

Frequently Asked Questions SAFE TRAINS Compliance for Manufacturers

On December 19, 2024, the United States Department of Transportation's Federal Railroad Administration ("FRA") issued a [final rule](#) to amend the Freight Car Safety Standards in 49 C.F.R. Part 215 and implement a rail safety provision in the Infrastructure Investment and Jobs Act known as the "SAFE TRAINS" provision. The new regulation establishes and ensures compliance with stringent limitations on the use of sensitive technology and components originating from countries of concern or state-owned enterprises, ensuring that America's rail network remains protected from risks of exploitation or compromise. SAFE TRAINS is codified at 49 U.S.C. § [20171](#) and FRA's implementing regulations are in 49 C.F.R. Part 215, [Subpart E](#).

NOTE: This Frequently Asked Questions ("FAQ") document was developed by the Rail Security Alliance and is intended to serve as a guide. This FAQ is does not constitute guidance from the FRA and it does not replace the obligation of a regulated person (as defined in 49 C.F.R. § 209.3) to comply with applicable federal laws and regulations. Furthermore, this document is not intended to provide legal advice and is not a substitute for applicable federal law or regulations. Users of this document should always refer to federal law and federal regulations for a full statement of the legal requirements and, if appropriate, consult with legal counsel to evaluate the facts and circumstances of compliance for a particular company or facility. The final rule notes that for further information contact: Check Kam, Mechanical Engineer, Office of Railroad Safety at (202) 366-2139, email: check.kam@dot.gov; or Michael Masci, Senior Attorney Adviser, Office of the Chief Counsel, telephone: (202) 302-7117, email: michael.masci@dot.gov.

1. Are qualified manufacturers required to send certifications to the Association of American Railroads or any individual railroads?

Answer: No. Both the Infrastructure Investment and Jobs Act (the "Act") and the implementing FRA regulations in 49 C.F.R. Part 215, Subpart E, i.e., the Freight Car Safety Standards as revised ("FCSS"), require a railroad freight car manufacturer to certify, at least annually, only to the Federal Railroad Administration ("FRA") Office of Railroad Safety, that each railroad freight car complies with the Act before that railroad freight car is provided for operation on the United States general railroad system of transportation. Certification must be submitted via electronic mail to FRARRSMPE@dot.gov.

There is no requirement for a railroad freight car manufacturer to provide a certification (including the one submitted to the FRA) to the Association of American Railroads or to any individual railroad. See 49 C.F.R. § 215.403.

2. Does 49 C.F.R. Part 215, Subpart E require a railroad to verify that a railroad freight car manufacturer has submitted a certification of compliance to FRA prior to accepting a railroad freight car?

Answer: No. The FCSS do not require a railroad to verify that a railroad freight car manufacturer has submitted a certification of compliance in accordance with § 215.403. Subpart E only imposes requirements on railroad freight car manufacturers.

3. **What are railroads required to do to comply with 49 C.F.R. Part 215, Subpart E?**

Answer: 49 C.F.R. Part 215, Subpart E imposes no requirements on railroads; rather, 49 C.F.R. Part 215, Subpart E imposes requirements only on railroad freight car manufacturers.

4. **By what date must a qualified manufacturer begin submitting certifications to the FRA?**

Answer: Only railroad freight cars wholly manufactured on or after December 19, 2025, are subject to the Act's requirements. Therefore, a qualified manufacturer must submit a certification to FRA prior to providing for operation a railroad freight car wholly manufactured on or after December 19, 2025. 49 C.F.R. § 215.403. While there is not a specific date on which qualified manufacturers must start submitting certifications, the certification requirement does not apply to railroad freight cars wholly manufactured prior to December 19, 2025.

5. **Is the "effective" date of January 21, 2025, the date that FRA has "issued" regulations to implement the Act?**

Answer: No. FRA issued regulations to implement the Act on December 19, 2024. The "issuance date" (as this term is used in the Act) is therefore December 19, 2024. See, e.g., 49 U.S.C. § 20171(b)(1) (only railroad freight cars wholly manufactured on a date that is one year after the issuance date are subject to the Act's requirements); see also Final Rule at Federal Register (FR) 103,679 ("With respect to applicability, the plain language states that only railroad freight cars that are wholly manufactured on or after a date that is one year after the issuance date are subject to the Act's requirements.").

