



Support, Connection, Advocacy

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Docket Management System
U.S. Department of Transportation
West Building, Ground Floor, Room W12-140
Routing Symbol M-30
1200 New Jersey Ave., S.E.
Washington, D.C. 20590

RE: Comments of the Railway Supply Institute regarding FRA's Notice and Request for Comment regarding "Retroreflectorization of Rail Freight Rolling Stock; Codifying Existing Waivers," Docket No. FRA-2021-0080

Dear Sir or Madam:

The Railway Supply Institute ("RSI") appreciates the opportunity to comment on the United States Department of Transportation ("DOT"), Federal Railroad Administration's ("FRA") notice of proposed rulemaking ("NPRM") regarding the amendment to standards for Retroreflectorization of Rail Freight Rolling Stock ("Retroreflectorization Standards"), Docket No. FRA-2021-0080. For the reasons set forth below, the RSI supports FRA's efforts to update the Retroreflectorization Standards by codifying the existing waiver for the use of performance-based methods to analyze when to replace retroreflective sheeting on rail cars.¹

The RSI is the international trade association of the railway supply industry and acts on behalf of the suppliers to North American freight and passenger railroads and these suppliers' 125,000 plus employees. RSI is the only trade association representing the entire rail supply industry—manufacturers, distributors, and service providers to the freight car, locomotive, maintenance-of-way, communications, signaling, leasing, and passenger rail industries. Its members provide all types of goods and services to freight and passenger railroads, rail shippers and freight car manufacturers and lessors. RSI members supply for lease over half of all rail cars operating in North America.² In addition RSI members collectively build more than ninety-five percent (95%) of all new railroad tank cars and own and supply for lease over seventy percent (70%) of railroad tank

¹ In the NPRM, FRA also proposes to codify the waivers it has granted to Tourist, Historic, Excursion, Educational, Recreational, or Private ("THEERP") operations. The THEERP waiver is not used by RSI members, however, we have no objection to FRA codifying this waiver based on the justification provided in the NPRM.

² See April 2022 UMLER File. There are 13 lessor companies that are members of RSI.

cars operating in North America. Accordingly, our members who own and/or lease rail cars are required to comply with the retroreflective sheeting requirements set forth in 49 C.F.R. Part 224.

Part 224 – Retroreflectorization Standards (the “Retroreflectorization Standards”) requires the use of retroreflective sheeting on the side of rail freight rolling stock to enhance the visibility of trains, particularly to motor vehicles at night. The current rule requires retroreflective sheeting to be replaced with new sheeting within ten years from the date of initial installation, regardless of the sheeting condition at the time of replacement.³ Except as specified in the rule, this requirement applies to all railroad freight cars, including privately owned rail cars, that operate over a public or private highway-rail grade crossing and are used for revenue or work train service.⁴

FRA’s proposed rule would codify the existing waiver that FRA granted to the Association of American Railroads (“AAR”) and its members, which allows for the use of a performance-based method of evaluating when to replace retroreflective sheeting.⁵ Specifically, the AAR waiver provides relief from 49 C.F.R. § 224.111 by authorizing the use of comparator panels to determine when to replace retroreflective sheeting in lieu of adhering to the 10-year default replacement cycle. As explained in FRA’s NPRM, the standard comparative panel used by AAR-members pursuant to the waiver was designed with input from FRA and meets the minimum photometric performance requirements set forth in 49 C.F.R. § 224.103. Although all private car owners are required to comply with the Retroreflectorization Standards, only AAR members are covered by the AAR waiver. Because some RSI members also are Associate Members of the AAR, they are covered by the AAR waiver.⁶ Other RSI members maintain fleets of rail cars that they either own or lease but are not AAR Associate Members and therefore have not been able to avail themselves of the AAR waiver to use performance-based retroreflective evaluation methods.

The RSI supports FRA’s proposal to add comparator panel evaluation and direct measurements with a retroreflectometer as alternative options to determine compliance with the Retroreflectorization Standards. We agree that codifying the use of a performance-based method of retroreflective evaluation will increase safety by ensuring that retroreflective sheeting is replaced when it is no longer effective. As a result of the 10-year default requirement, there are instances when sheeting must be replaced although it does not need to be because it still performs as designed. The reverse is also true—there are instances where the sheeting becomes degraded and must be replaced earlier than 10 years as it no longer performs as designed. In fact, as noted in the NPRM, AAR testing has shown that performance and effectiveness of retroreflective sheeting on rail cars is a function of material condition and cleanliness rather than a function of the amount of time that has passed since the application date.⁷ Therefore, using a performance-based method will better account for transportation conditions that may impact performance of the retroreflective

³ 49 C.F.R. § 224.111.

