

amendment, any person may comment on the program or amendment.

(1) Each comment shall set forth specifically the basis upon which it is made, and contain a concise statement of the interest of the commenter in the proceeding.

(2) Three copies of each comment shall be submitted to the Associate Administrator for Safety, Federal Railroad Administration, 1120 Vermont Ave., Mail Stop 25, Washington, DC 20590.

(3) The commenter shall certify that a copy of the comment was served on the railroad.

(c) *Approval.*

(1) Within 60 days of receipt of each initial inspection, testing, and maintenance program, FRA will conduct a formal review of the program. FRA will then notify the primary railroad contact person and the designated employee representatives in writing whether the inspection, testing, and maintenance program is approved and, if not approved, the specific points in which the program is deficient. If a program is not approved by FRA, the railroad shall amend its program to correct all deficiencies and resubmit its program with the required revisions not later than 45 days prior to commencing passenger operations.

(2) FRA will review each proposed amendment to the program within 45 days of receipt. FRA will then notify the primary railroad contact person and the designated employee representatives in writing whether the proposed amendment has been approved by FRA and, if not approved, the specific points in which the proposed amendment is deficient. The railroad shall correct any deficiencies and file the corrected amendment prior to implementing the amendment.

(3) Following initial approval of a program or amendment, FRA may reopen consideration of the program or amendment for cause stated.

### Subpart G—Specific Safety Planning Requirements for Tier II Passenger Equipment

#### § 238.601 Scope.

This subpart contains specific safety planning requirements for the oper-

ation of Tier II passenger equipment, procurement of Tier II passenger equipment, and the introduction or major upgrade of new technology in existing Tier II passenger equipment that affects a safety system on such equipment.

#### § 238.603 Safety planning requirements.

(a) Prior to commencing revenue service operation of Tier II passenger equipment, each railroad shall prepare and execute a written plan for the safe operation of such equipment. The plan may be combined with any other plan required under this part. The plan shall be updated at least every 365 days. At a minimum, the plan shall describe the approaches and processes to:

(1) Identify all requirements necessary for the safe operation of the equipment in its operating environment;

(2) Identify all known or potential hazards to the safe operation of the equipment;

(3) Eliminate or reduce the risk posed by each hazard identified to an acceptable level using a formal safety methodology such as MIL-STD-882; and

(4) Impose operational limitations, as necessary, on the operation of the equipment if the equipment cannot meet safety requirements.

(b) For the procurement of Tier II passenger equipment, and for each major upgrade or introduction of new technology in existing Tier II passenger equipment that affects a safety system on such equipment, each railroad shall prepare and execute a written safety plan. The plan may be combined with any other plan required under this part. The plan shall describe the approaches and processes to:

(1) Identify all safety requirements governing the design of the passenger equipment and its supporting systems;

(2) Evaluate the total system, including hardware, software, testing, and support activities, to identify known or potential safety hazards over the life cycle of the equipment;

(3) Identify safety issues during design reviews;

(4) Eliminate or reduce the risk posed by each hazard identified to an acceptable level using a formal safety methodology such as MIL–STD–882;

(5) Monitor the progress in resolving safety issues, reducing hazards, and meeting safety requirements;

(6) Develop a program of testing or analysis, or both, to demonstrate that safety requirements have been met; and

(7) Impose operational limitations, as necessary, on the operation of the equipment if the equipment cannot meet safety requirements.

(c) Each railroad shall maintain sufficient documentation to demonstrate

how the operation and design of its Tier II passenger equipment complies with safety requirements or, as appropriate, addresses safety requirements under paragraphs (a)(4) and (b)(7) of this section. Each railroad shall maintain sufficient documentation to track how safety issues are raised and resolved.

(d) Each railroad shall make available to FRA for inspection and copying upon request each safety plan required by this section and any documentation required pursuant to such plan.

