

purposes or private transportation purposes.

(4) Locomotives that are used exclusively in designated service as defined in § 223.5(m).

[44 FR 77352, Dec. 31, 1979, as amended at 53 FR 28600, July 28, 1988]

### § 223.5 Definitions.

As used in this part—

*Administrator* means the Administrator of the Federal Railroad Administration or the Administrator's delegate.

*Caboose* means a car in a freight train intended to provide transportation for crewmembers.

*Certified glazing* means a glazing material that has been certified by the manufacturer as having met the testing requirements set forth in Appendix A of this part and that has been installed in such a manner that it will perform its intended function.

*Designated service* means exclusive operation of a locomotive under the following conditions:

(1) The locomotive is not used as an independent unit or the controlling unit is a consist of locomotives except when moving for the purpose of servicing or repair within a single yard area;

(2) The locomotive is not occupied by operating or deadhead crews outside a single yard area; and

(3) The locomotive is stenciled "Designated Service—DO NOT OCCUPY".

*Emergency responder* means a member of a police or fire department, or other organization involved with public safety charged with providing or coordinating emergency services, who responds to a passenger train emergency.

*Emergency window* means that segment of a side facing glazing location which has been designed to permit rapid and easy removal during a crisis situation.

*End facing glazing location* means any location where a line perpendicular to the plane of the glazing material makes a horizontal angle of 50 degrees or less with the centerline of the locomotive, caboose or passenger car. Any location which, due to curvature of the glazing material, can meet the criteria for either a front facing location or a

side facing location shall be considered a front facing location.

*FRA* means the Federal Railroad Administration.

*Locomotive* means a self-propelled unit of equipment designed primarily for moving other equipment. It does not include self-propelled passenger cars.

*Locomotive cab* means that portion of the superstructure designed to be occupied by the crew while operating the locomotive.

*Passenger car* means a unit of rail rolling equipment intended to provide transportation for members of the general public and includes self-propelled cars designed to carry baggage, mail, express or passengers. This term includes a passenger coach, cab car, and an MU locomotive. This term does not include a private car.

*Passenger train service* means the transportation of persons (other than employees, contractors, or persons riding equipment to observe or monitor railroad operations) in intercity passenger service or commuter or other short-haul passenger service in a metropolitan or suburban area.

*Person* includes all categories of entities covered under 1 U.S.C. 1, including, but not limited to, a railroad; any manager, supervisor, official, or other employee or agent of a railroad; any owner, manufacturer, lessor, or lessee of railroad equipment, track, or facilities; any passenger, any trespasser or nontrespasser; any independent contractor providing goods or services to a railroad; and any employee of such owner, manufacturer, lessor, lessee, or independent contractor.

*Railroad* means:

(1) Any form of non-highway ground transportation that runs on rails or electromagnetic guideways, including

(i) Commuter or other short-haul rail 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

(ii) High speed ground transportation systems that connect metropolitan areas, without regard to whether those systems use new technologies not associated with traditional railroads, but

## § 223.7

does not include rapid transit operations in an urban area that are not connected to the general railroad system of transportation and

(2) A person that provides railroad transportation, whether directly or by contracting out operation of the railroad to another person.

*Rebuilt locomotive, caboose or passenger car* means a locomotive, caboose or passenger car that has undergone overhaul which has been identified by the railroad as a capital expense under Surface Transportation Board accounting standards.

*Side facing glazing location* means any location where a line perpendicular to the plane of the glazing material makes an angle of more than 50 degrees with the centerline of the locomotive, caboose or passenger car.

*Windshield* means the combination of individual units of glazing material of the locomotive, passenger car, or caboose that are positioned in an end facing glazing location.

*Yard* is a system of auxiliary tracks used exclusively for the classification of passenger or freight cars according to commodity or destination; assembling of cars for train movement; storage of cars; or repair of equipment.

*Yard caboose* means a caboose that is used exclusively in a single yard area.

*Yard locomotive* means a locomotive that is operated only to perform switching functions within a single yard area.

[63 FR 24675, May 4, 1998; 63 FR 36376, July 6, 1998]

### § 223.7 Responsibility.

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 \$550 and not more than \$11,000 per violation, except that: Penalties may be

## 49 CFR Ch. II (10–1–07 Edition)

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. See appendix B to this part for a statement of agency civil penalty policy.

[53 FR 28601, July 28, 1988, as amended at 53 FR 52930, Dec. 29, 1988; 63 FR 11621, Mar. 10, 1998; 69 FR 30595, May 28, 2004]

EFFECTIVE DATE NOTE: At 72 FR 51197, Sept. 6, 2007, § 223.7 was amended by removing the numerical amount “\$11,000” and adding in its place the numerical amount “\$16,000”, effective October 9, 2007.

## Subpart B—Specific Requirements

### § 223.8 Additional requirements for passenger equipment.

In addition to the requirements contained in this part, requirements for emergency window exits and window safety glazing on passenger equipment, as defined in § 238.5 of this chapter, are also found in part 238 of this chapter.

[64 FR 25659, May 12, 1999]

### § 223.9 Requirements for new or rebuilt equipment.

(a) Locomotives, including yard locomotives, built or rebuilt after June 30, 1980, must be equipped with certified glazing in all locomotive cab windows.

(b) Caboosees, including yard cabooses, built or rebuilt after June 30, 1980, must be equipped with certified glazing in all windows.

(c) Passenger cars, including self-propelled passenger cars, built or rebuilt after June 30, 1980, must be equipped with certified glazing in all windows and at least four emergency opening windows.

(d) *Marking*. Each railroad providing passenger train service shall ensure that for each passenger car, except for self-propelled cars designed to carry baggage, mail, or express:

(1) Each emergency window is conspicuously and legibly marked with luminescent material on the inside of each car to facilitate passenger egress.