

**DEPARTMENT OF TRANSPORTATION
FEDERAL RAILROAD ADMINISTRATION**

DOCKET NO. FRA-2025-0117

**REPEALING SPECIAL APPROVAL REQUIREMENT FOR
FREIGHT CARS MORE THAN 50 YEARS OLD
NOTICE OF PROPOSED RULEMAKING**

**COMMENTS OF
THE ASSOCIATION OF AMERICAN RAILROADS AND
THE AMERICAN SHORT LINE AND REGIONAL RAILROAD ASSOCIATION**

The Association of American Railroads (AAR) and the American Short Line and Regional Railroad Association (ASLRRA) (jointly, the Associations), on behalf of themselves and their member railroads, submit the following comments on the Federal Railroad Administration's (FRA's) July 1, 2025, Notice of Proposed Rulemaking (NPRM), which proposes to revise 49 CFR § 215.203, which currently restricts the operation of railroad freight cars that are more than 50 years old.¹

Statement of Interest

AAR is a trade association whose membership includes freight railroads that operate 83% of the line-haul mileage, employ 95% of the workers, and account for 97% of the freight revenues of all railroads in the United States; and passenger railroads that operate intercity passenger trains and provide commuter rail service. ASLRRA is a national trade association representing the interests of about 600 short line and regional railroad members in legislative and regulatory matters. Short lines operate 47,500 miles of track in the United States, or approximately 29% of the national freight network. The members of the Associations will be

¹ "Repealing Special Approval Requirement for Freight Cars More Than 50 Years Old," Proposed Rule, 90 Fed. Reg. 28663 (July 1, 2025).

directly affected by the proposed changes because they must comply with part 215, and freight cars older than 50 years old in service will be transported on the National rail network and must comply with AAR's interchange rules.

Introduction

On May 5, 2025, the Associations submitted separate comments in response to the Department of Transportation's (DOT's) April 3, 2025, Request for Information (RFI), "Ensuring Lawful Regulation; Reducing Regulation and Controlling Regulatory Costs," seeking public input to assist DOT with identifying existing regulations, guidance, paperwork requirements, and other regulatory obligations that should be modified or repealed because they undermine the national interest or result in substantial regulatory burdens.² AAR included, as an appendix, a table titled "AAR Ideas for Reducing Regulatory Burdens," which included the request to repeal 49 CFR § 215.203(a)(1), which restricts the operation of any freight car more than 50 years old, measured from the date of original construction. Specifically, AAR requested for FRA to "[d]elete the prohibition on the use of any freight car more than 50 years old because it is obsolete and burdensome."

The basis for AAR's request is that the existing regulation is outdated because it causes freight cars to be removed from service earlier than would otherwise be necessary to avoid reaching 50 years of age. The regulatory restriction is a decades old holdover from an earlier time. Indeed, FRA first regulated freight car age in 1973, so this requirement is over 50 years old itself.³ The substantive rationale for the regulation goes back even farther, though. It was

² DOT-OST-2025-0026-0829 and DOT-OST-2025-0026-0814

³ 38 Fed. Reg. 32224 (Nov. 21, 1973), then-codified at 49 C.F.R. § 215.225.

developed to address a transitional era when many freight cars featured wooden structural elements and fragile cast iron or otherwise obsolete components were still in operation. In other words, the 50-year old all-steel car of today is drastically different from a car built in 1923 (or earlier). However, because the restriction is still in place, railroads and car owners expend considerable time and resources petitioning FRA for waivers, which triggers administrative costs for FRA in the form of FRA inspections, the drafting of documents to comply with the procedural requirements for waivers, and (if applicable) Increased Life Service approvals by FRA.⁴

AAR rules ensure that freight cars that exceed 50 years in age are safe when used in service.

For the past nine decades, the AAR's technical committees have developed the technical standards necessary for the safe operation of railroad rolling stock. AAR's *Field Manual* Rule 88 currently prohibits the use of freight cars over 50 years of age in service unless AAR's Equipment Engineering Committee (EEC) gives approval. AAR's *Field Manual* Rule 90, lists the freight car components that are prohibited in interchange. The EEC is made up of highly experienced technical experts, many who are professional mechanical engineers employed by railroads, car builders, and car owners. The EEC oversees several other AAR committees, each with a dedicated focus on specific, critical railcar components, and is responsible for making the determinations necessary for freight cars to remain in service, whether newly constructed or

⁴ The Associations note that similar issues were raised in the joint comments filed by American Industrial Transport Inc (AITX), GATX Corporation, Herzog Railroad Services, Inc., Intermodal Association of North America (IANA); National Grain and Feed Association (NGFA), and National Railroad Construction and Maintenance Association (NRC). AAR and ASLRRRA have reviewed and support those comments.

over 50 years of age. FRA has a non-voting seat on this committee and FRA attendees are welcome participants in EEC meetings.