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

APPENDIX A TO PART 238—SCHEDULE OF CIVIL PENALTIES<sup>1</sup>

Section	Violation	Willful violation
<b>SUBPART A—GENERAL</b>		
238.15 Movement of power brake defects:		
(b) Improper movement from Class I or IA brake test .....	5,000	7,500
(c) Improper movement of en route defect .....	2,500	5,000
(2), (3) Insufficient tag or record .....	1,000	2,000
(4) Failure to determine percent operative brake .....	2,500	5,000
(d) Failure to follow operating restrictions .....	5,000	7,500
(e) Failure to follow restrictions for inoperative front or rear unit .....	2,500	5,000
238.17 Movement of other than power brake defects: <sup>1</sup>		
(c)(4), (5) Insufficient tag or record .....	1,000	2,000
(d) Failure to inspect or improper use of roller bearings .....	2,500	5,000
(e) Improper movement of defective safety appliances .....	(1)	
238.19 Reporting and tracking defective equipment:		
(a) Failure to have reporting or tracking system .....	7,500	11,000
(b) Failure to retain records .....	2,000	4,000
(c) Failure to make records available .....	1,000	2,000
(d) Failure to list power brake repair points .....	2,000	4,000
<b>SUBPART B—SAFETY PLANNING AND GENERAL REQUIREMENTS</b>		
238.103 Fire protection plan/fire safety:		
(a) Failure to use proper materials .....	5,000	7,500
(b) Improper certification .....	1,000	2,000
(c) Failure to consider fire safety on new equipment .....	5,000	7,500
(d) Failure to perform fire safety analysis .....	5,000	7,500
(e) Failure to develop, adopt or comply with procedures .....	5,000	7,500
238.105 Train electronic hardware and software safety:		
(a), (b), (c) Failure to develop and maintain hardware and software safety .....	7,500	11,000
(d) Failure to include required design features .....	5,000	7,500
(e) Failure to comply with hardware and software safety program .....	5,000	7,500
238.107 Inspection, testing, and maintenance plan:		
(b) Failure to develop plan .....	7,500	11,000
(b)(1)–(5) Failure of plan to address specific item .....	3,000	6,000
(d) Failure to conduct annual review .....	5,000	7,500
238.109 Training, qualification, and designation program:		
(a) Failure to develop or adopt program .....	7,500	11,000
(b)(1)–(4) Failure of plan to address specific item .....	3,000	6,000
(b)(5)–(12) Failure to comply with specific required provision of the program .....	5,000	7,500
(b)(13) Failure to maintain adequate records .....	2,500	5,000
238.111 Pre-revenue service acceptance testing plan:		
(a) Failure to properly test previously used equipment .....	7,500	11,000
(b)(1) Failure to develop plan .....	7,500	11,000
(b)(2) Failure to submit plan to FRA .....	5,000	7,500
(b)(3) Failure to comply with plan .....	5,000	7,500
(b)(4) Failure to document results of testing .....	5,000	7,500
(b)(5) Failure to correct safety deficiencies or impose operating limits .....	5,000	7,500
(b)(6) Failure to maintain records .....	3,000	6,000
(b)(7) Failure to obtain FRA approval .....	5,000	7,500
238.113 Emergency window exits .....	2,500	5,000
238.115 Emergency lighting .....	2,500	5,000

