

FIGURE 4 TO SUBPART E OF PART 238—TRAILER CAR IN-BOARD VESTIBULE END STRUCTURE CONCEPTUAL IMPLEMENTATION—TO SUBPART E

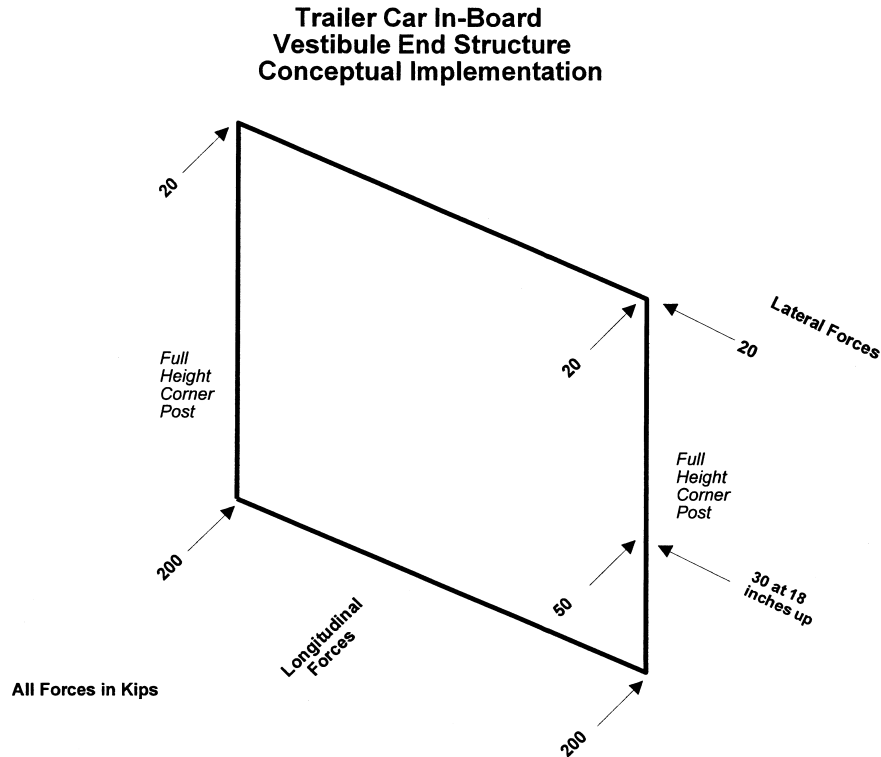


Figure 4

**Subpart F—Inspection, Testing, and Maintenance Requirements for Tier II Passenger Equipment**

**§ 238.501 Scope.**

This subpart contains inspection, testing, and maintenance requirements for railroad passenger equipment that operates at speeds exceeding 125 mph but not exceeding 150 mph.

**§ 238.503 Inspection, testing, and maintenance requirements.**

(a) *General.* Under the procedures provided in § 238.505, each railroad shall obtain FRA approval of a written inspection, testing, and maintenance program for Tier II passenger equipment prior to implementation of that pro-

gram and prior to commencing passenger operations using that equipment. As further specified in this section, the program shall describe in detail the procedures, equipment, and other means necessary for the safe operation of the passenger equipment, including:

- (1) Inspection procedures, intervals, and criteria;
- (2) Testing procedures and intervals;
- (3) Scheduled preventive-maintenance intervals;
- (4) Maintenance procedures;
- (5) Special testing equipment or measuring devices required to perform inspections, tests, and maintenance; and

(6) The training, qualification, and designation of employees and contractors to perform inspections, tests, and maintenance.

(b) *Compliance.* After the railroad's inspection, testing, and maintenance program is approved by FRA under § 238.505, the railroad shall adopt the program and shall perform—

(1) The inspections and tests of power brakes and other primary brakes as described in the program;

(2) The other inspections and tests described in the program in accordance with the procedures and criteria that the railroad identified as safety-critical; and

(3) The maintenance tasks described in the program in accordance with the procedures and intervals that the railroad identified as safety-critical.

(c) *General safety inspection, testing, and maintenance procedures.* The inspection, testing, and maintenance program under paragraph (a) of this section shall contain the railroad's written procedures to ensure that all systems and components of in service passenger equipment are free of any general condition that endangers the safety of the crew, passengers, or equipment. These procedures shall protect against:

(1) A continuous accumulation of oil or grease;

(2) Improper functioning of a component;

(3) A crack, break, excessive wear, structural defect, or weakness of a component;

(4) A leak;

(5) Use of a component or system under a condition that exceeds that for which the component or system is designed to operate; and

(6) Insecure attachment of a component.

(d) *Specific inspections.* The program under paragraph (a) of this section shall specify that all Tier II passenger equipment shall receive thorough inspections in accordance with the following standards:

(1) Except as provided in paragraph (d)(3) of this section, the equivalent of a Class I brake test contained in § 238.313 shall be conducted prior to a train's departure from an originating terminal and every 1,500 miles or once

each calendar day, whichever comes first, that the train remains in continuous service.

