

§ 238.111

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(2) Develop written procedures for the performance of the tasks identified in paragraph (b)(1) of this section;

(3) Identify the skills and knowledge necessary to perform each task identified in paragraph (b)(1) of this section;

(4) Adopt a training curriculum that includes classroom and “hands-on” lessons designed to impart the skills and knowledge identified as necessary to perform each task identified in paragraph (b)(1) of this section. The training curriculum shall specifically address the Federal regulatory requirements contained in this part that are related to the performance of the tasks identified;

(5) Require all employees and contractors to successfully complete the training course that covers the equipment and tasks for which they are responsible that are required by this part as well as the specific Federal regulatory requirements contained in this part related to equipment and tasks for which they are responsible;

(6) Require all employees and contractors to pass either a written or an oral examination covering the equipment and tasks for which they are responsible that are required by this part as well as the specific Federal regulatory requirements contained in this part related to equipment and tasks for which they are responsible;

(7) Require all employees and contractors to individually demonstrate “hands-on” capability to successfully perform the tasks required by this part that must be performed as part of their duties on the type equipment to which they are assigned;

(8) Require supervisors to complete the program that covers the employees whom they supervise, including refresher training;

(9) Require supervisors to exercise oversight to ensure that all the identified tasks are performed in accordance with the railroad’s written procedures;

(10) Designate in writing that each employee and contractor has the knowledge and skills necessary to perform the safety-related tasks that are part of his or her job;

(11) Require periodic refresher training, at an interval not to exceed three years, that includes classroom and “hands-on” training, as well as testing;

except, employees and contractors that have completed their initial training under this part prior to January 1, 2002, shall not be required to complete their first periodic refresher training until four years after the completion of their initial training, and every three years thereafter;

(12) Add new equipment to the qualification and designation program prior to its introduction to revenue service; and

(13) Maintain records adequate to demonstrate that each employee and contractor performing safety-related tasks on passenger equipment is currently qualified to do so. These records shall be adequate to distinguish the qualifications of the employee or contractor as a qualified person or as a qualified maintenance person.

[64 FR 25660, May 12, 1999, as amended at 65 FR 41307, July 3, 2000; 67 FR 19990, Apr. 23, 2002]

§ 238.111 Pre-revenue service acceptance testing plan.

(a) *Passenger equipment that has previously been used in revenue service in the United States.* For passenger equipment that has previously been used in revenue service in the United States, each railroad shall test the equipment on its system prior to placing such equipment in revenue service for the first time on its railroad to ensure the compatibility of the equipment with the railroad’s operating system (including the track, and signal system). A description of such testing shall be retained by the railroad and made available to FRA for inspection and copying upon request. For purposes of this paragraph, passenger equipment that has previously been used in revenue service in the United States means:

(1) The actual equipment used in such service;

(2) Equipment manufactured identically to that actual equipment; and

(3) Equipment manufactured similarly to that actual equipment with no material differences in safety-critical components or systems.

(b) *Passenger equipment that has not been used in revenue service in the United States.* Before using passenger equipment for the first time on its system

that has not been used in revenue service in the United States, each railroad shall:

(1) Prepare a pre-revenue service acceptance testing plan for the equipment which contains the following elements:

(i) An identification of any waivers of FRA or other Federal safety regulations required for the testing or for revenue service operation of the equipment;

(ii) A clear statement of the test objectives. One of the principal test objectives shall be to demonstrate that the equipment meets the safety requirements specified in this part when operated in the environment in which it is to be used;

(iii) A planned schedule for conducting the testing;

(iv) A description of the railroad property or facilities to be used to conduct the testing;

(v) A detailed description of how the testing is to be conducted, including a description of the criteria to be used to evaluate the equipment's performance;

(vi) A description of how the test results are to be recorded;

(vii) A description of any special instrumentation to be used during the tests;

(viii) A description of the information or data to be obtained;

(ix) A description of how the information or data obtained is to be analyzed or used;

(x) A description of any criteria to be used as safety limits during the testing;

(xi) A description of the criteria to be used to measure or determine the success or failure of the tests. If acceptance is to be based on extrapolation of less than full-level testing results, the analysis to be done to justify the validity of the extrapolation shall be described;

(xii) Quality control procedures to ensure that the inspection, testing, and maintenance procedures are followed;

(xiii) Criteria to be used for the revenue service operation of the equipment; and

(xiv) A description of any testing of the equipment that has previously been performed.

(2) Submit a copy of the plan to FRA at least 30 days prior to testing the equipment and include with that submission notification of the times and places of the pre-revenue service tests to permit FRA observation of such tests. For Tier II passenger equipment, the railroad shall obtain FRA approval of the plan under the procedures specified in § 238.21.