Section	Violation	Willful violation
238.117 Protection against personal injury .....	2,500	5,000
238.119 Rim-stamped straight plate wheels .....	2,500	5,000
<b>SUBPART C—SPECIFIC REQUIREMENTS FOR TIER I EQUIPMENT</b>		
238.203 Static end strength .....	2,500	5,000
238.205 Anti-climbing mechanism .....	2,500	5,000
238.207 Link between coupling mechanism and car body .....	2,500	5,000
238.209 Forward-facing end structure of locomotives .....	2,500	5,000
238.211 Collision posts .....	2,500	5,000
238.213 Corner posts .....	2,500	5,000
238.215 Rollover strength .....	2,500	5,000
238.217 Side structure .....	2,500	5,000
238.219 Truck-to-car-body attachment .....	2,500	5,000
238.221 Glazing .....	2,500	5,000
238.223 Fuel tanks .....	2,500	5,000
238.225 Electrical System .....	2,500	5,000
238.227 Suspension system .....	2,500	5,000
238.231 Brake System (a)–(g), (l)–(n) .....	2,500	5,000
(h)(1), (2) Hand or parking brake missing or inoperative .....	5,000	7,500
(h)(3) Hand or parking brake not applied to hold equipment unattended on grade or prematurely released .....	5,000	7,500
238.233 Interior fittings and surfaces .....	2,500	7,500
238.235 Doors .....	2,500	5,000
238.237 Automated monitoring .....	2,500	5,000
<b>SUBPART D—INSPECTION, TESTING, AND MAINTENANCE REQUIREMENTS FOR TIER I EQUIPMENT</b>		
238.303 Exterior mechanical inspection of passenger equipment:		
(a)(1) Failure to perform mechanical inspection .....	12,000	4,000
(a)(2) Failure to inspect secondary brake system .....	2,500	5,000
(b) Failure to perform inspection on car added to train .....	12,000	4,000
(c) Failure to utilize properly qualified personnel .....	2,000	4,000
(e)(1) Products of combustion not released outside cab .....	2,500	5,000
(e)(2) Battery not vented or gassing excessively .....	2,500	5,000
(e)(3) Coupler not in proper condition .....	2,500	5,000
(e)(4) No device under drawbar pins or connection pins .....	2,500	5,000
(e)(5) Suspension system and spring rigging not in proper condition .....	2,500	5,000
(e)(6) Truck not in proper condition .....	2,500	5,000
(e)(7) Side bearing not in proper condition .....	2,500	5,000
(e)(8) Wheel not in proper condition:		
(i), (iv) Flat spot(s) and shelled spot(s):		
(A) One spot 2½" or more but less than 3" in length .....	2,500	5,000
(B) One spot 3" or more in length .....	5,000	7,500
(C) Two adjoining spots each of which is 2" or more in length but less than 2½" in length .....	2,500	5,000
(D) Two adjoining spots each of which are at least 2" in length, if either spot is 2½" or more in length .....	5,000	7,500
(ii) Gouge or chip in flange:		
(A) More than 1½" but less than 1⅝" in length; and more than ½" but less than ⅝" in width .....	2,500	5,000
(B) 1⅝" or more in length and ⅝" or more in width .....	5,000	7,500
(iii) Broken rim .....	5,000	7,500
(v) Seam in tread .....	2,500	5,000
(vi) Flange thickness of:		
(A) ⅞" or less but more than .....	2,500	5,000
(B) 1¾" or less .....	5,000	7,500
(vii) Tread worn hollow .....	2,500	5,000
(viii) Flange height of:		
(A) 1½" or greater but less than 1⅝" .....	2,500	5,000
(B) 1⅝" or more .....	5,000	7,500
(ix) Rim thickness:		
(A) Less than 1" .....	2,500	5,000
(B) 1¾" or less .....	5,000	7,500
(x) Crack or break in flange, tread, rim, plate, or hub:		
(A) Crack of less than 1" .....	2,500	5,000
(B) Crack of 1" or more .....	5,000	7,500
(C) Break .....	5,000	7,500
(xi) Loose wheel .....	5,000	7,500
(xii) Welded wheel .....	5,000	7,500
(e)(10) Improper grounding or insulation .....	5,000	7,500
(e)(11) Jumpers or cable connections not in proper condition .....	2,500	5,000
(e)(12) Door or cover plate not properly marked .....	2,500	5,000
(e)(13) Buffer plate not properly placed .....	2,500	5,000

