



U.S. Department  
of Transportation

**Federal Railroad  
Administration**

# Memorandum

Date: June 15, 1998

Reply to Att. of: MP&E 98-34

Subject: Interpretation of 49 CFR Section 215.5 Definitions (e)(4)

From: Edward R. English  
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To: Regional Administrators, Deputy Regional Administrators,  
Motive Power & Equipment Specialists and Inspectors

Recently a question has been asked concerning the responsibility for the delivery of a defective car in interchange that has not yet been accepted by the receiving carrier.

49 CFR Section 215.5(e)(4) states: In service when used in connection with a railroad freight car, means each railroad freight car, subject to this part unless the car; (4) has been delivered in interchange but has not yet been accepted by the receiving carrier.

The Federal Register notice dated April 21, 1980, (45 FR 26709) states that: "FRA has amended 215.5(e)(4) to provide that a car that has been delivered in interchange is not "in service" until the receiving railroad accepts the car by moving it or otherwise exercising control over it. **It should be noted, however, that the delivering railroad remains liable for each defective car it tenders in interchange.**"

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