

Pt. 221, App. C

49 CFR Ch. II (10–1–04 Edition)

APPENDIX C TO PART 221—SCHEDULE OF CIVIL PENALTIES¹

Section	Violation	Willful violation
221.13 Marking device display: (a) device not present, not displayed, or not properly illuminated (d) device too close to rail	\$5,000 1,000	\$7,500 2,000
221.14 Marking devices: Use of unapproved or noncomplying device	2,500	5,000
221.15 Marking device inspection: (a) Failure to inspect at crew change	2,500	5,000
(b), (c) improper inspection	2,500	5,000
221.16 Inspection procedure: (a) Failure to obtain protection	5,000	7,500
(b) Improper protection	2,500	5,000
221.17 Movement of defective equipment	(¹)	(¹)

[53 FR 52930, Dec. 29, 1988]

PART 222—USE OF LOCOMOTIVE HORNS AT PUBLIC HIGHWAY-RAIL GRADE CROSSINGS

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¹A penalty may be assessed against an individual only for a willful violation. The Administrator reserves the right to assess a penalty of up to \$20,000 for any violation where circumstances warrant. See 49 CFR part 209, appendix A. Where the conditions for movement of defective equipment set forth in §221.17 of this part are not met, the movement constitutes a violation of §221.13 of this part.

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- APPENDIX F TO PART 222—DIAGNOSTIC TEAM CONSIDERATIONS
- APPENDIX G TO PART 222—SCHEDULE OF CIVIL PENALTIES

AUTHORITY: 49 U.S.C. 20103, 20107, 20153, 21301, 21304; 49 CFR 1.49.

SOURCE: 68 FR 70664, Dec. 18, 2003, unless otherwise noted.

EFFECTIVE DATE NOTE: At 68 FR 70664, Dec. 18, 2003, part 222 was added, effective December 18, 2004.

Subpart A—General**§ 222.1 What is the purpose of this regulation?**

The purpose of this part is to provide for safety at public highway-rail grade crossings by requiring locomotive horn use at public highway-rail grade crossings except in quiet zones established and maintained in accordance with this part.

§ 222.3 What areas does this regulation cover?

This part prescribes standards for sounding locomotive horns when locomotives approach and pass through public highway-rail grade crossings. This part also provides standards for the creation and maintenance of quiet zones within which locomotive horns need not be sounded.

§ 222.5 What railroads does this regulation apply to?

This part applies to all railroads except:

- (a) A railroad that exclusively operates freight trains only on track which is not part of the general railroad system of transportation;
- (b) Passenger railroads that operate only on track which is not part of the general railroad system of transportation and which operate at a maximum speed of 15 miles per hour; and
- (c) Rapid transit operations within an urban area that are not connected to the general railroad system of transportation. See 49 CFR part 209, appendix A for the definitive statement of the meaning of the preceding sentence.

§ 222.7 What is this regulation's effect on State and local laws and ordinances?

- (a) Under 49 U.S.C. 20106, issuance of this part preempts any State law, rule, regulation, or order covering the same subject matter, except an additional or more stringent law, regulation, or order that is necessary to eliminate or reduce an essentially local safety hazard; is not incompatible with a law, regulation, or order of the United States government; and does not unreasonably burden interstate commerce. However, except as provided in § 222.25, this part does not cover the

subject matter of the routine sounding of locomotive horns at private highway-rail grade crossings.

(b) Inclusion of SSMs and ASMs in this part or approved subsequent to issuance of this part does not constitute federal preemption of State law regarding whether those measures may be used for traffic control. Individual states may continue to determine whether specific Supplementary Safety Measures (SSMs) or Alternative Safety Measures (ASMs) are appropriate traffic control measures for that State, consistent with Federal Highway Administration regulations and the Manual on Uniform Traffic Control Devices (MUTCD). However, inclusion of SSMs and ASMs in this part does constitute federal preemption of State law concerning the sounding of train horns in relation to the use of those measures.

§ 222.9 Definitions.

As used in this part—

Administrator means the Administrator of the Federal Railroad Administration or the Administrator's delegate.

Alternative safety measures (ASM) means a safety system or procedure, other than an SSM, established in accordance with this part which is provided by the appropriate traffic control authority or law enforcement authority and which, after individual review and analysis by the Associate Administrator, is determined to be an effective substitute for the locomotive horn in the prevention of highway-rail grade crossings. Appendix B to this part lists such measures.

Associate Administrator means the Associate Administrator for Safety of the Federal Railroad Administration or the Associate Administrator's delegate.

Channelization device means one of a series of highly visible vertical markers placed between opposing highway lanes designed to alert or guide traffic around an obstacle or to direct traffic in a particular direction. "Tubular markers" and "vertical panels" as described in sections 6F.57 and 6F.58, respectively, of the MUTCD, are acceptable channelization devices for purposes of this part. Additional design specifications are determined by the