Section	Violation	Willful violation
(e)(14) Diaphragm not properly placed or aligned .....	2,500	5,000
(e)(15) Secondary braking system not in operating mode or contains known defect .....	2,500	5,000
(e)(16) Roller bearings:		
(i) Overheated .....	5,000	7,500
(ii) Cap screw loose or missing .....	2,500	5,000
(iii) Cap screw lock broken or missing .....	1,000	2,000
(iv) Seal loose, damaged, or leaks lubricant .....	2,500	5,000
(g) Record of inspection:		
(1), (4) Failure to maintain record of inspection .....	5,000	4,000
(2) Record contains insufficient information .....	1,000	2,000
238.305 Interior mechanical inspection of passenger cars:		
(a) Failure to perform inspection .....	<sup>1</sup> 1,000	2,000
(b) Failure to utilize properly qualified personnel .....	1,000	2,000
(c)(1) Failure to protect against personal injury .....	2,500	5,000
(c)(2) Floors not free of condition that creates hazard .....	2,500	5,000
(c)(3) Access to manual door release not in place .....	2,000	4,000
(c)(4) Emergency equipment not in place .....	1,000	2,000
(c)(5) Emergency brake valve not stenciled or marked .....	2,500	5,000
(c)(6) Door or cover plates not properly marked .....	2,500	5,000
(c)(7) Safety signage not in place or legible .....	1,000	2,000
(c)(8) Trap door unsafe or improperly secured .....	2,500	5,000
(c)(9) Vestibule steps not illuminated .....	2,000	4,000
(c)(10) Door not safely operate as intended .....	2,500	5,000
(c)(11) Seat broken, loose, or not properly attached .....	2,500	5,000
(e) Record of inspection:		
(1), (4) Failure to maintain record of inspection .....	2,000	4,000
(2) Record contains insufficient information .....	1,000	1,000
(f) Record of inspection:		
(1), (4) Failure to maintain record of inspection .....	2,000	4,000
(2) Record contains insufficient information .....	1,000	2,000
238.307 Periodic mechanical inspection of passenger cars and unpowered vehicles:		
(a) Failure to perform periodic mechanical inspection .....	<sup>1</sup> 2,500	5,000
(b) Failure to utilize properly qualified personnel .....	2,500	5,000
(c)(1) Seat or seat attachment broken or loose .....	2,500	5,000
(c)(2) Luggage rack broken or loose .....	2,500	5,000
(c)(3) Bed, bunks, or restraints broken or loose .....	2,500	5,000
(c)(4) Emergency window exit not properly operate .....	2,500	5,000
(c)(5) Emergency lighting not operational .....	2,500	5,000
(c)(6) Switches not in proper condition .....	2,500	5,000
(c)(7) Coupler not in proper condition .....	2,500	5,000
(c)(8) Truck not equipped with securing arrangement .....	2,500	5,000
(c)(9) Truck center casting cracked or broken .....	5,000	7,500
(c)(10) General conditions endangering crew, passengers .....	2,500	5,000
(d) Manual door release not operate as intended .....	2,500	5,000
(d)(1) Seat or seat attachment broken or loose .....	2,500	5,000
(d)(2) Luggage rack broken or loose .....	2,500	5,000
(d)(3) Bed, bunks, or restraints broken or loose .....	2,500	5,000
(d)(4) Emergency window exit not properly operate .....	2,500	5,000
(d)(5) Coupler not in proper condition .....	2,500	5,000
(e)(1) Failure to maintain record of inspection .....	2,000	4,000
(i)-(iv) Record contains insufficient information .....	1,000	2,000
(f)(1) Record of inspection:		
(i) Failure to maintain record of inspection .....	2,000	4,000
(ii) Record contains insufficient information .....	1,000	2,000
238.309 Periodic brake equipment maintenance:		
(b) Failure to perform on MU locomotive .....	2,500	5,000
(c) Failure to perform on conventional locomotive .....	2,500	5,000
(d) Failure to perform on passenger coaches or other unpowered vehicle .....	2,500	5,000
(e) Failure to perform on cab car .....	2,500	5,000
(f) Record of periodic maintenance:		
(1), (2) Failure to maintain record or stencil .....	2,000	4,000
238.311 Single car tests:		
(a) Failure to test in accord with required procedure .....	2,500	5,000
(b) Failure to utilize properly qualified personnel .....	2,500	5,000
(c), (e) Failure to perform single car test .....	2,500	5,000
(f) Improper movement of car for testing .....	2,000	4,000
(g) Failure to test after repair or replacement of component .....	2,000	4,000
238.313 Class I brake test:		
(a) Failure to perform on commuter or short distance intercity passenger train .....	<sup>1</sup> 10,000	15,000
(b) Failure to perform on long-distance intercity passenger train .....	<sup>1</sup> 10,000	15,000
(c) Failure to perform on cars added to passenger train .....	<sup>1</sup> 5,000	7,500
(d) Failure to utilized properly qualified personnel .....	5,000	7,500
(f) Passenger train used from Class I brake test with less than 100% operative brakes .....	5,000	7,500

