

§219.7

(1) Commuter or other short-haul railroad passenger service in a metropolitan or suburban area and commuter railroad service that was operated by the Consolidated Rail Corporation on January 1, 1979; and

(2) High speed ground transportation systems that connect metropolitan areas, without regard to whether those systems use new technologies not associated with traditional railroads; but does not include rapid transit operations in an urban area that are not connected to the general railroad system of transportation.

Railroad property damage or *damage to railroad property* refers to damage to railroad property, including railroad on-track equipment, signals, track, track structures (including bridges and tunnels), or roadbed, including labor costs and all other costs for repair or replacement in kind. Estimated cost for replacement of railroad property must be calculated as described in the FRA Guide for Preparing Accident/Incident Reports. (See §225.21 of this chapter.) However, replacement of passenger equipment is calculated based on the cost of acquiring a new unit for comparable service.

Reportable injury means an injury reportable under Part 225 of this chapter.

Reporting threshold means the amount specified in §225.19(e) of this chapter, as adjusted from time to time in accordance with Appendix B to Part 225 of this chapter.

Supervisory employee means an officer, special agent, or other employee of the railroad who is not a co-worker and who is responsible for supervising or monitoring the conduct or performance of one or more employees.

Train, except as context requires, means a locomotive, or more than one locomotive coupled, with or without cars. (A locomotive is a self-propelled unit of equipment which can be used in train service.)

Train accident means a passenger, freight, or work train accident described in §225.19(c) of this chapter (a "rail equipment accident" involving damage in excess of the current reporting threshold), including an accident involving a switching movement.

Train incident means an event involving the movement of railroad on-track

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equipment that results in a casualty but in which railroad property damage does not exceed the reporting threshold.

Violation rate means the number of covered employees (as reported under §219.801) found during random tests given under this part to have an alcohol concentration of .04 or greater, plus the number of employees who refuse a random test required by this part, divided by the total reported number of employees in the industry given random alcohol tests under this part plus the total reported number of employees in the industry who refuse a random test required by this part.

§219.7 Waivers.

(a) A person subject to a requirement of this part may petition the FRA for a waiver of compliance with such requirement.

(b) Each petition for waiver under this section must be filed in a manner and contain the information required by Part 211 of this chapter. A petition for waiver of the Part 40 prohibition against stand down of an employee before the Medical Review Officer has completed the verification must also comply with §40.21 of this title.

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

§219.9 Responsibility for compliance.

(a) Any person (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 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 \$500 and not more than \$11,000 per violation, except that: Penalties may be assessed against individuals only for