These implementing regulations are not effective until January 21, 2025. The effective date of the regulation is when it becomes enforceable. When a federal government agency, including FRA, publishes a final rule, generally the rule is effective no less than thirty days after the date of publication in the *Federal Register*. See Regulations.gov, "Learn About the Regulatory Process," <https://www.regulations.gov/learn>.

6. **With the "date of issuance" as December 19, 2024, when is the first date that certifications are due to the FRA?**

Answer: The "date of issuance," as used in the Act, is December 19, 2024, i.e., the date FRA published the final rule in the *Federal Register*. The Act only applies to new railroad freight cars that are wholly manufactured on or after December 19, 2025, i.e., one year from the date of issuance on December 19, 2024. Railroad freight cars manufactured prior to December 19, 2025, and new railroad freight cars that were partially manufactured prior to December 19, 2025, are not subject to the Act. See 49 C.F.R. § 215.403.

For this reason, no certification is due to FRA until a qualified manufacturer is providing a railroad freight car that is wholly manufactured on or after December 19, 2025, for operation on the United States general railroad system of transportation. In practice, this cannot occur prior to December 19, 2025.

7. **Does this rule apply to any new railroad freight car built before December 19, 2025?**

Answer: No. The requirements in 49 C.F.R. Part 215, Subpart E only apply to new railroad freight cars that are wholly manufactured on or after 19 December 2025. See requirements at 49 C.F.R. § 215.401; Final Rule at FR103,679.

8. Does this rule apply to any existing railroad freight cars built before December 19, 2025?

Answer: No. The rule does not apply to (1) existing railroad freight cars already placed in service in the United States, or (2) railroad freight cars that were partially manufactured before December 19, 2025. See requirements at 49 C.F.R. § 215.401; Final Rule at FR 103,679.

9. Does this rule apply to any after-manufacture changes to railroad freight cars, including sensitive technology, built before or after 19 December 2025?

Answer: No. The Act (and the implementing regulations) regulates railroad freight cars by imposing requirements only at the time of initial manufacture. Final Rule at FR 103,679. The rule does not apply to after-manufacture changes to a railroad freight car. This includes the content limitations and the sensitive technology requirements. Railroad freight cars that are currently in use are not subject to the Act or FRA's implementing regulations, including when parts are replaced during maintenance or repair. In addition, the sensitive technology prohibition only applies to a railroad freight car at the time of initial manufacture.

FRA is not required to ensure that the requirements of the Act are met throughout the useful life of the equipment or at each re-entry into service following any changes to the railroad freight car including repair, alteration, modification, rebuild, refurbishment, restoration, conversion to a new type of railroad freight car, or reconstruction. Final Rule at FR 103,679. Likewise, manufacturers, carriers, car owners, and shippers are not required to ensure that the requirements are met throughout the useful life of the railroad freight car.

10. Is there an FRA certification form or is each qualified manufacturer responsible for generating a form they submit to the FRA showing compliance after December 19, 2025?

Answer: There is no standard certification form that qualified manufacturers must submit to FRA. A qualified manufacturer has the flexibility to provide the certification in their format of choice. A certification must include the statement "I certify that all freight cars that will be provided for operation on the United States general railroad system of transportation will comply with 49 U.S.C. § 20171, and the implementing regulations at 49 C.F.R. Part 215" and contain:

- 1) the manufacturer's name and address;
- 2) the name, signature, and contact information for the person designated to certify compliance with this subpart;
- 3) a car identification number for each car being certified.

See 49 C.F.R. § 215.203; Final Rule at FR 103,681.

11. When is a qualified manufacturer required to register compliance with the Final Rule or 49 CFR Part 215, Subpart E for a newly built railroad freight car in Umler?

