

§ 238.7

cities that are not more than 125 miles apart.

Train, Tier II passenger means a short-distance or long-distance intercity passenger train providing service at speeds that include those exceeding 125 mph but not exceeding 150 mph.

Trainset, passenger means a passenger train.

Transverse means in a direction perpendicular to the normal direction of travel.

Ultimate strength means the load at which a structural member fractures or ceases to resist any load.

Uncoupling mechanism means the arrangement for operating the coupler by any means.

Underframe means the lower horizontal support structure of a rail vehicle.

Unit means passenger equipment of any type, except a freight locomotive when used to haul a passenger train due to failure of a passenger locomotive.

Unoccupied volume means the volume of a rail vehicle or passenger train which does not contain seating and is not normally occupied by passengers or crewmembers.

Vehicle, rail means passenger equipment of any type and includes a car, trailer car, locomotive, power car, tender, or similar vehicle. This term does not include a freight locomotive when used to haul a passenger train due to failure of a passenger locomotive.

Vestibule means an area of a passenger car that normally does not contain seating and is used in passing from the seating area to the side exit doors.

Witness plate means a thin foil placed behind a piece of glazing undergoing an impact test. Any material spalled or broken from the back side of the glazing will dent or mark the witness plate.

Yard means a system of tracks within defined limits provided for the making up of trains, storing of cars, or other purposes.

Yard air test means a train brake system test conducted using a source of compressed air other than a locomotive.

Yield strength means the ability of a structural member to resist a change in length caused by a heavy load. Ex-

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ceeding the yield strength may cause permanent deformation of the member.

[64 FR 25660, May 12, 1999, as amended at 65 FR 41305, July 3, 2000; 67 FR 19989, Apr. 23, 2002; 71 FR 36916, June 28, 2006; 71 FR 61857, Oct. 19, 2006]

§ 238.7 Waivers.

(a) A 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 the person's responsibility for compliance with that requirement while the petition is being considered.

(b) Each petition for waiver under this section shall 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.

§ 238.9 Responsibility for compliance.

(a) A railroad subject to this part shall not—

(1) Use, haul, permit to be used or hauled on its line, offer in interchange, or accept in interchange any train or passenger equipment, while in service,

(i) That has one or more conditions not in compliance with a safety appliance or power brake provision of this part; or

(ii) That has not been inspected and tested as required by a safety appliance or power brake provision of this part; or

(2) Use, haul, offer in interchange, or accept in interchange any train or passenger equipment, while in service,

(i) That has one or more conditions not in compliance with a provision of this part, other than the safety appliance and power brake provisions of this part, if the railroad has actual knowledge of the facts giving rise to the violation, or a reasonable person acting in the circumstances and exercising reasonable care would have that knowledge; or

(ii) That has not been inspected and tested as required by a provision of this part, other than the safety appliance and power brake provisions of this