

Section	Violation	Willful violation
(e) Failure to repair defective modesty lock .....	1,000	2,000

<sup>1</sup> A penalty may be assessed against an individual only for a willful violation. Generally, when two or more violations of these regulations are discovered with respect to a single locomotive that is used by a railroad, the appropriate penalties set forth above are aggregated up to a maximum of \$10,000 per day. However, a failure to perform, with respect to a particular locomotive, any of the inspections and tests required under subpart B of this part will be treated as a violation separate and distinct from, and in addition to, any substantive violative conditions found on that locomotive. Moreover, the Administrator reserves the right to assess a penalty of up to \$27,000 for any violation where circumstances warrant. See 49 CFR part 209, appendix A.

Failure to observe any condition for movement set forth in § 229.9 will deprive the railroad of the benefit of the movement-for-repair provision and make the railroad and any responsible individuals liable for penalty under the particular regulatory section(s) concerning the substantive defect(s) present on the locomotive at the time of movement. Failure to comply with § 229.19 will result in the lapse of any affected waiver.

[53 FR 52931, Dec. 29, 1988, as amended at 58 FR 36615, July 8, 1993; 61 FR 8888, Mar. 6, 1996; 63 FR 11622, Mar. 10, 1998; 67 FR 16052, Apr. 4, 2002; 69 FR 30594, May 28, 2004]

EFFECTIVE DATE NOTE: At 68 FR 70687, Dec. 18, 2003, appendix B to part 229 was amended by revising the entry for “Audible warning devices”, effective Dec. 18, 2004. For the con-

venience of the user, the revised text is set forth as follows:

APPENDIX B TO PART 229—SCHEDULE OF CIVIL PENALTIES<sup>1</sup>

Section	Violation	Willful Violation
229.129 Audible warning device:		
(a) Prescribed sound levels .....	\$2,500	\$5,000
Arrangement of device .....	2,500	5,000
(b) (1), (ii) Testing .....	2,500	5,000
(c) Test procedures .....	2,500	5,000
(c)(10) Records of tests .....	2,500	5,000

APPENDIX C TO PART 229—FRA LOCOMOTIVE STANDARDS—CODE OF DEFECTS

EDITORIAL NOTE: Appendix C, published at 45 FR 21121, Mar. 31, 1980, as part of the original document, is not carried in the CFR.

**PART 230—STEAM LOCOMOTIVE INSPECTION AND MAINTENANCE STANDARDS**

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APPENDIX A TO PART 230—INSPECTION REQUIREMENTS

APPENDIX B TO PART 230—DIAGRAMS AND DRAWINGS

APPENDIX C TO PART 230—FRA INSPECTION FORMS

APPENDIX D TO PART 230—CIVIL PENALTY SCHEDULE

AUTHORITY: 49 U.S.C. 20103, 20107, 20702; 28 U.S.C. 2461, note; and 49 CFR 1.49.

SOURCE: 64 FR 62865, Nov. 17, 1999, unless otherwise noted.

**Subpart A—General**

**§ 230.1 Purpose and scope.**

This part prescribes minimum Federal safety standards for all steam-propelled locomotives operated on railroads to which this part applies. This part does not restrict a railroad from adopting and enforcing additional or more stringent requirements not inconsistent with this part.

**§ 230.2 Applicability.**

(a) Except as provided in paragraph (b) of this section, this part applies to all railroads that operate steam locomotives.

(b) This part does not apply to:

- (1) A railroad with track gage of less than 24 inches;
- (2) A railroad that operates exclusively freight trains and does so only on track inside an installation that is

not part of the general system of transportation;

(3) Rapid transit operations in an urban area that are not connected to the general system of transportation; or

(4) A railroad that operates passenger trains and does so only on track inside an installation that is insular, i.e., its operations are limited to a separate enclave in such a way that there is no reasonable expectation that the safety of the public—except a business guest, a licensee of the railroad or an affiliated entity, or a trespasser—would be affected by the operation. An operation will not be considered insular if one or more of the following exists on its line:

- (i) A public highway-rail crossing that is in use;
- (ii) An at-grade rail crossing that is in use;
- (iii) A bridge over a public road or waters used for commercial navigation; or

(iv) A common corridor with another railroad, i.e., its operations are conducted within 30 feet of those of any other railroad.

(c) See appendix A of part 209 for a current statement of the FRA's policy on its exercise of jurisdiction.

**§ 230.3 Implementation.**

Except as provided in paragraphs (a) through (c) of this section, the locomotive owner and/or operator shall perform a 1472 service day inspection that meets the requirements of § 230.17 when the locomotive's flues would be required to be removed pursuant to § 230.10, of the regulations in effect prior to January 18, 2000. (See 49 CFR parts 200-999, revised October 1, 1978) At the time the locomotive owner and/or operator completes this inspection, it must begin to comply with the rest of the provisions of this part. Up until such time, and except as provided in paragraphs (a) through (c) of this section, compliance with the regulations in effect prior to January 18, 2000 (See 49 CFR parts 200-999, revised October 1, 1978) will constitute full compliance with this part. Any interested person may obtain the October 1, 1978 revision of 49 CFR parts 200-999 by contacting the Federal Railroad Administration,