

§ 239.13

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, 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 \$27,000 per violation may be assessed. Each day a violation continues shall constitute a separate offense. Any person who knowingly and willfully falsifies a record or report required by this part may be subject to criminal penalties under 49 U.S.C. 21311 (formerly codified in 45 U.S.C. 438(e)). Appendix A contains a schedule of civil penalty amounts used in connection with this part.

[63 FR 24676, May 4, 1998, as amended at 69 FR 30595, May 28, 2004]

EFFECTIVE DATE NOTE: At 72 FR 51198, Sept. 6, 2007, §239.11 was amended by removing the numerical amount "\$11,000" and adding in its place the numerical amount "\$16,000", effective October 9, 2007.

§ 239.13 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.

§ 239.15 Information collection.

(a) The information collection requirements of this part have been reviewed by the Office of Management and Budget pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d) *et seq.*), and have been assigned OMB control number 2130-0545.

(b) The information collection requirements are found in the following sections: §§ 239.101, 239.103, 239.105,

239.107, 239.201, 239.203, 239.301, and 239.303.

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Subpart B—Specific Requirements

§ 239.101 Emergency preparedness plan.

(a) Each railroad to which this part applies shall adopt and comply with a written emergency preparedness plan approved by FRA under the procedures of § 239.201. The plan shall include the following elements and procedures for implementing each plan element.

(1) *Communication.* (i) *Initial and on-board notification.* An on-board crewmember shall quickly and accurately assess the passenger train emergency situation and then notify the control center as soon as practicable by the quickest available means. As appropriate, an on-board crewmember shall inform the passengers about the nature of the emergency and indicate what corrective countermeasures are in progress.

(ii) *Notifications by control center.* The control center shall promptly notify outside emergency responders, adjacent rail modes of transportation, and appropriate railroad officials that a passenger train emergency has occurred. Each railroad shall designate an employee responsible for maintaining current emergency telephone numbers for use in making such notifications.

(2) *Employee training and qualification.* (i) *On-board personnel.* The railroad's emergency preparedness plan shall address individual employee responsibilities and provide for initial training, as well as periodic training at least once every two calendar years thereafter, on the applicable plan provisions. As a minimum, the initial and periodic training shall include:

- (A) Rail equipment familiarization;
- (B) Situational awareness;
- (C) Passenger evacuation;
- (D) Coordination of functions; and
- (E) "Hands-on" instruction concerning the location, function, and operation of on-board emergency equipment.

(ii) *Control center personnel.* The railroad's emergency preparedness plan shall require initial training of responsible control center personnel, as well