

(v) The flash rate of crossing lights shall be at least 40 flashes per minute and at most 180 flashes per minute.

(vi) Crossing lights shall be focused horizontally within 15 degrees of the longitudinal centerline of the locomotive.

(4) *Oscillating light.* (i) An oscillating light shall consist of:

(A) One steadily burning white light producing at least 200,000 candela in a moving beam that depicts a circle or a horizontal figure "8" to the front, about the longitudinal centerline of the locomotive; or

(B) Two or more white lights producing at least 200,000 candela each, at one location on the front of the locomotive, that flash alternately with beams within five degrees horizontally to either side of the longitudinal centerline of the locomotive.

(ii) An oscillating light may incorporate a device that automatically extinguishes the white light if display of a light of another color is required to protect the safety of railroad operations.

(c)(1) Any lead locomotive equipped with oscillating lights as described in paragraph (b)(4) that were ordered for installation on that locomotive prior to January 1, 1996, is considered in compliance with § 229.125(d) (1) through (3).

(2) Any lead locomotive equipped with strobe lights as described in paragraph (b)(2) and operated at speeds no greater than 40 miles per hour, is considered in compliance with § 229.125(d) (1) through (3) until the locomotive is retired or rebuilt, whichever comes first.

(3) Any lead locomotive equipped with two white auxiliary lights spaced at least 44 inches apart on at least one axis which was equipped with these auxiliary lights before May 30, 1994, will be considered in compliance with § 229.125(d) (1) through (3) until the locomotive is retired or rebuilt, whichever comes first.

[58 FR 6902, Feb. 3, 1993, as amended at 59 FR 24963, May 13, 1994; 59 FR 39705, Aug. 4, 1994; 61 FR 8887, Mar. 6, 1996]

§ 229.135 Event recorders.

(a) *Duty to equip.* Effective May 5, 1995, and except as provided in para-

graph (b) of this section, any train operated faster than 30 miles per hour shall have an in-service event recorder in the lead locomotive. The presence of the event recorder shall be noted on Form FRA F6180-49A, under the REMARKS section, except that an event recorder designed to allow the locomotive to assume the lead position only if the recorder is properly functioning is not required to have its presence noted on Form FRA F6180-49A. For the purpose of this section, "train" includes a locomotive or group of locomotives with or without cars, and "lead locomotive" means the locomotive from whose cab the crew is operating the train and, when cab control locomotives and/or MU locomotives are coupled together, is the first locomotive proceeding in the direction of movement. The duty to equip the lead locomotive may be met with an event recorder located elsewhere than the lead locomotive provided that such event recorder monitors and records the required data as though it were located in the lead locomotive.

(b) *Response to defective equipment.* A locomotive on which the event recorder has been taken out of service as provided in paragraph (c) of this section may remain as the lead locomotive only until the next calendar-day inspection. A locomotive with an inoperative event recorder is not deemed to be in improper condition, unsafe to operate, or a non-complying locomotive under §§ 229.7 and 229.9, and notwithstanding any other requirements in this chapter, inspection, maintenance, and testing of event recorders is limited to the requirements set forth in § 229.25(e).

(c) *Removal from service.* A railroad may remove an event recorder from service and, if a railroad knows that an event recorder is not monitoring or recording the data specified in § 229.5(g), shall remove the event recorder from service. When a railroad removes an event recorder from service, a qualified person shall cause to be recorded the date the device was removed from service on Form FRA F6180-49A, under the REMARKS section. An event recorder

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designed to allow the locomotive to assume the lead position only if the recorder is properly functioning is not required to have its removal from service noted on Form FRA F6180–49A.

(d) *Preserving accident data.* For the purposes of this section, the term “event recorder” includes all locomotive-mounted recording devices designed to record information concerning the functioning of a locomotive or train regardless of whether the device meets the definition of “event recorder” in § 229.5.

(1) *Accidents required to be reported to the Federal Railroad Administration.* If any locomotive equipped with an event recorder is involved in an accident that is required to be reported to FRA, the railroad using the locomotive shall, to the extent possible, and to the extent consistent with the safety of life and property, preserve the data recorded by the device for analysis by FRA. This preservation requirement permits the railroad to extract and analyze such data; *provided* the original or a first-order accurate copy of the data shall be retained in secure custody and shall not be utilized for analysis or any other purpose except by direction of FRA or the National Transportation Safety Board. This preservation requirement shall expire 30 days after the date of the accident unless FRA or the Board notifies the railroad in writing that the data are desired for analysis.

(2) *Relationship to other laws.* Nothing in this section is intended to alter the legal authority of law enforcement officials investigating potential violation(s) of State criminal law(s) and nothing in this chapter is intended to alter in any way the priority of National Transportation Safety Board investigations under 49 U.S.C. 1131 and 1134, nor the authority of the Secretary of Transportation to investigate railroad accidents under 49 U.S.C. 5121, 5122, 20107, 20111, 20112, 20505, 20702, 20703, and 20902.

(e) *Disabling event recorders.* Except as provided in paragraph (c) of this section, any individual who willfully disables an event recorder is subject to civil penalty and to disqualification from performing safety-sensitive functions on a railroad as provided in § 218.55 of this chapter and any indi-

vidual who tampers with or alters the data recorded by such a device is subject to a civil penalty as provided in appendix B of this part and to disqualification from performing safety-sensitive functions on a railroad if found unfit for such duties under the procedures in 49 CFR part 209.

[58 FR 36614, July 8, 1993, as amended at 60 FR 27905, May 26, 1995]

§ 229.137 Sanitation, general requirements.

(a) *Sanitation compartment.* Except as provided in paragraph (b) of this section, all lead locomotives in use shall be equipped with a sanitation compartment. Each sanitation compartment shall be:

- (1) Adequately ventilated;
- (2) Equipped with a door that:
 - (i) Closes, and
 - (ii) Possesses a modesty lock by [18 months after publication of the final rule];
- (3) Equipped with a toilet facility, as defined in this part;
- (4) Equipped with a washing system, as defined in this part, unless the railroad otherwise provides the washing system to employees upon reporting for duty or occupying the cab for duty, or where the locomotive is equipped with a stationary sink that is located outside of the sanitation compartment;
- (5) Equipped with toilet paper in sufficient quantity to meet employee needs, unless the railroad otherwise provides toilet paper to employees upon reporting for duty or occupying the cab for duty; and
- (6) Equipped with a trash receptacle, unless the railroad otherwise provides portable trash receptacles to employees upon reporting for duty or occupying the cab for duty.

(b) *Exceptions.* (1) Paragraph (a) of this section shall not apply to:

- (i) Locomotives engaged in commuter service or other short-haul passenger service and commuter work trains on which employees have ready access to railroad-provided sanitation facilities outside of the locomotive or elsewhere on the train, that meet otherwise applicable sanitation standards, at frequent intervals during the course of their work shift;