center-of-car cushioning

[1] Available at *https://www.regulations.gov* under Docket No. FRA-2013-0077.

units (COCCs). As amended in this final rule, § 215.129 now applies the same standards to both EOCCs and COCCs, specifically when evaluating whether there is a fluid leak indicative of a defective cushioning unit.

FRA received six comment letters responding to the NPRM. In support of the amendments proposed in the NPRM, Amsted Rail Company, Inc. (Amsted Rail)[2] stated that it is the largest manufacturer of EOCCs for the North American freight railroad industry. Amsted Rail observed that EOCCs are typically installed in railcars carrying expensive or fragile lading and that approximately 16.75 percent (over 274,000 cars) in the overall railcar fleet are equipped with EOCCs. According to Amsted Rail, UCIs now in service meet AAR specification M-921H and, thus, provide a reliable indication of whether cushioning units to which they are applied are acceptable for rail service or require maintenance. Unnecessary EOCC removals from service are costly to both the railroad and the freight car owner, and Amsted Rail supports codifying the regulatory relief provided by waiver since 2013 because UCIs have been proven reliable over time.

AAR and the American Short Line and Regional Railroad Association (ASLRRA) filed comments jointly.[3] AAR and ASLRRA commented that UCIs operate as a gauge of sufficient internal pressure to monitor the condition of a railcar's EOCC. The use of UCIs allows railroads to make more accurate determinations than relying on visual observations of "clearly formed droplets" when assessing if the EOCC is defective. AAR data shows that, since the waiver allowing railroads to rely on UCIs for the determination that an EOCC lacks sufficient pressure has been in place, the number of EOCCs removed from service has increased. AAR and ASLRRA commented that effective use of UCIs protects railroad employees from needless exposure to switching hazards and hazards related to jacking freight cars and removing and replacing heavy

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[2] *https://www.regulations.gov/comment/FRA-2025-0119-0002.*

[3] *https://www.regulations.gov/comment/FRA-2025-0119-0007.*

cushioning units because railroads can leave fully functioning cushioning units in place. They also noted that the regulatory relief proposed in the NPRM would relieve the associations from the costs of submitting waiver petitions every five years.

Four organizations filed comments in opposition to the regulatory relief proposed in the NPRM: the Brotherhood Railway Carmen Division of the Transportation Communications Union (BRC),[4] the Brotherhood of Locomotive Engineers and Trainmen, a Division of the Rail Conference of the International Brotherhood of Teamsters (BLET),[5] the Transportation Trades Department, AFL-CIO (TTD),[6] and the Transportation Division of the International Association of Sheet Metal, Air, Rail and Transportation Workers (SMART-TD).[7] Each of these organizations raised concerns with allowing EOCCs to remain in service despite the presence of clearly formed oil droplets. The organizations generally challenged the effectiveness of UCIs as accurate indicators of EOCC condition and highlighted the safety issues associated with defective EOCCs.

BLET commented that an EOCC leaking oil in any amount indicates that the seal has degraded and there is less oil in the cylinder to cushion in-train forces. According to BLET, while a single drop of leaked oil may not degrade the condition of the EOCC to an unacceptable level, it does indicate that the EOCC is deteriorating and that additional steps are necessary to test the device to ensure it is safe. Similarly, SMART-TD stated that when an EOCC leaks oil, it signals a loss of sealing integrity and a degradation of its designed ability to absorb forces. TDD stated that a single drop of leaked oil indicates the EOCC is deteriorating, the seal within the device has degraded, and there is less oil in the cylinder. BRC stated even minor oil leakage can indicate internal seal degradation or pressure loss, both of which compromise the cushioning system's shock absorption

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[4] *https://www.regulations.gov/comment/FRA-2025-0119-0005.*

[5] *https://www.regulations.gov/comment/FRA-2025-0119-0003.*

[6] *https://www.regulations.gov/comment/FRA-2025-0119-0006.*

[7] *https://www.regulations.gov/comment/FRA-2025-0119-0004.*

ability. In sum, the commenters believe that EOCC effectiveness should be confirmed as soon as oil droplets are detected.

