

Freight rolling stock owner means any person who owns freight rolling stock, is a lessee of freight rolling stock, manages the maintenance or use of freight rolling stock on behalf of an owner or one or more lessors or lessees, or otherwise controls the maintenance or use of freight rolling stock.

Locomotive has the meaning assigned by §229.5 of this chapter, but for purposes of this part applies only to a locomotive used in the transportation of freight or the operation of a work train.

Obscured means concealed or hidden (i.e., covered up, as where a layer of paint or dense chemical residue blocks all incoming light); this term does not refer to ordinary accumulations of dirt, grime, or ice resulting from the normal railroad operating environment.

Person means an entity of any type covered under 1 U.S.C. 1, including but not limited to the following: A railroad; a manager, supervisor, official, or other employee or agent of a railroad; any owner, manufacturer, lessor, or lessee of railroad equipment, track or facilities; any independent contractor providing goods or services to a railroad; and any employee of such an owner, manufacturer, lessor, lessee, or independent contractor.

Railroad means all forms of non-highway ground transportation that run on rails or electromagnetic guideways, including high speed ground transportation systems that connect metropolitan areas, without regard to whether they use new technologies not associated with traditional railroads.

Railroad freight car has the meaning assigned by §215.5 of this chapter.

Tank car means a rail car, the body of which consists of a tank for transporting liquids.

Universal Machine Language Equipment Register means the database containing information on rail equipment maintained by the Association of American Railroads.

Unqualified Retroreflective Sheeting means engineering grade sheeting, super engineering grade sheeting (enclosed lens) or high-intensity type sheeting (ASTM Type I, II, III, or IV Sheeting) as described in ASTM International Standard D-4956-04, "Standard

Specification for Retroreflective Sheeting for Traffic Control."

Work train means a non-revenue service train used for the maintenance and upkeep service of the railroad.

§ 224.7 Waivers.

(a) Any person subject to a requirement of this part may petition the Administrator for a waiver of compliance with such requirement. The filing of such a petition does not affect that person's responsibility for compliance with that requirement while the petition is being considered.

(b) Each petition for waiver under this section shall be filed in the manner and contain the information required by part 211 of this chapter.

(c) If the Administrator finds that a waiver of compliance is in the public interest and is consistent with railroad safety, the Administrator may grant the waiver subject to any conditions that the Administrator deems necessary.

§ 224.9 Responsibility for compliance.

(a) Freight rolling stock owners, railroads, and (with respect to certification of material) manufacturers of retroreflective material, are primarily responsible for compliance with this part. However, any person that performs any function or task required by this part (including any employee, agent, or contractor of the aforementioned), must perform that function in accordance with this part.

(b) Any person performing any function or task required by this part shall be deemed to have consented to FRA inspection of the person's facilities and records to the extent necessary to determine whether the function or task is being performed in accordance with the requirements of this part.

§ 224.11 Penalties.

(a) Any person (including but not limited to a railroad; any manager, supervisor, official, or other employee or agent of a railroad; any owner, manufacturer, lessor, or lessee of railroad equipment, track, or facilities; any employee of such owner, manufacturer, lessor, lessee, or independent contractor) who violates any requirement of this part or causes the violation of

§ 224.13

any such requirement is subject to a civil penalty of at least \$650, but not more than \$25,000 per violation, except that: Penalties may be assessed against individuals only for willful violations, and, where a grossly negligent violation or a pattern of repeated violations has created an imminent hazard of death or injury to persons, or has caused death or injury, a penalty not to exceed \$100,000 per violation may be assessed. Each day a violation continues shall constitute a separate offense. Appendix A to this part contains a schedule of civil penalty amounts used in connection with this part.

(b) Any person who knowingly and willfully falsifies a record or report required by this part is subject to criminal penalties under 49 U.S.C. 21311.

[70 FR 62176, Oct. 28, 2005, as amended at 72 FR 51197, Sept. 6, 2007; 73 FR 79702, Dec. 30, 2008]

§ 224.13 Preemptive effect.

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, rule, regulation, or order that is necessary to eliminate or reduce an essentially local safety hazard; that is not incompatible with a law, rule, regulation, or order of the United States Government; and that does not unreasonably burden interstate commerce.

§ 224.15 Special approval procedures.

(a) *General.* The following procedures govern consideration and action upon requests for special approval of alternative standards under § 224.103(e).

(b) *Petitions.* (1) Each petition for special approval of an alternative standard shall contain—

(i) The name, title, address, and telephone number of the primary person to be contacted with regard to the petition;

(ii) The alternative proposed, in detail, to be substituted for the particular requirements of this part; and

(iii) Appropriate data and analysis establishing that the alternative will provide at least an equivalent level of safety and meet the requirements of § 224.103(e).

49 CFR Ch. II (10–1–11 Edition)

(2) Each petition for special approval of an alternative standard shall be submitted to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, RCC–10, Mail Stop 10, 1200 New Jersey Avenue, SE., Washington, DC 20590.

(c) *Notice.* FRA will publish a notice in the FEDERAL REGISTER concerning each petition under paragraph (b) of this section.

(d) *Public comment.* FRA will provide a period of not less than 30 days from the date of publication of the notice in the FEDERAL REGISTER during which any person may comment on the petition.

(1) Each comment shall set forth specifically the basis upon which it is made, and contain a concise statement of the interest of the commenter in the proceeding.

(2) Each comment shall be submitted to the U.S. Department of Transportation, Docket Operations (M–30), West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, and shall contain the assigned docket number which appears in the FEDERAL REGISTER for that proceeding. The form of such submission may be in written or electronic form consistent with the standards and requirements established by the Federal Docket Management System and posted on its Web site at <http://www.regulations.gov>.

(3) In the event FRA determines that it requires additional information to appropriately consider the petition, FRA will conduct a hearing on the petition in accordance with the procedures provided in § 211.25 of this chapter.

(e) *Disposition of petitions.* (1) If FRA finds that the petition complies with the requirements of this section and that the proposed alternative standard is acceptable or changes are justified, or both, the petition will be granted, normally within 90 days of its receipt. The Associate Administrator may determine the applicability of other technical requirements of this part when rendering a decision on the petition. If the petition is neither granted nor denied within 90 days, the petition remains pending for decision. FRA may