§ 213.63 Track surface.

(a) Except as provided in paragraph (b) of this section, each track owner shall maintain the surface of its track within the limits prescribed in the following table:

Track surface (inches)	Class of track				
	1	2	3	4	5
The deviation from uniform profile on either rail at the mid-ordinate of a 62-foot chord may not be more than	3	2¾	2¼	2	1¼
The deviation from zero crosslevel at any point on tangent or reverse crosslevel elevation on curves may not be more than	3	2	1¾	1¼	1
The difference in crosslevel between any two points less than 62 feet apart may not be more than * [1] [2]	3	2¼	2	1¾	1½
* Where determined by engineering decision prior to June 22, 1998, due to physical restrictions on spiral length and operating practices and experience, the variation in crosslevel on spirals per 31 feet may not be more than	2	1¾	1¼	1	¾

[1] Except as limited by § 213.57(a), where the elevation at any point in a curve equal or exceeds 6 inches, the difference in crosslevel within 62 feet between that point and a point with greater elevation may not be more than 1½ inches.

[2] However, to control harmonics on Class 2 through 5 jointed track with staggered joints, the crosslevel differences shall not exceed 1¼ inches in all of six consecutive pairs of joints, as created by seven low joints. Track with joints staggered less than 10 feet apart shall not be considered as having staggered joints. Joints within the seven low joints outside of the regular joint spacing shall not be considered as joints for purposes of this footnote.

* * * * *

Issued in Washington, DC, under authority delegated in 49 CFR 1.89.

David A. Fink,

Administrator.

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DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 215

[Docket No. FRA–2025–0118; Notice No. 2]

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: Final rule.

SUMMARY: This rule excludes 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: This rule is effective May 28, 2026.

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* or telephone (202) 897–8666.

SUPPLEMENTARY INFORMATION:

I. Background

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 parts 200 through 299 of title 49, Code of Federal Regulations (CFR) and repealing requirements that are outdated and redundant.

On July 1, 2025, FRA published a notice of proposed rulemaking (NPRM) providing FRA's reasons for exempting 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. 90 FR 28639. FRA received two comments on the NPRM. The first comment supported the proposed rule, stating that it ''allow[s] for relief of paperwork burdens and would not diminish safety expectations.'' The second comment opposed the proposed rule, stating that deregulation always benefits businesses and harms the American taxpayer. The comment in opposition was not specific to any aspect of the proposed rule and states an opinion only about deregulation generally. Accordingly, FRA is finalizing the rule without change for the reasons stated in the NPRM.

II. Section-by-Section Analysis

Section 215.303 Stenciling of Restricted Cars

Prior to this rule, section 215.303 required any car described in ''§ 215.205(a)'' of part 215 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 indicate completely the basis for the restricted operation of the car. FRA is exempting THEERP cars from this requirement. In addition, FRA is correcting the reference to section 215.205(a), which is a typographical error, with the correct reference to section 215.203(a). For more information, please see the Section-by-Section Analysis in the NPRM, as FRA is adopting the regulatory text as originally proposed.

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 final rule under E.O. 12866 (58 FR 51735, Oct. 4, 1993), Regulatory Planning and Review, and DOT Regulatory Policies and Procedures. The Office of Information and Regulatory Affairs within 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. This final rule excludes THEERP cars from being stenciled with specific information, and therefore, this final rule will impose no additional burdens on regulated entities. This final rule will provide some qualitative benefits to regulated entities,

by clarifying the language of part 215. In addition, railroads (or other owners of THEERP cars) will realize cost savings as they will not incur the costs of stenciling and marking cars that are used for tourist, historic, excursion, educational, recreational, or private purposes and not interchanged. Moreover, the amendments will result in cost savings for the owners of these cars as they will no longer be required to file individual petitions for waivers from the stenciling requirements. This final rule will also promote more efficient use of Government resources by reducing the time spent by FRA on reviewing and approving these types of waivers.

B. Executive Order 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.'' [1] 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.[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 will have total costs less than zero. Therefore, it will be considered an E.O. 14192 deregulatory action upon issuance. FRA affirms that each amendment in this final rule has a cost that is negligible or ''less than zero'' consistent with E.O. 14192.

C. Regulatory Flexibility Act and Executive Order 13272

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996,[3] and E.O. 13272 (67 FR 53461, Aug. 16, 2002) require 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. By extending this regulatory relief, many regulated entities, including small entities, will not experience any additional burdens. In fact, many of the small entities that would submit waiver petitions in the absence of this rule will now no longer have to submit such requests. While there is time saved by no longer being required to submit waiver requests, it is not expected to have a significant economic impact on small entities. Therefore, even if a significant number of small entities may be impacted by this rule, the impact will not be significant. 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 offers regulatory flexibilities, and it does not impose any new information collection requirements or modify any existing collection requirements. Stenciling requirements under section 215.303 have not previously been included in part 215 PRA burden estimates. Therefore, this rule has no effect on any OMB-approved collection of information, and a submission to OMB is not required under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501, *et seq.*

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 5610.1D, 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. 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.'' [4] 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.