Answer: The Final does not specify when a freight car manufacturer must register a freight car in Umler. In addition, the rule does not specify that a car must be registered as compliant with Part 215 in Umler. However, for all railroad freight cars wholly manufactured on or after December 19, 2025, a manufacturer is prohibited from registering such railroad freight car in the Umler system unless it complies with the Act and 49 C.F.R. Part 215, Subpart E. See 49 C.F.R. § 215.405.

12. If a U.S. company is found to violate U.S. IP laws, is all content supplied by that company prohibited on a railroad freight car?

Answer: No. The Act and FRA’s implementing regulations prohibit a railroad freight car from operating in the U.S. if that railroad freight car is equipped with content or components (e.g., wheels) that were the subject of an IP infringement case *only if* such content or components are sourced from a country of concern (as defined in the regulations) (i.e., China) or a state-owned enterprise (as defined in the regulations). In other words, the IP violation prohibition applies only when the IP subject to the violation or infringement comes from a country of concern or a state-owned enterprise. 49 C.F.R. § 215.401(a)(3); Final Rule at FR 103,680.

13. Does FRA maintain a list of International Trade Commission (“ITC”) determinations identifying companies that the ITC has determined to have violated US IP law?

Answer: No, FRA does not track ITC determinations. Manufacturers seeking certification are responsible for researching determinations against their own suppliers. Final Rule at FR 103,685. ITC determinations are available on the ITC website, https://www.usitc.gov/intellectual_property/337_determinations.htm. Users must have or register for an EDIS account to view the list of documents and download them from the ITC website.

14. Which components are the active components in sensitive technology?

Answer: The Act and FRA’s implementing regulations do not define “active components” or what constitutes “components necessary to the functionality of the sensitive technology.” However, FRA explains that active components include any type of processor (including microprocessors, short-range wireless processors, and long-range wireless processors), transmitter, receiver, or data storage device. Passive components are not restricted by the Act (i.e., they may be sourced from any country and any company) and include printed circuit boards, power supplies, temperature sensors, pressure gauges, resistors, and capacitors. Final Rule at FR 103,680 and FR 103,685.

15. Are suppliers of sensitive technology required to make a certification to FRA?

Answer: No. The Act and implementing regulations do not impose a certification requirement on vendors of sensitive technology. Only a railroad freight car manufacturer must certify that a newly manufactured railroad freight car complies with the sensitive technology prohibition. As a best practice, railroad freight car manufacturers may consider obtaining certifications from suppliers that their sensitive technology device (or the active components thereof) complies with the Act prior to installing sensitive technology at the time of manufacture.

16. As a customer of a railroad freight car manufacturer, how do I comply with the Act and FRA's implementing regulations?

Answer: 49 C.F.R. Part 215, Subpart E imposes no requirements customers of railroad freight car manufacturers; rather, 49 C.F.R. Part 215, Subpart E imposes requirements only on railroad freight car manufacturers.

17. How do railroad freight car suppliers comply with the Act and FRA's implementing regulations?

Answer: 49 C.F.R. Part 215, Subpart E imposes no requirements on railroad freight car suppliers; rather, 49 C.F.R. Part 215, Subpart E imposes requirements only on railroad freight car manufacturers.

18. How do railroad freight car owners comply with the Act and FRA's implementing regulations?

Answer: 49 C.F.R. Part 215, Subpart E imposes no requirements on railroad freight car owners; rather, 49 C.F.R. Part 215, Subpart E imposes requirements only on railroad freight car manufacturers.

19. How do offerors comply with the Act and FRA's implementing regulations?

Answer: 49 C.F.R. Part 215, Subpart E imposes no requirements on offerors; rather, 49 C.F.R. Part 215, Subpart E imposes requirements only on railroad freight car manufacturers.

20. How do I know if a railroad freight car complies with the Act and FRA's implementing regulations?

Answer: The Act only applies to new railroad freight cars that are wholly manufactured on or after December 19, 2025, i.e., one year from the date of issuance on December 19, 2024. If a railroad freight car has been wholly manufactured on or after December 19, 2025, then it must be identified in a manufacturer certification submitted to FRA. In addition, manufacturers are required to maintain records showing the information (including the calculations) made to support certifications and make those records available to FRA upon request. 49 C.F.R. § 215.403(a).

