

Section	Violation	Willful violation
220.39 Continuous monitoring .....	2,500	5,000
220.41 [Reserved] .....	.....	.....
220.43 Communication consistent with the rules .....	2,500	5,000
220.45 Complete communications .....	2,500	5,000
220.47 Emergencies .....	2,500	5,000
220.49 Switching, backing or pushing .....	5,000	7,500
220.51 Signal indications .....	5,000	7,500
220.61 Radio transmission of mandatory directives .....	5,000	7,500

**PART 221—REAR END MARKING DEVICE—PASSENGER, COMMUTER AND FREIGHT TRAINS**

**Subpart A—General**

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AUTHORITY: 49 U.S.C. 20103, 20107 and 49 CFR 1.49.

SOURCE: 42 FR 2321, Jan. 11, 1977, unless otherwise noted.

**Subpart A—General**

**§ 221.1 Scope.**

This part prescribes minimum requirements governing highly visible marking devices for the trailing end of the rear car of all passenger, commuter and freight trains. So long as these minimum requirements are met, railroads may adopt additional or more stringent requirements for rear end marking devices.

**§ 221.3 Application.**

- (a) Except as provided in paragraph
- (b) of this section, this part applies to passenger, commuter and freight trains

when operated on a standard gage main track which is part of the general railroad system of transportation.

(b) This part does not apply to:

- (1) A railroad that operates only trains consisting of historical or antiquated equipment for excursion, educational, or recreational purposes;
- (2) A train that operates only on track inside an installation which is not part of the general railroad system of transportation;
- (3) Rapid transit operations in an urban area that are not connected with the general railroad system of transportation.
- (4) A railroad that operates only one train at any given time.

[42 FR 2321, Jan. 11, 1977, as amended at 53 FR 28600, July 28, 1988]

**§ 221.5 Definitions.**

As used in this part:

- (a) *Train* means a locomotive unit or locomotive units coupled, with or without cars, involved in a railroad operation conducted on a main track. It does not include yard movements.
- (b) *Commuter train* means a short haul passenger train operating on track which is part of the general railroad system of transportation, within an urban, suburban or metropolitan area. It includes a passenger train provided by an instrumentality of a State or political subdivision thereof.
- (c) *Locomotive* means a self-propelled unit of equipment designed for moving other equipment in revenue service and includes a self-propelled unit designed to carry freight or passenger traffic, or both.
- (d) *Main track* means a track, other than an auxiliary track, extending through yards or between stations, upon which trains are operated by timetable or train order or both, or the

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use of which is governed by a signal system.

(e) *Train order* means mandatory directives issued as authority for the conduct of a railroad operation outside of yard limits.

(f) *Red-orange-amber color range* means those colors defined by chromaticity coordinates, as expressed in terms of the International Commission on Illumination's 1931 Colormetric System, which lie within the region bounded by the spectrum locus and lines defined by the following equations:

$$X+Y=.97 \text{ (white boundary)}$$

$$Y=X-.12 \text{ (green boundary)}$$

(g) *Administrator* means the Federal Railroad Administrator, the Deputy Administrator, or any official of the Federal Railroad Administration to whom the Administrator has delegated his authority under this part.

(h) *Effective intensity* means that intensity of a light in candela as defined by the Illuminating Engineering Society's Guide for Calculating the Effective Intensity of Flashing Signal Lights, November, 1964.

(i) *Qualified person* means any person who has the skill to perform the task and has received adequate instruction.

[42 FR 2321, Jan. 11, 1977; 42 FR 3843, Jan. 21, 1977, as amended at 51 FR 25185, July 10, 1986]

### § 221.7 Civil penalty.

Any person (an entity of any type covered under 1 U.S.C. 1, including but not limited to the following: a railroad; a manager, supervisor, official, or other employee or agent of a railroad; any owner, manufacturer, lessor, or lessee of railroad equipment, track, or facilities; any independent contractor providing goods or services to a railroad; and any employee of such owner, manufacturer, lessor, lessee, or independent contractor) who violates any requirement of this part or causes the violation of any such requirement is subject to a civil penalty of at least \$500 and not more than \$11,000 per violation, except that: Penalties may be assessed against individuals only for willful violations, and, where a grossly negligent violation or a pattern of repeated violations has created an imminent hazard of death or injury to per-

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sons, or has caused death or injury, a penalty not to exceed \$22,000 per violation may be assessed. Each day a violation continues shall constitute a separate offense. See appendix C to this part for a statement of agency civil penalty policy.

[53 FR 28600, July 28, 1988, as amended at 53 FR 52930, Dec. 29, 1988; 63 FR 11621, Mar. 10, 1998]

### § 221.9 Waivers.

(a) A railroad may petition the Federal Railroad Administrator for a waiver of compliance with any requirement prescribed in this part.

(b) Each petition for a waiver under this section must be filed in the manner and contain the information required by part 211 of this chapter.

(c) If the Administrator finds that a waiver of compliance is in the public interest and is consistent with railroad safety, he may grant the waiver subject to any condition he deems necessary. Notice of each waiver granted, including a statement of the reasons therefor, will be published in the FEDERAL REGISTER.

### § 221.11 State regulation.

Notwithstanding the provisions of this part, a State may continue in force any law, rule, regulation, order, or standard that was in effect on July 8, 1976, relating to lighted marking devices on the rear car of freight trains except to the extent that such law, rule, regulation, order, or standard would cause such cars to be in violation of this part.

## Subpart B—Marking Devices

### § 221.13 Marking device display.

(a) During the periods prescribed in paragraph (b) of this section, each train to which this part applies that occupies or operates on main track shall (1) be equipped with, (2) display on the trailing end of the rear car of that train, and (3) continuously illuminate or flash a marking device prescribed in this subpart.

(b) Unless equipped with a functioning photoelectric cell activation mechanism complying with paragraph (c) of this section, the marking devices