The EEC has the authority to stipulate a special inspection requirement, or modifications, for freight equipment of any age in interchange service when the committee becomes aware of concerns related to the car's structural stability or integrity. Accordingly, AAR restrictions are currently in place today for some cars that are *less than* 50 years old. AAR generally prohibits the use of freight equipment over 50 years old, but may choose to allow certain cars to remain in service provided that necessary component inspections are completed. Moreover, the EEC has authority to condition a car's use on certain standards being met, including the requirement that cars undergo the specified upgrades that are included in AAR's Increased Life Status (ILS) under Rule 88, which sets rigorous standards for inspection and repair, where necessary, of a car's center sills, side sills, end sills, crossbearers, crossties, draft sills and components, body bolsters, center plates, and trucks. Additionally, Rule 90 restricts over 70 categories of components from being interchanged, including air brake components, wheels, axles, bearings, running gear, draft components, and many other items. This effectively ensures that a 50-year old freight car has components that meet modern requirements, or it cannot be interchanged. Pairing Rule 88's inspection and repair requirements with Rule 90's component restrictions helps to ensure that any car placed in service that is more than 50 years old is safe for freight service.

In its 1972 NPRM, FRA stated, "Cars of this vintage have been prohibited in interchange by the AAR rules. Consequently, the proposal to remove them from service is not expected to

cause a hardship on the industry.”⁵ Rule 88 and Rule 90 have been updated numerous times since FRA’s 1973 final rule that first included the blanket prohibition on 50-year-old freight cars. The industry practice in place no longer supports a conclusion that the prohibition does not cause a hardship on the industry.

Given the protections in place under Rule 88 and Rule 90, AAR requested to repeal § 215.203(a)(1) because the existing regulation places an unnecessary burden on railroads, car owners, and shippers that would otherwise use cars more than 50 years old. There is no safety basis to require a railroad to receive a special approval from the FRA Administrator before it places or continues in service a car that is more than 50 years old, as is mandated by § 215.203(b). The petition and approval process is also unnecessarily burdensome because it unnecessarily limits a railroad’s operational flexibility to use such cars on as needed basis and causes cars to be removed from service prematurely. This is because cars approaching overage, but still having time left, often will not get assigned into service because they will not complete their lease before the car ages out under § 215.203. These burdens do not just affect railroads, they also have negative impacts for shippers, car owners, and entities that lease rail equipment.

The proposed regulatory changes trade old burdens for new burdens that may do more harm than good.

Consistent with AAR’s suggested action, the NPRM proposes to remove the age restriction on cars more than 50 years old. However, it also adds burdensome new requirements in the form of additional inspections and paperwork requirements, which are inconsistent with the deregulatory agenda of the President and the Secretary of Transportation.

⁵ 37 Fed. Reg. 223 (Nov. 17, 1972).

Executive Order (E.O.) 14192, “Unleashing Prosperity Through Deregulation” states that it is the policy of the President “to significantly reduce the private expenditures required to comply with Federal regulations.”⁶ Consistent with that policy, E.O. 14219, “Ensuring Lawful Governance and Implementing the President's ‘Department of Government Efficiency’ Deregulatory Initiative,” directs agencies to rescind regulations that “impose significant costs upon private parties that are not outweighed by public benefits,” “regulations that harm the national interest by significantly and unjustifiably impeding technological innovation,” and “regulations that impose undue burdens on small business and impede private enterprise and entrepreneurship.”⁷ On April 3, 2025, the Office of the Secretary published a Request for Information (RFI) in the Federal Register seeking information to “achieve[] meaningful burden reduction while continuing to meet statutory obligations and ensure the safety of the U.S. transportation system” as part of DOT’s efforts to implement the President’s deregulatory agenda.⁸ FRA only partially acknowledges the new burdens associated with the rule, stating that, “[s]ome of this regulatory relief may be offset by the additional costs from the proposed record retention requirement to maintain all required inspections and tests.”⁹ It does not appear, though, that FRA considered all the burdens associated with the rulemaking in its analysis. These include the cost of arranging for a separate “comprehensive shop inspection” every two years, the cost of a redundant 4-pressure single-car air brake test for a car that does

⁶ 90 Fed. Reg. 9065 (Jan. 31, 2025).