Section	Violation	Willful violation
(g) Partial failure to perform inspection on a passenger train .....	5,000	7,500
(3) Failure to adjust piston travel (per car) .....	2,500	5,000
(h) Failure to maintain record .....	2,000	4,000
238.315 Class IA brake test:		
(a) Failure to perform inspection .....	15,000	7,500
(d) Failure to utilize properly qualified personnel .....	2,500	5,000
(e) Passenger train used from Class IA brake test with improper percentage of operative brakes .....	5,000	7,500
(f) Partial failure to perform inspection on passenger train .....	2,500	5,000
238.317 Class II brake test:		
(a) Failure to perform inspection .....	12,500	5,000
(b) Failure to utilize properly qualified personnel .....	2,500	5,000
(c) Improper use of defective equipment from Class II brake test .....	2,500	5,000
238.319 Running brake tests:		
(a), (b) Failure to perform test .....	2,000	4,000
<b>SUBPART E—SPECIFIC REQUIREMENTS FOR TIER II PASSENGER EQUIPMENT</b>		
238.403 Crash energy management .....	2,500	5,000
238.405 Longitudinal static compressive strength .....	2,500	5,000
238.407 Anti-climbing mechanism .....	2,500	5,000
238.409 Forward end structures of power car cabs:		
(a) Center collision post .....	2,500	5,000
(b) Side collision posts .....	2,500	5,000
(c) Corner posts .....	2,500	5,000
(d) Skin .....	2,500	5,000
238.411 Rear end structures of power car cabs:		
(a) Corner posts .....	2,500	5,000
(b) Collision posts .....	2,500	5,000
238.413 End structures of trailer cars .....	2,500	5,000
238.415 Rollover strength .....	2,500	5,000
238.417 Side loads .....	2,500	5,000
238.419 Truck-to-car-body and truck component attachment .....	2,500	5,000
238.421 Glazing:		
(b) End-facing exterior glazing .....	2,500	5,000
(c) Alternate glazing requirements .....	2,500	5,000
(d) Glazing securement .....	1,000	2,000
(e) Stenciling .....	2,500	5,000
238.423 Fuel tanks:		
(a) External fuel tanks .....	2,500	5,000
(b) Internal fuel tanks .....	2,500	5,000
238.425 Electrical system:		
(a) Circuit protection .....	2,500	5,000
(b) Main battery system .....	2,500	5,000
(c) Power dissipation resistors .....	2,500	5,000
(d) Electromagnetic interference and compatibility .....	2,500	5,000
238.427 Suspension system .....	2,500	5,000
238.429 Safety Appliances:		
(a) Couplers .....	5,000	7,500
(b) Hand/parking brakes .....	5,000	7,500
(d) Handrail and handhold missing .....	2,500	5,000
(d)(1)–(8) Handrail or handhold improper design .....	2,500	5,000
(e) Sill step missing .....	5,000	7,500
(e)(1)–(11) Sill step improper design .....	2,500	5,000
(g) Optional safety appliances .....	2,500	5,000
238.431 Brake system .....	2,500	5,000
238.433 Draft System .....	2,500	5,000
238.435 Interior fittings and surfaces .....	2,500	5,000
238.437 Emergency communication .....	2,500	5,000
238.439 Doors:		
(a) Exterior side doors .....	2,500	5,000
(b) Manual override feature .....	2,500	5,000
(c) Notification to crew of door status .....	2,500	5,000
(d) Emergency back-up power .....	2,500	5,000
(f) End door kick-out panel or pop-out window .....	2,500	5,000
(g) Marking and instructions .....	[Reserved]	
238.441 Emergency roof hatch entrance location .....	2,500	5,000
238.443 Headlights .....	2,500	5,000
238.445 Automated monitoring .....	2,500	5,000
238.447 Train operator's controls and power car cab layout .....	2,500	5,000
<b>SUBPART F—INSPECTION, TESTING, AND MAINTENANCE REQUIREMENTS FOR TIER II PASSENGER EQUIPMENT</b>		
238.503 Inspection, testing, and maintenance requirements:		