21. Are there definitions of qualified manufacturer and qualified facility?

Answer: Yes, the Act defines both terms and FRA adopted the definition of both terms directly from the Act. A "qualified manufacturer" means "a railroad freight car manufacturer that is not owned or under the control of a state-owned enterprise. 49 U.S.C. § 20171(a)(7); 49 C.F.R. § 215.5. For the purpose of this definition, FRA states that "a supplier, component and repair part manufacturer, or other entity may be a railroad freight car manufacturer, if it manufactures, assembles, or substantially transforms a freight car." Final Rule at FR 103,684. A "qualified facility" means "a facility that is not owned or under the control of a state-owned enterprise." 49 U.S.C. § 20171(a)(6); 49 C.F.R. § 215.5.

22. Will railroad freight car manufacturers receive an approval from FRA in response to certification submissions?

Answer: 49 C.F.R. Part 215, Subpart E does not require FRA to issue an approval in response to certifications from railroad freight car manufacturers.

23. Who certifies whether a facility or manufacturer is “qualified” under the Act and the implementing regulations?

Answer: Facilities and manufacturers do not require certification to be “qualified” under the Act or the FCSS. Rather, a facility must meet the definition of “qualified facility” and a railroad freight car manufacturer must meet the definition of “qualified manufacturer.” 49 U.S.C. § 20171(a)(7); 49 C.F.R. § 215.5.

24. Is there a list of countries of concern and if so, will it be updated?

Answer: FRA does not maintain a list of countries that qualify as a country of concern. A country must meet all three criteria in the definition to qualify as a country of concern. China is currently the only country that meets all three criteria in the country of concern definition, and therefore is the only country of concern at present. Final Rule at FR 103,683–103,684. To be a country of concern, a country must be:

- Identified by the Department of Commerce as a nonmarket economy country (as defined in section 771(18) of the Tariff Act of 1930 (19 U.S.C. § 1677(18))) as of November 15, 2021;
- Identified by the United States Trade Representative in the most recent report required by section 182 of the Trade Act of 1974 (19 U.S.C. § 2242) as a foreign country included on the priority watch list (as defined in subsection (g)(3) of such section); and
- Subject to monitoring by the Trade Representative under section 306 of the Trade Act of 1974 (19 U.S.C. § 2416).

49 U.S.C. § 20171(a)(4)(A)–(C); 49 C.F.R. § 215.5.

25. Are the costs of ancillary items excluded from SAFE TRAINS or are they included in the net cost of the car?

Answer: The content limitation must be evaluated against the net cost of all components of the car and excluding the cost of sensitive technology. 49 C.F.R. § 215.401(b). The term “component” means “a part or subassembly of a railroad freight car.” 49 U.S.C. § 20171(a)(1); 49 C.F.R. § 215.5. FRA states that the term “component” includes the major components of freight cars such as trucks, wheel sets, center sills, draft gears, couplers, walkways, and running boards but is not intended to include smaller parts that do not significantly impact manufacturing costs, such as wear plates, roof liners, or small pieces of hardware such as screws. Final Rule at FR 103,683.

26. Is there any cost burden on the railroads?

Answer: No. 49 C.F.R. Part 215, Subpart E does not impose any cost burden on a railroad. Subpart E only imposes requirements on railroad freight car manufacturers. See Final Rule at FR 103,688.

27. Will a car owner need to provide any of the certifications?

Answer: 49 C.F.R. Part 215, Subpart E imposes no requirements on railroad freight car owners; rather, 49 C.F.R. Part 215, Subpart E imposes requirements only on railroad freight car manufacturers.

28. What happens if a manufacturer has been assessed more than three violations?

Answer: If a railroad freight car manufacturer is assessed more than three violations, it is prohibited from providing additional railroad freight cars for operation on the United States until FRA determines that (1) the manufacturer is in compliance with the FCSS, and (2) a manufacturer has paid all civil penalties. 49 C.F.R. § 215.407(b). Once FRA determines that the manufacturer has come into compliance and paid all relevant civil penalties, FRA will document that determination in writing. Final rule at FR 103,683.