Each organization opposing the NPRM argued that UCIs are imperfect indicators of EOCC condition under particular operating conditions, or that they do not confirm the safety of the equipment under all conditions. BRC stated that UCIs only verify minimum hydraulic pressure and do not measure dynamic performance under load, temperature, or stress. BRC also asserts that its members have found defective in-train EOCCs with UCIs that fail to indicate discharged pressure in the EOCC. TTD adds that UCIs can fail to function, so the use of a UCI does not necessarily prove that an EOCC is safe. TTD believes that no EOCC leaking oil should be allowed to remain in service (*i.e.*, that it "should be proven safe prior to leaving the initial terminal—not leaking").

Each organization commenting in opposition to the NPRM also highlighted the importance of functioning EOCCs for safe train handling. TTD commented that EOCC malfunction can lead to cascading mechanical issues and that an EOCC without the proper amount of oil pressure can cause abnormal wear on the other coupler components. In addition, normal slack and tension motion during travel or coupling without a properly functioning EOCC may result in freight load shifts. SMART-TD commented that a degraded EOCC will allow more violent run-ins/outs, amplified slack action that will break knuckles, drawbars and trigger derailments, and a loss of predictable train dynamics, and conductors riding equipment during switching may be exposed to sudden shocks that will increase the risk of injury. BRC commented that trains are longer and heavier than ever, and that these extended consists produce intense longitudinal forces during braking, acceleration, and slack action. BRC added that an EOCC that leaks and operates marginally under these conditions can elevate the risk of in-train derailments, coupler separations, or car body damage.

FRA agrees that a defective EOCC is a safety issue. However, 12 years of experience under the current waiver allowing the use of UCIs as a primary indicator of EOCC condition has shown that visible oil droplet seepage does not accurately identify a defective EOCC. Hydraulic seals within EOCCs require a lubricating film of fluid across the piston rod interface to ensure low friction and extended service life. The appearance of small amounts of weeping oil is considered normal.

This final rule maintains the prohibition on placing a freight car in service if it is equipped with a broken or inoperative EOCC, even if the UCI indicates acceptable internal pressure. For example, a unit is broken or inoperative if the front or rear lugs are broken or missing, or if it is otherwise not performing its intended function of absorbing shocks and impacts. A striker casting that exhibits fresh "batter marks" is generally an indication of a defective draft system component.

The UCI is the means of testing the EOCC to ensure it has adequate internal pressure, despite the observation of oil droplets. The hydraulic fluid and the nitrogen gas pre-charge operate within a single, sealed chamber in the EOCC. An impairment of the sealing system that permits the escape of the nitrogen gas charge will concurrently allow the loss of hydraulic fluid. Therefore, the indication of the unit's inability to maintain adequate internal gas pressure, as confirmed by the UCI, serves as the confirmation that the system has failed containment, and that excessive fluid loss has occurred. The UCI allows this test to be completed without setting the car out of a train and adds a more reliable means of determining EOCC condition than visual observation for the presence of leaked oil, which is not itself a dispositive indicator of EOCC functionality.

FRA has also considered that railroad operating rules generally guide the placement and number of cars with EOCCs based on train length and territorial conditions. FRA agrees with comments that average train length on some railroads has increased over time and that defective EOCCs can contribute to other mechanical failures

or adversely affect in-train dynamics. However, the regulatory relief provided by this rule will not permit defective EOCCs to remain in service.

This rule is focused on allowing the use of UCIs as a more reliable means of testing internal pressure than visual observation of oil droplets. Commenters opposing this rule have correctly observed the importance of operational EOCCs without supporting their predictions that the continued use of UCIs, consistent with FRA's longstanding waiver on this subject, will cause more defective EOCCs to continue in service. To the contrary, data provided by AAR indicates that more EEOCs have been removed from service annually in the years since the waiver incorporated by this rule was issued in 2013.[8] EOCCs are removed for several reasons, including that they are broken or that the UCI indicates that they are defective or, in some cases, because they are leaking. These and other indicators are all valid indicators or reasons to remove an EOCC. The presence of a small number of oil droplets on the EOCC is not.