⁴ 49 C.F.R. § 224.3.

⁵ See U.S. DOT/FRA Decision Letter, No. FRA-2015-0105-022 (Oct. 10, 2018).

⁶ See AAR Waiver Petition from 49 C.F.R. § 224.11: Renewal of Reflectorization Material on Rail Freight Rolling Stock, No. FRA-2015-0105-0001 at Appendix A (Sept. 22, 2015) (hereafter, “AAR Waiver Petition”) (identifying AAR members included in the AAR Waiver Petition, including Associate Members).

⁷ AAR Waiver Petition at p. 2.

sheeting such as the type of service and commodity and environmental conditions that the equipment may endure.

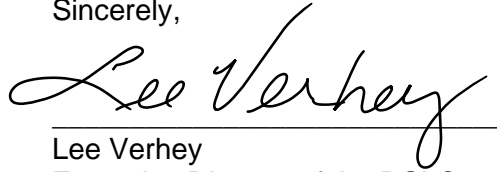
Further, the industry experience of those that have used retroreflectometers or comparator panel evaluation as part of the FRA-approved pilot program, administered by AAR pursuant to its waiver, demonstrates that alternative performance-based methods are effective. As FRA notes in the NPRM, in 2018, AAR adopted AAR Standard S-916, *Retroreflective Comparator Panel Requirements*. The S-916 standard prescribed the requirements for comparator panels to be used for the performance evaluation of retroreflective sheeting on freight cars and locomotives and was adopted to facilitate the AAR's pilot program. Accordingly, through the interchange program, comparator panel evaluations are already required for all retroreflective sheeting evaluations of freight cars during each single car air brake test. Since 2018 when S-916 and the pilot program were put in place, there have not been any records of accidents or incidents related to the use of comparator panel evaluations. Therefore, the data demonstrates that the comparator panel evaluation method effectively measures photometric performance standards and provides a reliable and accurate way to evaluate the effectiveness of retroreflective sheeting.

Because some RSI members are covered by the AAR waiver and subject to S-916, they already use comparator panels for retroreflective sheeting evaluation. Based on this experience, we agree that the elements of the AAR's S-916 standard should be codified to continue the use of S-916 to comply with the federal Retroreflectorization Standards, as proposed in the NPRM. Performance-based evaluation and replacement of reflectors increases awareness of potential issues with the sheeting and reduces opportunity for nonconforming reflectors. Requiring reflectors to be cleaned at the time of a single car airbrake test and using a comparator panel to determine performance eliminates renewing reflectors that otherwise are performing as designed and increases the life of the reflector without compromising safety.

The RSI further agrees that the benefits of the proposed rule outweigh the potential costs. According to the NPRM, when FRA granted AAR relief from the Retroreflectorization Standards, AAR avoided unnecessarily replacing 584,500 pieces of retroreflective sheeting that would have cost approximately \$79 million over the course of three years. AAR's data shows that with the proposed rule retroreflective sheeting could last for much longer than 10-years. FRA estimates that using a comparator panel will require 2.8 minutes for an inspection and 3.3 minutes for cleaning. In contrast, the time to apply one sheet is estimated to be around 9.3 minutes. FRA also estimates that the compliance cost per car under the proposed rule will be \$16.21, while the estimated compliance cost per car under the current regulation is \$68.21. While FRA has not quantified the environmental benefit, the prolonged lifespan of the retroreflective sheeting also will result in less environmental impact from disposal of the sheeting prematurely. When considering the implications for all privately owned cars (not just for AAR members), the RSI concurs with FRA's analysis of the cost benefit data and with FRA's conclusion that the benefits of the proposed rule outweigh the costs and may have an ancillary environmental benefit. Finally, we note that RSI agrees that FRA is using the appropriate baseline – to fully evaluate the full impacts of the proposed rule it is appropriate for FRA to evaluate compliance with the 10-year replacement requirement in the absence of waivers as its baseline scenario.

The RSI appreciates the opportunity to comment on FRA's proposal to amend the Retroreflectorization Standard. Please contact me should you have any questions or concerns.

Sincerely,

A handwritten signature in black ink that reads "Lee Verhey". The signature is written in a cursive style with a horizontal line underneath it.

Lee Verhey
Executive Director of the RSI Committee on Tank Cars
Railway Supply Institute