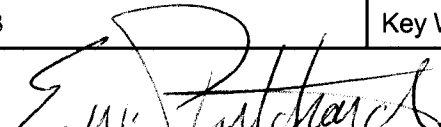




Hazardous Materials Guidance

Federal Railroad Administration, Office of Safety, Hazardous Materials Division
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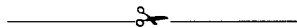
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Summary:

The purpose of this Guidance is to state and explain the FRA Office of Safety Assurance and Compliance policy on seal removal and replacement on rail equipment involved in hazardous materials transportation.

Discussion:

The text of FRA’s policy statement on the removal, replacement, and recording of seals follows. This policy supercedes previous guidance issued in the FRA Hazardous Materials Compliance Manual. When next revised, the manual will reflect these changes.



Removal, Replacement, and Recording of Car Seals

1. Authority

Federal law permits FRA Inspectors to inspect records and property related to railroad safety, including hazardous materials transportation safety. The Federal hazardous materials statutes authorize inspection, “at a reasonable time and in a reasonable way,” of records and property related to the transportation of hazardous materials in commerce; the Federal railroad safety law authorizes, also, “at reasonable times and in a reasonable way,” inspection of “railroad equipment, ..., rolling stock, operations, and relevant records.”¹ Conducting inspections in a reasonable way requires, among other things, that seals be replaced in kind to maintain equivalent security.

FRA exercises its hazardous materials authority over any facility, package, or document where there is a reasonable, articulable belief that hazardous materials are present. When an Inspector makes a determination that a car seal must be removed, the Inspector shall follow the following procedures:

¹ 49 U.S.C. 5121(c)(1) and 20107(b).

2. Security

Inspectors shall provide positive control of a shipment after a seal has been removed and until the shipment is resealed. Positive control means not leaving the item of inspection until it is resealed. At locations where shipper or railroad personnel are available, Inspectors should offer/invite their accompaniment.

When accompanied by railroad personnel, Inspectors should, of course, offer the railroad employee the opportunity to remove and replace any seals necessary to be broken for inspection. This process allows carriers to maintain seal control for their security purposes. If the railroad employee cannot or will not remove and replace seals, the Inspector should do so consistent with the needs of his/her inspection.

3. Records

Office of Safety Assurance and Compliance headquarters staff shall maintain a record of seals issued to the regions. Each region shall maintain a record of seals issued to individual Inspectors. Whether or not any other record is made of a seal replacement, Inspectors shall maintain a continuing seal log which will contain:

- Seals received from the region
- Seals replaced including:
 1. Date/Time
 2. Reporting Marks of transport unit
 3. Removed seal number
 4. Replacement seal number
 5. Accompanying Personnel
 6. Name/Location of Facility
 7. Inspection report number, if applicable

4. Replacement Standards

When removing seals, Inspectors shall ensure that the replacement seal provides an equivalent level of security. As an example, a high level cable seal must not be replaced with a low level tin seal. If the Inspector is unable to provide this level of security, **the seal shall not be removed**. Seals with “an equivalent level of security” may be provided by the application of a seal by the carrier, facility representative/agent, or governmental agency.

5. Notification

Shippers are notified of the removal of a seal or seals in one of two ways: First, if a defect is to be reported on an FRA 6180.96, the report shall include the identifying mark (letters/numbers, as applicable) of the removed and replacement seals; second, if no defect is found, the presence of an

agency-issued FRA seal will be deemed adequate notice that an FRA Inspector has removed a shipper seal to inspect for compliance.

The railroad must be verbally notified at an early and convenient time that a seal on one of the cars in its possession has been replaced; the details to be furnished are those described in paragraph 2, above.

6. Procurement

Seals will be procured by headquarters and issued to the regions. FRA seals will be marked with lettering to indicate the agency, followed by a serial number, i.e., USDOT FRA 0001.

7. Removal Safety

Seals may be removed by an Inspector using government equipment, or by the accompanying person using their own equipment. Inspectors must not use carrier/facility equipment to remove seals.

When removing seals, Inspectors must, at a minimum, wear safety glasses and work gloves.

8. Accountability

Seal supplies stored by headquarters, regions, and Inspectors must be kept secured and inaccessible to non-agency personnel.

9. International Shipments

It is recommended that seal removal from international shipments be informally coordinated with the regional office of the Department of Homeland Security's Border and Transport Security Directorate. (BTSD has assumed the functions formerly assigned to the U.S. Customs Service.) No "in-bond" seal on an alcoholic beverage shipment should be broken without first contacting the Bureau of Alcohol, Tobacco, Firearms, and Explosives and following their instructions.

10. Discovery of Contraband

If an Inspector discovers evidence of possible contraband, the Inspector must immediately contact the U.S. Customs Regional Office, local law enforcement agencies, and the FRA regional office.