

FRA Freight Car Safety Standards & Special Approval/Movement Authorization Processes

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Overview

- Defective or Non-complying Equipment
- Title 49 Code of Federal Regulations (CFR)
 - Part 211 Rules of Practice
 - Part 215 Freight Car Safety Standards
 - 49 CFR § 215.9 *Movement of defective cars for repair*
 - 49 CFR § 215.203 *Restricted cars – Special Approval*
- Public Law 103-272 § 20303 *Moving defective and insecure vehicles needing repairs*
- One-time Movement Authorization Processes
- Summary/Questions



Defective or Non-complying Equipment

- An individual who willfully authorizes movement or operation of non-complying or unsafe equipment, and has knowledge of the circumstances, can be held **personally** liable for such action
- Appropriate actions are required by railroads to move defective or non-complying equipment

Title 49 Code of Federal Regulations (CFR) Part 211 Rules of Practice

- *49 CFR § 211.41 Processing of petitions for waiver of safety rules*
 - Each petition for a permanent or temporary waiver of a safety rule, regulation or standard filed is referred to the **Railroad Safety Board** for decision
 - Decision not later than nine (9) months after receipt
 - If required by statute, Administrator, or the Railroad Safety Board deems it necessary:
 - A notice is published in the Federal Register, and an opportunity for public comment is provided
 - If requested, a public hearing is conducted



Title 49 Code of Federal Regulations (CFR) Part 211 Rules of Practice

- Written communications concerning these proceedings are available for examination at the DOT Central Docket Management Facility (Washington, DC)
- Documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at <http://dms.dot.gov>
- Anyone is able to search the electronic form of all comments received into any of FRA's dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.)



Title 49 Code of Federal Regulations (CFR) Part 215 Freight Car Safety Standards

- In accordance with the provisions of the **Federal Railroad Safety Act of 1970**, the *Railroad Freight Car Safety Standards* 49 CFR, Part 215, became effective January 1, 1974
- 49 CFR § 215.9 *Movement of defective cars for repair*
 - If the car is prepared as outlined under 49 CFR § 215.9, it may be moved to any location designated by the railroad for the purpose of effecting repairs.
 - This **does not** have to be the nearest or next repair location
 - The car **may be** moved to another railroad and can be moved past repair locations
 - The car **must** be inspected and cards applied to both sides by a designated Inspector, as defined in §215.11, before movement can take place.



Title 49 Code of Federal Regulations (CFR) Part 215 Freight Car Safety Standards

- 49 CFR §215.9 applies only to Part 215 defects
 - **NOT** safety appliance or power brake defects
- Failure to observe any condition for movement set forth in 49 CFR §215.9(a) and (c) **deprives** the railroad of the benefit of the “movement-for-repair” provision
 - Makes the railroad and any responsible **individual** liable for penalty under the particular regulatory section(s) that applies to the defective condition
- The regulation **does not** prevent the railroad from changing the repair location, as long as all of the conditions of 49 CFR §215.9 are satisfied
- The purpose of the defect tag is to:
 - Notify the operating crews and mechanical department personnel of the defective condition
 - The car is safe to move
 - Any movement restrictions



Part 215 Freight Car Safety Standards Restricted Cars - Special Approval

- 49 CFR § 215.203 *Restricted Cars*
- This section restricts the operation of any railroad freight car that is:
 - More than 50 years old, measured from the date of original construction
 - Equipped with any design or type component listed in Appendix A to this part
 - Equipped with a Duryea under-frame constructed before April 1, 1950, except for a caboose which is operated as the last car in a train
- A railroad **may not** place or continue in service a railroad freight car described in this section
 - Except under conditions approved by the **Federal Railroad Administrator**



Title 49 Code of Federal Regulations (CFR) Part 215 Freight Car Safety Standards

- Each petition shall be:
 - Submitted not less than **90 days** before the car is to be operated
 - Submitted in **triplicate**
 - State or describe the following:
 - Name and principal business address of the petitioning railroad
 - Name and address of the entity that controls the operation and maintenance of the car involved
 - Number, type, capacity, reporting marks, and car numbers of the cars, their condition, status and age measured from the date of original construction
 - Design, type component, or other item that causes the car to be restricted
 - Maximum load the cars would carry
 - Maximum speed at which the cars would be operated
 - Each car has been examined and found to be safe to operate under the conditions set forth in the petition
 - Territorial limits within which the cars are to be operated and the name



*Title 49 Code of Federal Regulations (CFR)
Part 215 Freight Car Safety Standards*

- There are many **Special Approvals** (some mistakenly call these **waivers**) in place allowing the continued operation of 50-year-old cars **only** in approved territorial limits with unique operating conditions.
- Cars operating over the 50-year limit **must** be stenciled with the letter **R**



