

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 minimum dimensions of 24 inches horizontally by 26 inches vertically.

(2) *Additional emergency window exits.* Any emergency window exit in addition to the minimum number required by paragraph (a) of this section that has been designated for use by the railroad need not comply with the minimum dimension requirements in paragraph (c) of this section, but must otherwise comply with all requirements in this part applicable to emergency window exits.

(d) *Marking and instructions.* (1) Each emergency window exit shall be conspicuously and legibly marked with luminescent material on the inside of each car to facilitate passenger egress.

(2) Legible and understandable operating instructions, including instructions for removing the window, shall be posted at or near each such window exit. If window removal may be hindered by the presence of a seatback, headrest, luggage rack, or other fixture, the instructions shall state the method for allowing rapid and easy removal of the window, taking into account the fixture(s), and this portion of the instructions may be in written or pictorial format.

[73 FR 6401, Feb. 1, 2008]

#### § 238.114 Rescue access windows.

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

(1) *Single-level passenger cars.* Except as provided in this paragraph (a)(1) and in paragraphs (a)(1)(i), (a)(1)(ii), and (a)(5) of this section, each single-level passenger car shall have a minimum of two rescue access windows. At least one rescue access window shall be located in each side of the car entirely within 15 feet of the car's centerline, or entirely within 7½ feet of the centerline if the car does not exceed 45 feet in length. (See Figure 1a to this subpart; see also Figures 1b and 1c to this subpart.) If the seating level is obstructed by an interior door or otherwise partitioned into separate seating areas, each separate seating area shall have a minimum of one rescue access window in each side of the seating area, located as near to the center of the car as practical.

(i) For a single-level passenger car ordered prior to April 1, 2009, and placed in service prior to April 1, 2011, rescue access windows may be located farther than the above prescribed distances from the car's centerline, or located within exterior side doors, or both, if at least one rescue access window is located within each side of each end (half) of the same passenger compartment.

(ii) For a single-level passenger car ordered prior to September 8, 2000, and placed in service prior to September 9, 2002, the requirements of paragraph (a)(1) apply on or after August 1, 2009 if the car has at least two exterior side doors (or door leaves), each with a manual override device, and such doors (or door leaves) are located one on each side of the car, in opposite ends (halves) of the car (*i.e.*, in diagonally-opposite quadrants). The manual override device shall be—

(A) Capable of releasing the door (or door leaf) to permit it to be opened without power from outside the car;

(B) Located adjacent to the door (or door leaf) that it controls; and

(C) Designed and maintained so that a person can access the override device