

Subpart A—General Provisions**§210.1 Scope of part.**

This part prescribes minimum compliance regulations for enforcement of the Railroad Noise Emission Standards established by the Environmental Protection Agency in 40 CFR part 201.

§210.3 Applicability.

(a) Except as provided in paragraph (b) of this section, the provisions of this part apply to the total sound emitted by moving rail cars and locomotives (including the sound produced by refrigeration and air conditioning units that are an integral element of such equipment), active retarders, switcher locomotives, car coupling operations, and load cell test stands, operated by a railroad as defined in 45 U.S.C. 22, under the conditions described in this part and in 40 CFR part 201.

(b) The provisions of this part do not apply to—

- (1) Steam locomotives;
- (2) Street, suburban, or interurban electric railways unless operated as a part of the general railroad system of transportation;
- (3) Sound emitted by warning devices, such as horns, whistles, or bells when operated for the purpose of safety;
- (4) Special purpose equipment that may be located on or operated from rail cars;
- (5) As prescribed in 40 CFR 201.10, the provisions of 40 CFR 201.11 (a) and (b) and (c) do not apply to gas turbinepowered locomotives or any locomotive type that cannot be connected by any standard method to a load cell; or
- (6) Inert retarders.

[48 FR 56758, Dec. 23, 1983, as amended at 54 FR 33228, Aug. 14, 1989]

§210.5 Definitions.

(a) *Statutory definitions.* All terms used in this part and defined in the Noise Control Act of 1972 (42 U.S.C. 4901 *et seq.*) have the definition set forth in that Act.

(b) *Definitions in standards.* All terms used in this part and defined in §201.1 of the Railroad Noise Emission Stand-

ards, 40 CFR 201.1, have the definition set forth in that section.

(c) *Additional definitions.* As used in this part—

Administrator means the Federal Railroad Administrator, the Deputy Administrator, or any official of FRA to 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,

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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 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

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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.

(2) If the railroad has the capability to perform an appropriate noise emission test, as prescribed in the Standards and in the procedures of this part, an inspector is authorized to request that the railroad test railroad equipment. The railroad shall perform the appropriate test as soon as practicable.

(3) The request referred to in this paragraph will be in writing, will state the grounds upon which the inspector has reason to believe that the railroad equipment does not conform to the Standards, and will be presented to an appropriate operating official of the railroad.

(4) Testing or submission for testing is not required if the cause of the noise defect is readily apparent and the inspector verifies that it is corrected by the replacement of defective components or by instituting a normal maintenance or repair procedure.

(c)(1) An inspector is authorized to inspect or examine a locomotive, rail car, or consist of a locomotive and rail cars operated by a railroad, or to request that the railroad inspect or examine the locomotive, rail car, or consist of a locomotive and rail cars, whenever the inspector has reason to believe that it does not conform to the requirements of the Standards.

(2) An inspector may request that a railroad conduct an inspection or examination of a locomotive, rail car, or consist of a locomotive and rail cars on the basis of an excessive noise emission level measured by a passby test. If, after such inspection or examination, no mechanical condition that would result in a noise defect can be found and the inspector verifies that no such mechanical condition exists, the locomotive, rail car, or consist of a locomotive and rail cars may be continued in service.

(3) The requests referred to in this paragraph will be in writing, will state the grounds upon which the inspector has reason to believe that the locomotive, rail car, or consist of a locomotive and rail cars does not conform