

§ 1250.51 Railroad conveyances; discharge of wastes.

(a) *New railroad conveyances.* Human wastes, garbage, waste water, or other polluting materials shall not be discharged from any new railroad conveyance except at servicing areas approved by the Commissioner of Food and Drugs. In lieu of retention pending discharge at approved servicing areas, human wastes, garbage, waste water, or other polluting materials that have been suitably treated to prevent the spread of communicable diseases may be discharged from such conveyances, except at stations. For the purposes of this section, "new railroad conveyance" means any such conveyance placed into service for the first time after July 1, 1972, and the terms "waste water or other polluting materials" do not include drainage of drinking water taps or lavatory facilities.

(b) *Nonnew railroad conveyances.* Human wastes, garbage, waste water, or other polluting materials shall not be discharged from any railroad conveyance, other than passenger conveyances for which an extension has been granted pursuant to paragraph (f) of this section, after December 31, 1977, except at servicing areas approved by the Commissioner of Food and Drugs. In lieu of retention pending discharge at approved servicing areas, human wastes, garbage, waste water, or other polluting materials that have been suitably treated to prevent the spread of communicable diseases may be discharged from such conveyances, except at stations. The terms "waste water or other polluting materials" do not include drainage of drinking water taps or lavatory facilities.

(c) *Toilets.* When railroad conveyances, occupied or open to occupancy by travelers, are at a station or servicing area, toilets shall be kept locked unless means are provided to prevent contamination of the area or station.

(d) *Submission of annual report.* Each railroad company shall submit to the Center for Food Safety and Applied Nutrition (HFS-627), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, an annual report of accomplishments made in modifying conveyances to achieve compliance with paragraph (b) of this section.

Annual reports shall be required until a report is submitted showing that 100 percent of the company's conveyances can comply with the requirements of paragraph (b) of this section; annual reports shall be required subsequent to such report if conveyances not capable of complying with the requirements of paragraph (b) of this section are acquired. Every railroad company shall have not less than 10 percent of its nonpassenger conveyances that are in operation capable of complying with the requirements of paragraph (b) of this section by December 31, 1974, not less than 40 percent by December 31, 1975, and not less than 70 percent by December 31, 1976. All conveyances, other than passenger conveyances for which an extension has been granted pursuant to paragraph (f) of this section, in operation after December 31, 1977, shall be capable of complying with paragraph (b) of this section.

(e) *Requirements of annual report.* Annual reports required by paragraph (d) of this section shall be submitted within 60 days of the end of each calendar year. Each report shall contain at least the following information:

- (1) Company name and address.
- (2) Name, title, and address of the company's chief operating official.
- (3) Name, title, address, and telephone number of the person designated by the company to be directly responsible for compliance with this section.
- (4) A statement that all new railroad conveyances placed into service after July 1, 1972 meet the requirements of this section.
- (5) A complete, factual, narrative statement explaining why retrofitting of noncomplying nonnew conveyances is incomplete, if it is incomplete.
- (6) A statement of the percentage of conveyances retrofitted with waste discharge facilities in compliance with this section as of the reporting date and the percentage expected to be completed by December 31st of the following year.
- (7) A tabular report with the following vertical columns: equipment type, e.g., locomotive, caboose, passenger car, and any others having toilets; number of toilets per conveyance;

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number of each equipment type in operation; and number of each to be retrofitted by December 31st of each year until 100 percent compliance with this section is achieved.

(f) *Variances and extensions*—(1) *Variances*. Upon application by a railroad company, the Director, Center for Food Safety and Applied Nutrition, may grant a variance from the compliance schedule prescribed in paragraph (d) of this section for nonpassenger conveyances when the requested variance is required to prevent substantial disruption of the railroad company's operations. Such variance shall not affect the final deadline of compliance established in paragraph (d) of this section.

(2) *Extensions*. Upon application by a railroad company, the Director, Center for Food Safety and Applied Nutrition, may grant an extension of time for compliance with the requirements of paragraph (b) of this section beyond December 31, 1977, for passenger conveyances operated by railroad companies when compliance cannot be achieved without substantial disruption of the railroad company's operations.

(3) *Application for variance or extension*. Application for variances or extensions shall be submitted to the Food and Drug Administration, Center for Food Safety and Applied Nutrition, Manager, Interstate Travel Sanitation Sub-Program, HFF-312, 5100 Paint Branch Pkwy., College Park, MD 20740, and shall include the following information:

(i) A detailed description of the proposed deviation from the requirements of paragraphs (b) or (d) of this section.

(ii) A report, current to the date of the request for a variance or extension, containing the information required by paragraph (e) of this section.

(4) *Administration of variances and extensions*. (i) Written notification of the granting or refusal of a variance or extension will be provided to the applying railroad company by the Director, Center for Food Safety and Applied Nutrition. The notification of a granted variance will state the approved deviation from the compliance schedule provided for in paragraph (d) of this section. The notification of a granted

extension will state the final date for compliance with the provisions of paragraph (b) of this section.

(ii) A public file of requested variances and extensions, their disposition, and information relating to pending actions will be maintained in the Division of Dockets Management, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

(iii) After notice to the railroad company and opportunity for hearing in accordance with part 16 of this chapter, a variance or extension may be withdrawn prior to its scheduled termination if the Director, Center for Food Safety and Applied Nutrition, determines that such withdrawal is necessary to protect the public health.

CROSS REFERENCE: For statutory exemptions for "intercity rail passenger service," see section 306(i) of 45 U.S.C. 546(i).

[40 FR 5624, Feb. 6, 1975, as amended at 40 FR 30110, July 17, 1975; 46 FR 8461, Jan. 27, 1981; 48 FR 11432, Mar. 18, 1983; 54 FR 24900, June 12, 1989; 59 FR 14366, Mar. 28, 1994; 61 FR 14481, Apr. 2, 1996; 66 FR 56035, Nov. 6, 2001]

EFFECTIVE DATE NOTE: For a document staying the effectiveness of §1250.51 (b) and (d), see 42 FR 57122, Nov. 1, 1977.

§ 1250.52 Discharge of wastes on highway conveyances.

There shall be no discharge of excrement, garbage, or waste water from a highway conveyance except at servicing areas approved by the Commissioner of Food and Drugs.

[40 FR 5624, Feb. 6, 1975, as amended at 48 FR 11432, Mar. 18, 1983]

§ 1250.53 Discharge of wastes on air conveyances.

There shall be no discharge of excrement or garbage from any air conveyance except at servicing areas approved by the Commissioner of Food and Drugs.

[40 FR 5624, Feb. 6, 1975, as amended at 48 FR 11432, Mar. 18, 1983]

Subpart D—Servicing Areas for Land and Air Conveyances

§ 1250.60 Applicability.

Land and air conveyances engaged in interstate traffic shall use only such servicing areas within the United