(i) Class I equivalent brake tests shall be performed by a qualified maintenance person.

(ii) Except as provided in § 238.15(b), a railroad shall not use or haul a Tier II passenger train in passenger service from a location where a Class I equivalent brake test has been performed, or was required by this part to have been performed, with less than 100 percent operative brakes.

(2) Except as provided in paragraph (d)(3) of this section, a complete exterior and interior mechanical inspection, in accordance with the railroad's inspection program, shall be conducted by a qualified maintenance person at least once during each calendar day the equipment is used in service.

(3) Trains that miss a scheduled Class I brake test or mechanical inspection due to a delay en route may proceed to the point where the Class I brake test or mechanical inspection was scheduled to be performed.

(e) *Movement of trains with power brake defects.* Movement of trains with a power brake defect as defined in § 238.15 (any primary brake defect) shall be governed by § 238.15.

(f) *Movement of trains with other defects.* The movement of a train with a defect other than a power brake defect shall be conducted in accordance with § 238.17, with the following exceptions:

(1) The movement of a Tier II power car with a non-complying headlight shall be conducted in accordance with § 238.443(b) of this part; and

(2) When a failure of a secondary brake on a Tier II passenger train occurs en route, that train may remain in service until its next scheduled calendar day Class I brake test equivalent at a speed no greater than the maximum safe operating speed demonstrated through analysis and testing for braking with the friction brake alone. The brake system shall be restored to 100 percent operation before the train departs that inspection location.

(g) *Maintenance intervals.* The program under paragraph (a) of this section shall include the railroad's initial scheduled maintenance intervals for

## § 238.505

Tier II equipment based on an analysis completed pursuant to the railroad's safety plan. The maintenance interval of a safety-critical component shall be changed only when justified by accumulated, verifiable operating data and approved by FRA under § 238.505 before the change takes effect.

(h) *Training, qualification, and designation program.* The program under paragraph (a) of this section shall describe the training, qualification, and designation program, as defined in the training program plan under § 238.109, established by the railroad to qualify individuals to inspect, test, and maintain the equipment.

(1) If the railroad deems it safety-critical, then only qualified individuals shall inspect, test, and maintain the equipment.

(2) Knowledge of the procedures described in paragraph (a) of this section shall be required to qualify an employee or contractor to perform an inspection, testing, or maintenance task under this part.

(i) *Standard procedures.* The program under paragraph (a) of this section shall include the railroad's written standard procedures for performing all safety-critical equipment inspection, testing, maintenance, and repair tasks necessary to ensure the safe and proper operation of the equipment. The inspection, testing, and maintenance program required by this section is not intended to address and should not include procedures to address employee working conditions that arise in the course of conducting the inspections, tests, and maintenance set forth in the program. When reviewing the railroad's program, FRA does not intend to review any portion of the program that relates to employee working conditions.

(j) *Annual review.* The inspection, testing, and maintenance program required by this section shall be reviewed by the railroad annually.

(k) *Quality control program.* Each railroad shall establish an inspection, testing, and maintenance quality control program enforced by railroad or contractor supervisors to reasonably ensure that inspections, tests, and maintenance are performed in accordance

## 49 CFR Ch. II (10-1-02 Edition)

with Federal safety standards and the procedures established by the railroad.

(1) *Identification of safety-critical items.* In the program under paragraph (a) of this section, the railroad shall identify all inspection and testing procedures and criteria as well as all maintenance intervals that the railroad deems to be safety-critical.

[64 25660, May 12, 1999, as amended at 67 FR 19994, Apr. 23, 2002]

### § 238.505 Program approval procedure.

(a) *Submission.* Not less than 90 days prior to commencing passenger operations using Tier II passenger equipment, each railroad to which this subpart applies shall submit for approval an inspection, testing, and maintenance program for that equipment meeting the requirements of this subpart with the Associate Administrator for Safety, Federal Railroad Administration, 1120 Vermont Ave, Mail Stop 25, Washington, DC 20590. If a railroad seeks to amend an approved program, the railroad shall file with FRA's Associate Administrator for Safety a petition for approval of such amendment not less than 60 days prior to the proposed effective date of the amendment. A program responsive to the requirements of this subpart or any amendment to the program shall not be implemented prior to FRA approval.

(1) Each program or amendment under § 238.503 shall contain:

(i) The information prescribed in § 238.503 for such program or amendment;

(ii) The name, title, address, and telephone number of the primary person to be contacted with regard to review of the program or amendment; and

(iii) A statement affirming that the railroad has served a copy of the program or amendment on designated representatives of railroad employees, together with a list of the names and addresses of persons served.

(2) Each railroad shall serve a copy of each submission to FRA on designated representatives of railroad employees responsible for the equipment's operation, inspection, testing, and maintenance under this subpart.

(b) *Comment.* Not later than 45 days from the date of filing the program or