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subject to a civil penalty of at least $650 and not more than $25,000 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 $105,000 per violation may be assessed. ''Person'' means 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; any employee of such owner, manufacturer, lessor, lessee, or independent contractor; and anyone held by the Administrator of the Federal Railroad Administration to be responsible under §237.3(d). Each day a violation continues shall constitute a separate offense. See Appendix B to this part for a statement of agency civil penalty policy.

(b) 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.

[75 FR 41302, July 15, 2010, as amended at 77 FR 24422, Apr. 24, 2012]

§237.9 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. If a waiver is granted, the Administrator publishes a notice in the Federal Register containing the reasons for granting the waiver.

Subpart B—Railroad Bridge Safety Assurance

§237.31 Adoption of bridge management programs.

Each track owner shall adopt a bridge safety management program to prevent the deterioration of railroad bridges by preserving their capability to safely carry the traffic to be operated over them, and reduce the risk of human casualties, environmental damage, and disruption to the Nation's railroad transportation system that would result from a catastrophic bridge failure, not later than the dates in the following schedule:

(a) March 14, 2011: Class I carriers;

(b) March 14, 2011: Owners of track segments which are part of the general railroad system of transportation and which carry more than ten scheduled passenger trains per week;

(c) September 13, 2011: Class II carriers to which paragraph (b) of this section does not apply; and

(d) September 13, 2012: All other track owners subject to this part and not described paragraphs (a) through (c) of this section.

§237.33 Content of bridge management programs.

Each bridge management program adopted in compliance with this part shall include, as a minimum, the following:

(a) An accurate inventory of railroad bridges, which shall include a unique identifier for each bridge, its location, configuration, type of construction, number of spans, span lengths, and all other information necessary to provide for the management of bridge safety;

(b) A record of the safe load capacity of each bridge;

(c) A provision to obtain and maintain the design documents of each bridge if available, and to document all repairs, modifications, and inspections of each bridge; and

(d) A bridge inspection program covering as a minimum:

(1) Inspection personnel safety considerations;

(2) Types of inspection including required detail;
(3) Definitions of defect levels along with associated condition codes if condition codes are used;
(4) The method of documenting inspections including standard forms or formats;
(5) Structure type and component nomenclature; and
(6) Numbering or identification protocol for substructure units, spans, and individual components.

Subpart C—Qualifications and Designations of Responsible Persons

§ 237.51 Railroad bridge engineers.

(a) A railroad bridge engineer shall be a person who is determined by the track owner to be competent to perform the following functions as they apply to the particular engineering work to be performed:
(1) Determine the forces and stresses in railroad bridges and bridge components;
(2) Prescribe safe loading conditions for railroad bridges;
(3) Prescribe inspection and maintenance procedures for railroad bridges; and
(4) Design repairs and modifications to railroad bridges.
(b) The educational qualifications of a railroad bridge engineer shall include either:
(1) A degree in engineering granted by a school of engineering with at least one program accredited by ABET, Inc. or its successor organization as a professional engineering curriculum, or a degree from a program accredited as a professional engineering curriculum by a foreign organization recognized by ABET, Inc. or its successor; or
(2) Current registration as a professional engineer.
(c) Nothing in this part affects the States' authority to regulate the professional practice of engineering.

§ 237.53 Railroad bridge inspectors.

A railroad bridge inspector shall be a person who is determined by the track owner to be technically competent to view, measure, report and record the condition of a railroad bridge and its individual components which that person is designated to inspect. An inspector shall be designated to authorize or restrict the operation of railroad traffic over a bridge according to its immediate condition or state of repair.

§ 237.55 Railroad bridge supervisors.

A railroad bridge supervisor shall be a person, regardless of position title, who is determined by the track owner to be technically competent to supervise the construction, modification or repair of a railroad bridge in conformance with common or particular specifications, plans and instructions applicable to the work to be performed, and to authorize or restrict the operation of railroad traffic over a bridge according to its immediate condition or state of repair.

§ 237.57 Designations of individuals.

Each track owner shall designate those individuals qualified as railroad bridge engineers, railroad bridge inspectors and railroad bridge supervisors. Each individual designation shall include the basis for the designation in effect and shall be recorded.

Subpart D—Capacity of Bridges

§ 237.71 Determination of bridge load capacities.

(a) Each track owner shall determine the load capacity of each of its railroad bridges. The load capacity need not be the ultimate or maximum load capacity, but must be a safe load capacity.
(b) The load capacity of each bridge shall be documented in the track owner's bridge management program, together with the method by which the capacity was determined.
(c) The determination of load capacity shall be made by a railroad bridge engineer using appropriate engineering methods and standards that are particularly applicable to railroad bridges.
(d) Bridge load capacity may be determined from existing design and modification records of a bridge, provided that the bridge substantially conforms to its recorded configuration. Otherwise, the load capacity of a bridge shall be determined by measurement and calculation of the properties of its individual components, or other