I. Executive Order 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.

[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).

[3] Public Law 104–121, 110 Stat. 857 (Mar. 29, 1996).

[4] 66 FR 28355 (May 22, 2001).

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 § 215.303 by revising the introductory text of 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, under authority delegated in 49 CFR 1.89.

David A. Fink,

Administrator.

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DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 222

[Docket No. FRA–2025–0120; Notice No. 2]

RIN 2130–AD14

Regulatory Relief To Allow Speeds Up to 45 MPH for Non-Traversable Curbs

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

ACTION: Final rule.

SUMMARY: This rule revises the definition of a non-traversable curb in FRA's train horn regulation in conformance with five longstanding FRA waivers that allow highway speeds up to 45 miles per hour (mph) where these highway curbs are present in quiet zones established and maintained in accordance with the regulation.

DATES: This rule is effective May 28, 2026.

FOR FURTHER INFORMATION CONTACT: James Payne, Staff Director, Grade Crossing and Trespasser Outreach, FRA, telephone: (202) 441–2787, email: *James.Payne@dot.gov;* or Amanda Maizel, Attorney Adviser, FRA, telephone: (202) 308–3753, email: *Amanda.Maizel@dot.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

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 parts 200 through 299 of title 49, Code of Federal Regulations (CFR) and updating requirements to reduce unnecessary burdens without compromising transportation safety.

As part of this effort, on July 1, 2025, FRA published a notice of proposed rulemaking (NPRM) that proposed to revise the definition of a non-traversable curb to allow for speeds up to 45 mph.[1] The current definition of a non-traversable curb is established in 49 CFR part 222, Use of Locomotive Horns at Public Highway-Rail Grade Crossings. The definition describes a highway curb designed to discourage a motor vehicle from leaving the roadway and notes that this curb type is used at locations where highway speeds do not exceed 40 mph, in connection with quiet zones established and maintained in accordance with the regulation. At the time that 49 CFR part 222 was issued, the American Association of State Highway and Transportation Officials (AASHTO) provided guidance that vertical curbs should not be used with speeds greater than 40 mph. Subsequently, AASHTO modified its guidance stating that vertical curbs should not be used with speeds greater than 45 mph. FRA proposed to revise the definition in 49 CFR 222.9 to conform with AASHTO's updated guidance. In addition, revising this definition conforms with the waivers that FRA has previously granted to petitioners seeking relief from the requirement that medians with non-traversable curbing may not be used where highway speeds exceed 40 mph. *See* Docket Nos. FRA–2009–0066, 2010–0137, 2012–0030, 2012–0031, and 2012–0074.

FRA received three comments in response to the NPRM—comments from the Brotherhood of Maintenance of Way Employes Division of the International Brotherhood of Teamsters (BMWED), the Transportation Trades Department, AFL–CIO (TTD), and an anonymous individual. All three commenters were in support of this proposal, but BMWED and TTD recommended that FRA elaborate on appropriate engineering controls, consistent with those recommended by AASHTO. Specifically, BMWED and TTD expressed concern that the proposal raised the speed threshold and set a curb height requirement without referencing the additional design elements that AASHTO cites for vertical curb safety at 45 mph, such as adequate sight distance, superelevation and alignment compatibility, and drainage design. Both organizations, therefore, recommended that FRA explicitly reference AASHTO's Policy on Geometric Design of Highways and Streets (7th Edition, 2018) (''Green Book''), and clarify that the use of non-traversable curbs at speeds up to 45 mph should incorporate appropriate engineering controls consistent with AASHTO's guidance. As an alternative to that recommendation, BMWED proposed that FRA issue an accompanying guidance or regulatory commentary reminding State and local agencies that speed alone does not govern safe curb design.

While FRA declines to incorporate by reference AASHTO's Green Book, in response to this feedback, FRA is adding a recommendation in appendix A to part 222 that states the use of non-traversable curbs at speeds up to 45 mph should incorporate appropriate engineering controls such as those recommended by organizations such as AASHTO.

II. Section-by-Section Analysis

Section 222.9 Definitions

This final rule revises the definition of a non-traversable curb as proposed in the NPRM. The definition currently provides for use of such curbs at locations where highway speeds do not exceed 40 mph. The final rule allows use at locations where highway speeds do not exceed 45 mph. This final rule thereby codifies five longstanding waivers in connection with quiet zones established and maintained in accordance with FRA's train horn regulation.

[1] 90 FR 28646 (July 1, 2025).