Section	Violation	Willful violation
(a) Failure to develop inspection, testing, and maintenance program or obtain FRA approval ...	10,000	15,000
(b) Failure to comply with provisions of the program .....	5,000	7,500
(c) Failure to ensure equipment free of conditions which endanger safety of crew, passengers, or equipment .....	2,500	5,000
(d) Specific safety inspections:		
(1)(i) Failure to perform Class I brake test or equivalent .....	10,000	15,000
(1)(ii) Partial failure to perform Class I brake test or equivalent .....	5,000	7,500
(2)(i) Failure to perform exterior mechanical inspection .....	12,000	4,000
(2)(ii) Failure to perform interior mechanical inspection .....	11,000	2,000
(g) Failure to perform scheduled maintenance as required in program .....	2,500	5,000
(h) Failure to comply with training, qualification and designation program .....	5,000	7,500
(i) Failure to develop or comply with standard procedures for performing inspection, tests, and maintenance .....	2,500	5,000
(j) Failure to conduct annual review .....	5,000	7,500
(k) Failure to establish or utilize quality control program .....	5,000	7,500
<b>SUBPART G—SPECIFIC SAFETY PLANNING REQUIREMENTS FOR TIER II PASSENGER EQUIPMENT</b>		
238.603 Safety plan:		
(a) Failure to develop safety operating plan .....	7,500	11,000
(b) Failure to develop procurement plan .....	7,500	11,000
(1)–(7) Failure to develop portion of plan .....	2,500	5,000
(c) Failure to maintain documentation .....	2,500	5,000

<sup>1</sup> A penalty may be assessed against an individual only for a willful violation. Generally when two or more violations of these regulations are discovered with respect to a single unit of passenger equipment that is placed or continued in service by a railroad, the appropriate penalties set forth above are aggregated up to a maximum of \$10,000 per day. However, failure to perform, with respect to a particular unit of passenger equipment, any of the inspections and tests required under subparts D and F of this part will be treated as a violation separate and distinct from, and in addition to, any substantive violative conditions found on that unit of passenger equipment. Moreover, the Administrator reserves the right to assess a penalty of up to \$22,000 for any violation where circumstances warrant. See 49 CFR part 209, appendix A. Failure to observe any condition for movement of defective equipment set forth in §238.17 will deprive the railroad of the benefit of the movement-for-repair provision and make the railroad and any responsible individuals liable for penalty under the particular regulatory section(s) concerning the substantive defect(s) present on the unit of passenger equipment at the time of movement. Failure to observe any condition for the movement of passenger equipment containing defective safety appliances, other than power brakes, set forth in §238.17(e) will deprive the railroad of the movement-for-repair provision and make the railroad and any responsible individuals liable for penalty under the particular regulatory section(s) contained in part 231 of this chapter or §238.429 concerning the substantive defective condition. The penalties listed for failure to perform the exterior and interior mechanical inspections and tests required under §238.303 and §238.305 may be assessed for each unit of passenger equipment contained in a train that is not properly inspected. Whereas, the penalties listed for failure to perform the brake inspections and tests under §238.313 through §238.319 may be assessed for each train that is not properly inspected.

