

## §210.7

whom the Administrator has delegated authority to act in the Administrator's stead.

*Consist of a locomotive and rail cars* means one or more locomotives coupled to a rail car or rail cars.

*FRA* means the Federal Railroad Administration.

*Inert retarder* means a device or system for holding a classified cut of cars and preventing it from rolling out the bottom of a railyard.

*Inspector* means FRA inspectors or FRA specialists.

*Noise defective* means the condition in which railroad equipment is found to exceed the Railroad Noise Emission Standards, 40 CFR part 201.

*Railroad equipment* means rail cars, locomotives, active retarders, and load cell test stands.

*Standards* means the Railroad Noise Emission Standards, 40 CFR part 201. (See appendix A in this part for a listing.)

### §210.7 Responsibility for noise defective railroad equipment.

Any railroad that uses railroad equipment that is noise defective or engages in a car coupling operating that results in excessive noise according to the criteria established in this part and in the Standards is responsible for compliance with this part. Subject to §210.9, such railroad shall—

- (a) Correct the noise defect;
- (b) Remove the noise defective railroad equipment from service; or
- (c) Modify the car coupling procedure to bring it within the prescribed noise limits.

### §210.9 Movement of a noise defective locomotive, rail car, or consist of a locomotive and rail cars.

A locomotive, rail car, or consist of a locomotive and rail cars that is noise defective may be moved no farther than the nearest forward facility where the noise defective conditions can be eliminated only after the locomotive, rail car, or consist of a locomotive and rail cars has been inspected and been determined to be safe to move.

### §210.11 Waivers.

- (a) Any person may petition the Administrator for a waiver of compliance

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with any requirement in this part. A waiver of compliance with any requirement prescribed in the Standards may not be granted under this provision.

(b) Each petition for a waiver under this section must be filed in the manner and contain information required by 49 CFR part 211.

(c) If the Administrator finds that a waiver of compliance applied for under paragraph (a) of this section is in the public interest and is consistent with railroad noise abatement and safety, the Administrator may grant a waiver subject to any condition he deems necessary. Notice of each waiver granted, including a statement of the reasons therefor, will be published in the FEDERAL REGISTER.

### §210.13 Penalty.

Any person who operates railroad equipment subject to the Standards in violation of any requirement of this part or of the Standards is liable to penalty as prescribed in section 11 of the Noise Control Act of 1972 (42 U.S.C. 4910), as amended.

## Subpart B—Inspection and Testing

### §210.21 Scope of subpart.

This subpart prescribes the compliance criteria concerning the requirements for inspection and testing of railroad equipment or operations covered by the Standards.

### §210.23 Authorization.

(a) An inspector is authorized to perform any noise test prescribed in the Standards and in the procedures of this part at any time, at any appropriate location, and without prior notice to the railroad, for the purpose of determining whether railroad equipment is in compliance with the Standards.

(b)(1) An inspector is authorized to request that railroad equipment and appropriate railroad personnel be made available for a passby or stationary noise emission test, as prescribed in the Standards and in the procedures of this part, and to conduct such test, at a reasonable time and location, for the purpose of determining whether the railroad equipment is in compliance with the Standards.