II. Section-by-Section Analysis

For the foregoing reasons and the reasons discussed in the NPRM, FRA is adopting the revisions to sections 215.127 and 215.119 as proposed in the NPRM. See the Section-by-Section Analysis in the NPRM for further information.

III. Regulatory Impact and Notices

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

FRA has considered the impact of this final rule under E.O. 12866 (58 FR 51735, Oct. 4, 1993), *Regulatory Planning and Review*, and DOT Regulatory Policies and

[8] AAR submitted this data at *https://www.regulations.gov/document/FRA-2013-0077-0012* in support of its 2024 request to extend the waiver allowing the use of UCIs to determine EOCC condition and it resubmitted the data in response to the NPRM.

Procedures.[9] 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.

FRA analyzed the potential costs and benefits of this final rule. Railroads will benefit from this regulatory relief because they will not be obligated to withhold cars from service based solely on the presence of oil on the exterior of an EOCC. This will 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 associations will no longer be required to submit periodic, repetitive waiver requests related to the current regulatory requirement. By making the waiver permanent, stakeholders will see a cost savings in opportunity costs associated with the time previously spent completing and submitting waiver requests. The Government will also see some cost savings by no longer having to allocate resources to process these waivers.

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

E.O. 14192, *Unleashing Prosperity Through Deregulation*, requires that for "each new [E.O. 14192 regulatory action] issued, at least ten prior regulations be identified for elimination."[10] 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.[11]

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[9] 49 CFR part 5; *see also* DOT Order 2100.6B, Policies and Procedures for Rulemakings, available at *https://www.transportation.gov/regulations/dot-order-21006b-policies-and-procedures-rulemakings*; DOT Order 2100.7, Ensuring Reliance Upon Sound Economic Analysis in Department of Transportation Policies, Programs, and Activities, available at *https://www.transportation.gov/mission/ensuring-reliance-upon-sound-economic-analysis-department-transportation-policies-programs*.

[10] Executive Office of the President, *Executive Order 14192 of January 31, 2025*, *Unleashing Prosperity Through Deregulation*, 90 FR 9065–9067 (Feb. 6, 2025).

[11] 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).

An E.O. 14192 deregulatory action is defined as "an action that has been finalized and has total costs less than zero." This rule is expected to have total costs less than zero, and it will therefore be considered an E.O. 14192 deregulatory action upon issuance.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) as amended by the Small Business Regulatory Enforcement Fairness Act of 1996,[12] 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. The regulatory relief provided by this rule will result in cost savings for many regulated entities, including small entities. Consequently, FRA certifies that this final rule will not have a significant economic impact on a substantial number of small entities.

D. Paperwork Reduction Act

This final 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.

E. Environmental Assessment

[12] Pub. L. No. 104–121, 110 Stat. 857 (Mar. 29, 1996).

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 5610.1D, FRA has determined that this rule is categorically excluded pursuant to 23 CFR 771.116(c)(15). 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. No. 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."[13] FRA has evaluated this final rule in accordance with E.O. 13211 and determined that this final rule is not a "significant energy action" within the meaning of E.O. 13211.

[13] 66 FR 28355 (May 22, 2001).

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* (65 FR 67249, Nov. 6, 2000). The final rule will not have a substantial direct effect on one or more Indian tribes, will not impose substantial direct compliance costs on Indian tribal governments, and will 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 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 final rule 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.

List of Subjects in 49 CFR Part 215

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

The Final Rule

For the reasons discussed in the preamble, FRA amends 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, D.C., under authority delegated in 49 CFR 1.89.

David A. Fink,
Administrator.

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