(3) Comply with the plan, including fully executing the tests required by the plan.

(4) Document in writing the results of the tests. For Tier II passenger equipment, the railroad shall report the results of the tests to the FRA Associate Administrator for Safety at least 90 days prior to its intended operation of the equipment in revenue service.

(5) Correct any safety deficiencies identified in the design of the equipment or in the inspection, testing, and maintenance procedures, uncovered during the testing. If safety deficiencies cannot be corrected by design changes, the railroad shall impose operational limitations on the revenue service operation of the equipment that are designed to ensure that the equipment can operate safely. For Tier II passenger equipment, the railroad shall comply with any operational limitations imposed by the FRA Associate Administrator for Safety on the revenue service operation of the equipment for cause stated following FRA review of the results of the test program. This section does not restrict a railroad from petitioning FRA for a waiver of a safety regulation under the procedures specified in part 211 of this chapter.

(6) Make the plan and documentation kept pursuant to that plan available for inspection and copying by FRA upon request.

(7) For Tier II passenger equipment, obtain approval from the FRA Associate Administrator for Safety prior to placing the equipment in revenue service. The Associate Administrator grants such approval upon a showing of the railroad's compliance with the applicable requirements of this part.

(c) If a railroad plans a major upgrade or introduction of new technology on Tier II passenger equipment

that has been used in revenue service in the United States and that affects a safety system on such equipment, the railroad shall follow the procedures specified in paragraph (b) of this section prior to placing the equipment in revenue service with such a major upgrade or introduction of new technology.

§ 238.113 Emergency window exits.

(a) Number and location. Except as provided in paragraph (a)(3) of this section, the following requirements in this paragraph (a) apply on or after April 1, 2008—

(1) *Single-level passenger cars.* Each single-level passenger car shall have a minimum of four emergency window exits. At least one emergency window exit shall be located in each side of each end (half) of the car, in a staggered configuration where practical. (See Figure 1 to this subpart; see also Figures 1b and 1c to this subpart.)

(2) *Multi-level passenger cars—main levels.* Each main level in a multi-level passenger car is subject to the same requirements specified for single-level passenger cars in paragraph (a)(1) of this section.

(3) *Multi-level passenger cars—levels with seating areas other than main levels.*

(i) Except as provided in paragraphs (a)(3)(ii) and (iii) of this section, on or after August 1, 2009, any level other than a main level used for passenger seating in a multi-level passenger car, such as an intermediate level, shall have a minimum of two emergency window exits in each seating area. The emergency window exits shall be accessible to passengers in the seating area without requiring movement through an interior door or to another level of the car. At least one emergency window exit shall be located in each side of the seating area. An emergency window exit may be located within an exterior side door in the passenger compartment if it is not practical to place the window exit in the side of the seating area. (See Figures 2 and 2a to this subpart.)

(ii) Only one emergency window exit is required in a seating area in a passenger compartment if:

(A) It is not practical to place an emergency window exit in a side of the

passenger compartment due to the need to provide accessible accommodations under the Americans with Disabilities Act of 1990;

(B) There are no more than four seats in the seating area; and

(C) A suitable, alternate arrangement for emergency egress is provided.

(iii) For passenger cars ordered prior to April 1, 2009, and placed in service prior to April 1, 2011, only one emergency window exit is required in a seating area in a passenger compartment if—

(A) It is not practicable to place a window exit in a side of the passenger compartment (due to the presence of a structure such as a bathroom, electrical locker, or kitchen); and

(B) There are no more than eight seats in the seating area.

(4) *Cars with a sleeping compartment or similar private compartment.* Each level of a passenger car with a sleeping compartment or a similar private compartment intended to be occupied by a passenger or train crewmember shall have at least one emergency window exit in each such compartment. For purposes of this paragraph (a)(4), a bathroom, kitchen, or locomotive cab is not considered a “compartment.”

(b) *Ease of operability.* On or after November 8, 1999, each emergency window exit shall be designed to permit rapid and easy removal from the inside of the car during an emergency situation without requiring the use of a tool or other implement.

(c) *Dimensions.* Except as provided in paragraphs (c)(1) and (c)(2) of this section, each emergency window exit in a passenger car, including a sleeping car, ordered on or after September 8, 2000, or placed in service for the first time on or after September 9, 2002, shall have an unobstructed opening with minimum dimensions of 26 inches horizontally by 24 inches vertically. A seatback is not an obstruction if it can be moved away from the window opening without using a tool or other implement.

(1) *Emergency window exits in exterior side doors.* An emergency window exit located within an exterior side door, in accordance with the requirements of paragraph (a)(3)(i) of this section, may have an unobstructed opening with