

Associate Administrator shall grant petitions only in which a petitioner has clearly articulated an alternative action that will provide, in the Associate Administrator's judgment, at least a level of safety equivalent to that provided by this EO.

Penalties

Any violation of this order or the terms of any written plan adopted pursuant to this order to provide alternate protection shall subject the person committing the violation to a civil penalty of up to \$105,000. 49 U.S.C. 21301. Any individual who willfully violates a prohibition stated in this order is subject to civil penalties under 49 U.S.C. 21301. In addition, such an individual whose violation of this order demonstrates the individual's unfitness for safety-sensitive service may be removed from safety-sensitive service on the railroad under 49 U.S.C. 20111. If appropriate, FRA may pursue criminal penalties under 49 U.S.C. 522(a) and 49 U.S.C. 21311(a), as well as 18 U.S.C. 1001, for the knowing and willful falsification of a report required by this order. FRA may, through the Attorney General, also seek injunctive relief to enforce this order. 49 U.S.C. 20112.

Effective Date and Notice to Affected Persons

Upon issuance of this EO, railroads shall immediately initiate steps to implement this EO. Railroads shall complete implementation no later than September 1, 2013. Notice of this EO will be provided by publishing it in the Federal Register.

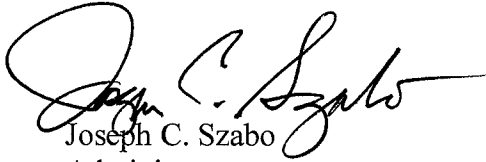
Review

Opportunity for formal review of this EO will be provided in accordance with 49

U.S.C. 20104(b) and section 554 of title 5 of the United States Code. Administrative procedures governing such review are found at 49 CFR part 211. See 49 CFR 211.47, 211.71, 211.73, 211.75, and 211.77.

AUG - 2 2013

Issued in Washington, D.C. on _____.



Joseph C. Szabo
Administrator

Appendix A
to Emergency Order 28

- (1) Five or more tank car loads of any one or any combination of materials poisonous by inhalation as defined in 49 CFR 171.8, and including anhydrous ammonia (UN 1005) and ammonia solutions (UN 3318); or
- (2) 20 rail car loads or intermodal portable tank loads of any one or any combination of materials listed in (1) above, or, any Division 2.1 flammable gas, Class 3 flammable liquid or combustible liquid, Class 1.1 or 1.2 explosive, or hazardous substance listed in 49 CFR 173.31(f)(2).⁷

⁷ See 49 CFR 173.115 for the definition of Division 2.1 flammable gas, 173.120 for definition of Class 3 flammable liquid; and 173.50 for the definition of the various classes of explosives.