in charge of the tests, a narrative description of the test procedures, the number of samples tested, and for each sample tested, the on-axis beam candela, the beam candela at the ±15 degree points in the horizontal plane, the beam candela at the ±5 degree points in the vertical plane, and the chromaticity coordinates, are maintained by the railroad and are available for inspection by the FRA at a designated location which is identified in the submission;

(iv) Marking devices of this type installed in the operating environment shall consist of the same type and model of components as were used in the samples tested for purposes of this approval submission.

(3) Unless otherwise qualified, acknowledgement of the receipt of the submission required by this section shall constitute approval of the device. The FRA reserves the right to review the test records maintained by the railroad, or to test independently any device submitted for approval under these procedures, and to withdraw the approval of such device at any time, after notice and opportunity for oral comment, if its performance in the operating environment fails to substantiate the test results or to comply with 49 CFR 221.15.

(b)(1) Each submission for approval of a marking device consisting of non-lighted elements or a combination of lighted and non-lighted elements shall contain the following information:

(i) A detailed description of the device including the type of material, the reflectance factor, the size of the device, and the manufacturer and catalogue number;

(ii) A detailed description of the external light source including the intensity throughout its angle of coverage, and the manufacturer and catalogue number;

(iii) A detailed description of the proposed test procedure to be used to demonstrate marking device compliance with the standard prescribed in 49 CFR 221.15, including any detailed mathematical data reflecting expected performance.

(2) FRA will review the data submitted under subsection (1) of this section, and in those instances in which compliance with 49 CFR 221.15 appears possible from a theoretical analysis, the FRA will authorize and expected performance.

(3) Where authorized testing has demonstrated compliance with 49 CFR 221.15, a railroad shall submit a certification, signed by the chief operating officer of the railroad that—

(i) The device described in the original submission has been tested in accordance with the procedures described therein;

(ii) The results of the tests performed under paragraph (i) of this subsection demonstrate marking device performance in compliance with the standard prescribed in 49 CFR 221.15;

(iii) Detailed test records, including as a minimum the name and address of the testing organization, the name of the individual in charge of the tests, a narrative description of the test procedure, a description of the external light source used, the number of samples tested, and for each sample tested, the on-axis beam candela, the beam candela at the ±15 degree points in the horizontal plane, the beam candela at the ±5 degree points in the vertical plane, and the chromaticity coordinates, are maintained by the railroad and are available for inspection by the FRA at a designated location which is identified in the submission;

(iv) Marking devices of this type installed in the operating environment and the external light source used to illuminate them shall consist of the same type and model of components as were used in the samples tested for purposes of this approval submission.

(4) Unless otherwise qualified, acknowledgement of the receipt of the submission required by this subsection shall constitute approval of the device. The FRA reserves the right to review the test records maintained by the railroad, or to test independently any device submitted for approval under these procedures, and to disapprove the use of such device at any time if its performance fails to comply with 49 CFR 221.15.

(c) Whenever a railroad elects to use a marking device which has been previously approved by the FRA, and is included in the current list in appendix B to this part, the submission shall contain the following information:

(1) The marking device model designation as it appears in appendix B.

(2) A certification, signed by the chief operating officer of the railroad that—

(i) Marking devices of this type installed in the operating environment shall consist of the same type and model of components as were used in the samples tested for the original approval.

(d) Each submission for approval of a marking device shall be filed with the Office of Standards and Procedures, Office of Safety, Federal Railroad Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590.


APPENDIX B TO PART 221—APPROVED REAR END MARKING DEVICES

PART I—APPROVED DEVICES TESTED FOR OR BY MANUFACTURERS

Pt. 221, App. C

49 CFR Ch. II (10–1–14 Edition)

NOTE: Yankee Metal Products Corp. previously produced these devices.

FRA identification Nos. FRA-PLE-STAR-845-F (flasher) and FRA-PLE-STAR-845-C (steady burn).


FRA identification Nos. FRA-MEC-MCD-100-C (steady burn), FRA-MEC-MCD-100-F (flasher), FRA-MEC-MCD-300-C (steady burn), and FRA-MEC-MCD-300-F (flasher).


FRA identification Nos. FRA-DRGW-YANK-300 (portable strobe), FRA-WP-YANK-301R (flashing), FRA-WP-YANK-305R (flashing), and FRA-WP-YANK-306R (steady burn).

PART II—APPROVED DEVICES TESTED FOR OR BY RAIL CARRIERS


Manufacturer: Trans-Lite, Inc., P.O. Box 70, Milford, Conn. 06460.


Manufacturer: (a) Trans-Lite, Inc., P.O. Box 70, Milford, Conn. 06460.


Manufacturer: (b) Luminator Division of Gulfton Industries, Inc., 1200 East Dallas North Parkway, Plano, Tex. 75074.

FRA identification No. FRA-ATK-LUM-001890-001.

Manufacturer: (c) Whelen Engineering Co., Inc., Deep River, Conn. 06417.

FRA identification No. FRA-ATK-WHE-0012.

[43 FR 36447, Aug. 17, 1978]

APPENDIX C TO PART 221—SCHEDULE OF CIVIL PENALTIES

<table>
<thead>
<tr>
<th>Section</th>
<th>Violation</th>
<th>Wilful violation</th>
</tr>
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<tbody>
<tr>
<td>221.15</td>
<td>Marking device inspection:</td>
<td></td>
</tr>
<tr>
<td>(a) Failure to inspect at crew change</td>
<td>2,500</td>
<td>5,000</td>
</tr>
<tr>
<td>(b), (c) Improper inspection</td>
<td>2,500</td>
<td>5,000</td>
</tr>
<tr>
<td>221.16</td>
<td>Inspection procedure:</td>
<td></td>
</tr>
<tr>
<td>(a) Failure to obtain protection</td>
<td>5,000</td>
<td>7,500</td>
</tr>
<tr>
<td>(b) Improper protection</td>
<td>2,500</td>
<td>5,000</td>
</tr>
<tr>
<td>221.17</td>
<td>Movement of defective equipment</td>
<td></td>
</tr>
</tbody>
</table>

1 A penalty may be assessed against an individual only for a willful violation. The Administrator reserves the right to assess a penalty of up to $105,000 for any violation where circumstances warrant. See 49 CFR part 209, appendix A. Where the conditions for movement of defective equipment set forth in § 221.17 of this part are not met, the movement constitutes a violation of § 221.13 of this part.


PART 222—USE OF LOCOMOTIVE HORNS AT PUBLIC HIGHWAY-RAIL GRADE CROSSINGS

Subpart A—General

Sec.
222.1 What is the purpose of this regulation?
222.3 What areas does this regulation cover?
222.5 What railroads does this regulation apply to?
222.7 What is this regulation’s effect on State and local laws and ordinances?
222.9 Definitions.
222.11 What are the penalties for failure to comply with this regulation?
222.13 Who is responsible for compliance?
222.15 How does one obtain a waiver of a provision of this regulation?
222.17 How can a State agency become a recognized State agency?

Subpart B—Use of Locomotive Horns

222.21 When must a locomotive horn be used?
222.23 How does this regulation affect sounding of a horn during an emergency or other situations?
222.25 How does this rule affect private highway-rail grade crossings?
222.27 How does this rule affect pedestrian grade crossings?

Subpart C—Exceptions to the Use of the Locomotive Horn

222.31 [Reserved]

SILENCED HORNS AT INDIVIDUAL CROSSINGS

222.33 Can locomotive horns be silenced at an individual public highway-rail grade...