Public Law 103-272 § 20303
Moving Defective and Insecure Vehicles
Needing Repair

- A vehicle whose equipment becomes defective or insecure **may** be moved when necessary to make repairs
 - Without a penalty being imposed
 - From the place at which the defect or insecurity was first discovered to the **nearest** available place at which the repairs can be made

Public Law 103-272 § 20303
Moving Defective and Insecure Vehicles
Needing Repair

- The repair location can be
 - On the railroad line on which the defect or insecurity was discovered
 - At the option of a connecting railroad, on the line of the connection railroad, **if not farther** than the place of repair on the original railroad
- Movement of a vehicle under this section is at the risk of the railroad **doing** the moving
 - Does **not** relieve a railroad from liability arising from the movement

One-time Movement Authorization Processes

- Railroads or equipment owners may request that FRA issue a “**One-time Movement Authority**” (OTM) to allow movement of non-complying car(s) or locomotive(s) for a **specific purpose**, under **specified conditions**, insuring for safety of the movement.
- FRA considers an OTM to be an exercise of its **enforcement discretion** in a limited number of specialized circumstances
 - Granting of such authority **does not** relieve a party from any statutory liability applicable to such movements



One-time Movement Authorization Processes

- All one-time movement requests **must** be made through Headquarters, Washington, DC
 - This authority is **not** necessary for equipment that can be moved under §215.9, §229.9, or §238.15 & 17 authority
- FRA considers granting OTM's under four categories:
 - 1. Positioning - For example, an over-age car or non-complying locomotive being moved to a railroad museum for permanent display, or non-complying equipment moved to ports for shipment to a foreign country



One-time Movement Authorization Processes

- FRA considers granting OTM's under four categories:
 - 2. Dismantling - A wreck-damaged car or locomotive that is deemed to be **not** economically repairable, or an over-aged or retired car or locomotive that needs to be moved to a scrap yard for dismantling
 - 3. Repair - Movement for repair requests are the most common, and also the most often **denied** of the three categories.

One-time Movement Authorization Processes

- For FRA to consider issuing authority for movement of non-complying equipment for repair
 - The circumstances related to the movement must be **unique** and/or the necessary repairs must require **specialized** facilities or personnel skills
 - For example, the nearest facility may not be equipped to fully effect the necessary repairs, such as heavily wreck damaged locomotives, or tank cars
 - 4. Prototypes - Special demonstrations and testing of prototype equipment

One-time Movement Authorization Processes

- To obtain “One-time Movement Authority” from FRA, a letter **must** be submitted on company letterhead to:
 - Mr. Edward W. Pritchard
Director of the Office of Safety
Assurance and Compliance
400 Seventh Street, S.W.
Mail Stop 25
Washington, DC 20590



One-time Movement Authorization Processes

- The letter **must** contain the following information:
 - The reporting mark and the type of equipment (e.g. locomotive, covered hopper car, passenger car), for which the relief is requested,
 - With the corresponding Federal Safety Regulation [e.g., 49 C.F.R. 215.203(a)(1) *Restricted Cars*]
 - The status of the equipment, to include all non-complying components
 - State the cause of any damage (e.g., collision/sideswipe, grade crossing collision, derailment)
 - Address any precautions taken to ensure the safety of railroad personnel during the move, such as removal of sharp edges, loose or crushed components, addition of temporary safety appliances and/or caution tape, roped-off stairway, etc.



One-time Movement Authorization Processes

- The letter **must** contain the following information:
 - The point of origin and final destination of the equipment, including the specific route – to include any stops or layovers (such as for unloading and cleaning of tank cars) and all railroads that will be involved with the movement
 - The rationale for the request (why the repairs can not be made at the current or nearest repair location)
 - Any restrictions the railroad or car owner believes should be applied to the movement
 - The point of contact (name, address, telephone and fax number(s)) where the subject equipment is located, so that an FRA Inspector can schedule an inspection



One-time Movement Authorization Processes

- The letter **must** contain the following information:
 - Name, title, address, telephone and fax number of the person requesting the OTM.
- In order to expedite the process, the OTM request may be faxed to FRA's Headquarters in Washington, DC at (202) 493-6230.
 - The fax cover sheet should be addressed to the attention of Mr. Ronald Newman, Staff Director, Motive Power & Equipment Division
 - The signed original request letter **must** be mailed to the above address



One-time Movement Authorization Processes

- Once the OTM request is received, it will be logged into FRA's tracking system and assigned to a Railroad Safety Specialist
- The Headquarters Specialist will contact the Region of the originating move and request an inspection by a Regional Inspector
 - Once the inspection report is provided, the headquarters Specialist will develop a written reply with appropriate safety conditions
- A signed copy of the reply will be faxed to the requester, with the original sent via mail

Summary

Questions