

§ 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.

Federal Railroad Administration, DOT

§ 223.13

Each such railroad shall post clear and legible operating instructions at or near each such exit.

(2) Each window intended for emergency access by emergency responders for extrication of passengers is marked with a retroreflective, unique, and easily recognizable symbol or other clear marking. Each such railroad shall post clear and understandable window-access instructions either at each such window or at each end of the car.

[44 FR 77352, Dec. 31, 1979, as amended at 45 FR 49271, July 24, 1980; 63 FR 24675, May 4, 1998]

§ 223.11 Requirements for existing locomotives.

(a) Locomotives, other than yard locomotives, built or rebuilt prior to July 1, 1980, which are equipped in the forward and rearward end facing glazing locations of the locomotive cab windshield with a glazing material that meets the criteria for either portion of the impact testing required for a Type I test under the provisions of appendix A of this part, will not require the installation of certified glazing in the windshield location except to replace windshield glazing material that is broken or damaged.

(b) Locomotives, other than yard locomotives, built or rebuilt prior to July 1, 1980, which are equipped in all locomotive cab side facing glazing locations with a glazing material that meets the criteria for either portion of the impact testing required for a Type II test under the provisions of appendix A of this part, will not require the installation of certified glazing in the sidefacing glazing location except to replace sidefacing glazing material that is broken or damaged.

(c) Except for yard locomotives and locomotives equipped as described in paragraphs (a) and (b), of this section, locomotives built or rebuilt prior to July 1, 1980, shall be equipped with certified glazing in all locomotive cab windows after June 30, 1984.

(d) Each locomotive subject to the provisions of paragraph (c) of this section which, as a result of an act of vandalism has a locomotive cab window that is broken or damaged so that the window fails to permit good visibility—

(1) Shall be placed in Designated Service within 48 hours of the time of breakage or damage or

(2) Shall be removed from service until equipped with certified glazing in the following manner:

(i) If the broken or damaged window is a part of the windshield of the locomotive cab, all of the forward and rearward end facing glazing locations of the locomotive cab must be replaced with certified glazing.

(ii) If the broken or damaged window is a part of the sidefacing window of the locomotive cab, all of the sidefacing glazing locations of the locomotive cab must be replaced with certified glazing.

(Sec. 209 of the Federal Railroad Safety Act, 94 Stat. 957 (45 U.S.C. 438); sec. 1.49(m) of the regulations of the Office of the Secretary of Transportation, 49 CFR 1.49(m))

[45 FR 49271, July 24, 1980, as amended at 48 FR 24083, May 31, 1983; 48 FR 56956, Dec. 27, 1983]

§ 223.13 Requirements for existing cabooses.

(a) Cabooses, other than yard cabooses, built or rebuilt prior to July 1, 1980, which are equipped in the forward and rearward end facing glazing locations of the windshield with a glazing material that meets the criteria for either portion of the impact testing required for a Type I test under the provisions of appendix A of this part, will not require the installation of certified glazing in the windshield location except to replace windshield glazing material that is broken or damaged.

(b) Cabooses, other than yard cabooses, built or rebuilt prior to July 1, 1980, which are equipped in all side facing glazing locations with a glazing material that meets the criteria for either portion of the impact testing required for a Type II test under the provisions of appendix A of this part, will not require the installation of certified glazing in the sidefacing glazing locations except to replace sidefacing glazing material that is broken or damaged.

(c) Except for yard cabooses and cabooses equipped as described in paragraphs (a) and (b), cabooses built or rebuilt prior to July 1, 1980, shall be