⁷ 90 Fed. Reg. 10583 (Feb. 19, 2025).

⁸ 90 Fed. Reg. 14593

⁹ 90 Fed. Reg. at 28634

not require it under the current air brake regulations, and the cost of switching a car out of a train and into a shop for the air test resulting delays in transit.

The simple fact is that requiring unnecessary inspections and recordkeeping requirements adds to the regulatory burden, and does so in a way that will not improve safety. As noted above, pursuant to Rule 88, AAR already restricts the use of cars that are 50 years old, unless the cars are in a suitable condition and certain requirements are met. Importantly, AAR's Rule 90 also identifies more than 70 categories of components that are not permitted for interchange purposes, providing an additional safety measure for older cars by ensuring that all components meet modern interchange standards.

FRA should delete the existing requirement in § 215.203(a)(1) and amend the NPRM to eliminate new, unnecessarily burdensome requirements.

The Associations reiterate that FRA should delete paragraph (a)(1) from the existing regulatory text that prohibits the operation of any railroad freight car that is more than 50 years old, measured from the date of original construction so that § 215.203(a) reads as follows—

§ 215.203 Restricted cars.

- (a) This section restricts the operation of any railroad freight car that is—
- ~~(1) More than 50 years old, measured from the date of original construction;~~
 - ~~(2)~~ (1) Equipped with any design or type component listed in appendix A to this part; or
 - ~~(3)~~ (2) Equipped with a Duryea underframe constructed before April 1, 1950, except for a caboose which is operated as the last car in a train.

Additionally, FRA should amend the NPRM before finalizing the rulemaking by deleting the proposed inspection and paperwork requirements.

The proposed requirement for a car over 50 years of age to undergo a comprehensive shop inspection, and a determination that the car complies with part 215, subpart B, by a

designated inspector, as defined in § 215.11, at least every two years is unnecessary. All freight cars are required to be inspected “at each location where they are placed in a train” as required by § 215.13, and many, perhaps most, of these inspections are performed by designated employees under § 215.11. In addition, railroads employ numerous wayside detection systems that continuously inspect and monitor freight cars as they travel the North American rail network. Modern defect detection systems reliably capture defects and anomalies in rail freight equipment. Therefore, all freight cars are inspected frequently while in service.

Furthermore, any car that has been in service for many years has undergone regular maintenance and upgrades, including upgrades required by the car owner and/or by the AAR. For instance, AAR prohibits cars in interchange service from having brake valves, journal bearings, certain suspension components, slack adjusters, and many other items that were original to a 50-year-old car when it was built, as well as any components within these categories that have not met the performance expectations of the relevant AAR technical committees. These items will have been replaced several times during the life of the car and therefore would be expected to be much newer than 50 years old.

Similarly, the proposed requirement in the NPRM that a car over 50 years old receive a single-car air brake test in accordance with § 232.305(b) “at least every two years” is also unnecessary and overly burdensome. Section 232.305(d) states that “[e]ach car shall receive a single-car air brake test no less than 8 years from the date the car was built or rebuilt,” while § 232.305(c) states that “[e]xcept as provided in paragraph (d) of this section, each car shall receive a single-car air brake test no less than every 5 years.” As such, FRA proposes to impose a heightened restriction on cars that are older than 50 years by substituting the maximum 5-

year or 8-year interval that is in the existing single-car air brake regulations for a 2-year interval. FRA proposes this change without any explanation to support the more frequent inspection interval.

Such a change cannot be justified on a safety basis. AAR Rule 90 requires air brake components to meet current interchange requirements, so these components would be expected to be far newer than 50 years old. Moreover, AAR requirements for single-car air brake test exceed the FRA requirements in § 232.305. This is because, effective July 1, 2025, AAR requires all freight cars to undergo a 4-pressure automated test. This single-car test is a far better test than a manual test, using an outdated apparatus, which is allowed by FRA. When considering all the above, there is not a safety justification to require a car to undergo a single-car test at an arbitrary two-year interval just because the original construction date exceeds 50 years.

Finally, the Associations note that the proposed paperwork requirements in the NPRM for railroads to keep certain records and make these records available to FRA is also unnecessary and unnecessarily duplicative. Railroads and car owners already maintain a record of each car in an Umler file, and relevant Umler information is provided to FRA upon request. There is no need to create a new FRA paperwork and reporting requirement when the information is already maintained in Umler and accessible to FRA upon request.

For these reasons, the Associations request that FRA revise the NPRM to eliminate the unnecessarily burdensome proposed requirements before issuing a final rule amending § 215.203.

Respectfully submitted,



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