

## § 220.5

(2) Rapid transit operations in an urban area that are not connected with the general railroad system of transportation.

### § 220.5 Definitions.

As used in this part, the term:

*Adjacent tracks* means two or more tracks with track centers spaced less than 25 feet apart.

*Control center* means the locations on a railroad from which the railroad issues instructions governing railroad operations.

*Division headquarters* means the location designated by the railroad where a high-level operating manager (e.g., a superintendent, division manager, or equivalent), who has jurisdiction over a portion of the railroad, has an office.

*Employee* means an individual who is engaged or compensated by a railroad or by a contractor to a railroad, who is authorized by a railroad to use its wireless communications in connection with railroad operations.

*Immediate access* to a radio means a radio on the employee's person, or sufficiently close to the employee to allow the employee to make and receive radio transmissions.

*Joint operations* means rail operations conducted by more than one railroad on the track of a railroad subject to the requirements of § 220.9(a), except as necessary for the purpose of interchange.

*Locomotive* means a piece of on-track equipment other than hi-rail, specialized maintenance, or other similar equipment—

(1) With one or more propelling motors designed for moving other equipment;

(2) With one or more propelling motors designed to carry freight or passenger traffic, or both; or

(3) Without propelling motors but with one or more control stands.

*Lone worker* means an individual roadway worker who is not being afforded on-track safety by another roadway worker, who is not a member of a roadway work group, and who is not engaged in a common task with another roadway worker.

*Mandatory directive* means any movement authority or speed restriction that affects a railroad operation.

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*Railroad operation* means any activity which affects the movement of a train, locomotive, on-track equipment, or track motor car, singly or in combination with other equipment, on the track of a railroad.

*Roadway worker* means any employee of a railroad, or of a contractor to a railroad, whose duties include inspection, construction, maintenance or repair of railroad track, bridges, roadway, signal and communication systems, electric traction systems, roadway facilities or roadway maintenance machinery on or near track or with the potential of fouling a track, and flagmen and watchmen/lookouts.

*System headquarters* means the location designated by the railroad as the general office for the railroad system.

*Train* means one or more locomotives coupled with or without cars, requiring an air brake test in accordance with 49 CFR part 232 or part 238, except during switching operations or where the operation is that of classifying and assembling rail cars within a railroad yard for the purpose of making or breaking up trains.

*Working radio* means a radio that can communicate with the control center of the railroad (through repeater stations, if necessary to reach the center) from any location within the rail system, except:

(1) Tunnels or other localized places of extreme topography, and

(2) Temporary lapses of coverage due to atmospheric or topographic conditions. In the case of joint operations on another railroad, the radio must be able to reach the control center of the host railroad.

*Working wireless communications* means the capability to communicate with either a control center or the emergency responder of a railroad through such means as radio, portable radio, cellular telephone, or other means of two-way communication, from any location within the rail system, except:

(1) Tunnels or other localized places of extreme topography, and

(2) Temporary lapses of coverage due to atmospheric or topographic conditions. In the case of joint operations on another railroad, the radio must be

able to reach the control center of the host railroad.

[63 FR 47195, Sept. 4, 1998, as amended at 65 FR 41305, July 3, 2000]

#### § 220.7 Penalty.

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 independent contractor providing goods or services to a railroad; and any employee of such owner, manufacturer, lessor, lessee, or independent contractor) who violates any requirement of this part or causes the violation of any such requirement is subject to a civil penalty of at least \$550 and not more than \$11,000 per violation, except that: Penalties may be assessed against individuals only for willful violations; where a grossly negligent violation or a pattern of repeated violations has created an imminent hazard of death or injury, or has caused death or injury, a penalty not to exceed \$27,000 per violation may be assessed; and the standard of liability for a railroad will vary depending upon the requirement involved. Each day a violation continues shall constitute a separate offense. (See appendix C to this part for a statement of agency civil penalty policy.)

[63 FR 47195, Sept. 4, 1998, as amended at 69 FR 30593, May 28, 2004]

#### § 220.8 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 must 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 the Administrator deems necessary.

#### § 220.9 Requirements for trains.

(a) Except as provided for in paragraphs (b)(1) through (4) of this section, on and after July 1, 1999, each occupied controlling locomotive in a train shall have a working radio, and each train shall also have communications redundancy. For purposes of this section, "communications redundancy" means a working radio on another locomotive in the consist or other means of working wireless communications.

(b) On and after July 1, 2000, the following requirements apply to a railroad that has fewer than 400,000 annual employee work hours:

(1) Any train that transports passengers shall be equipped with a working radio in the occupied controlling locomotive and with redundant working wireless communications capability in the same manner as provided in paragraph (a) of this section.

(2) Any train that operates at greater than 25 miles per hour; or engages in joint operations on track where the maximum authorized speed for freight trains exceeds 25 miles per hour; or engages in joint operations on a track that is adjacent to and within 30 feet measured between track center lines of another track on which the maximum authorized speed for passenger trains exceeds 40 miles per hour, shall be equipped with a working radio in the occupied controlling locomotive.

(3) Any train that engages in joint operations, where the maximum authorized speed of the track is 25 miles per hour or less, shall be equipped with working wireless communications in the occupied controlling locomotive.

(4) Any train not described in paragraph (b) of this section that transports hazardous material required to be placarded under the provisions of part 172 of this title shall be equipped with working wireless communications in the occupied controlling locomotive.

#### § 220.11 Requirements for roadway workers.

(a) On and after July 1, 1999, the following requirements apply to a railroad that has 400,000 or more annual employee work hours:

(1) Maintenance-of-way equipment operating without locomotive assistance between work locations shall have