[64 FR 25660, May 12, 1999, as amended at 65 FR 41310, July 3, 2000; 67 FR 19994, Apr. 23, 2002]]

**APPENDIX B TO PART 238—TEST METHODS AND PERFORMANCE CRITERIA FOR THE FLAMMABILITY AND SMOKE EMISSION CHARACTERISTICS OF MATERIALS USED IN PASSENGER CARS AND LOCOMOTIVE CABS**

This appendix contains the test methods and performance criteria for the flammability and smoke emission characteristics of materials used in passenger cars and locomotive cabs, in accordance with the requirements of §238.103.

(a) *Incorporation by reference.*

Certain documents are incorporated by reference into this appendix with the approval of the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You may inspect a copy of each document during normal business hours at the Federal Railroad Administration, Docket Clerk, 1120 Vermont Ave., N.W., Suite 7000 or at the Office of the Federal Register, 800 North Capitol Street, N.W., Suite 700, Washington, D.C. The documents incorporated by reference into this appendix and the sources from

which you may obtain these documents are listed below:

- (1) American Society for Testing and Materials (ASTM), 100 Barr Harbor Dr., West Conshohocken, PA 19428-2959.
  - (i) ASTM C 1166-00, Standard Test Method for Flame Propagation of Dense and Cellular Elastomeric Gaskets and Accessories.
  - (ii) ASTM D 2724-87, Standard Test Methods for Bonded, Fused, and Laminated Apparel Fabrics.
  - (iii) ASTM D 3574-95, Standard Test Methods for Flexible Cellular Materials—Slab, Bonded, and Molded Urethane Foams.
  - (iv) ASTM D 3675-98, Standard Test Method for Surface Flammability of Flexible Cellular Materials Using a Radiant Heat Energy Source.
  - (v) ASTM E 119-00a, Standard Test Methods for Fire Tests of Building Construction and Materials.
  - (vi) ASTM E 162-98, Standard Test Method for Surface Flammability of Materials Using a Radiant Heat Energy Source.
  - (vii) ASTM E 648-00, Standard Test Method for Critical Radiant Flux of Floor-Covering

Systems Using a Radiant Heat Energy Source.

(viii) ASTM E 662-01, Standard Test Method for Specific Optical Density of Smoke Generated by Solid Materials.

(ix) ASTM E 1354-99, Standard Test Method for Heat and Visible Smoke Release Rates for Materials and Products Using an Oxygen Consumption Calorimeter.

(x) ASTM E 1537-99, Standard Test Method for Fire Testing of Upholstered Furniture.

(xi) ASTM E 1590-01, Standard Test Method for Fire Testing of Mattresses.

(2) General Services Administration, Federal Supply Service, Specification Section, 470 E. L'Enfant Plaza, S.W., Suite 8100, Washington, D.C., 20407. FED-STD-191A-Textile Test Method 5830, Leaching Resistance of Cloth; Standard Method (July 20, 1978).

(3) State of California, Department of Consumer Affairs, Bureau of Home Furnishings and Thermal Insulation, 3485 Orange Grove Avenue, North Highlands, CA 95660-5595.

(i) California Technical Bulletin (Cal TB) 129, Flammability Test Procedure for Mattresses for Use in Public Buildings (October, 1992).

(ii) Cal TB 133, Flammability Test Procedure for Seating Furniture for Use in Public Occupancies (January, 1991).

(b) *Definitions.* As used in this appendix—

*Average heat release rate* ( $\dot{q}''_{180}$ ) means, as defined in ASTM E 1354-99, the average heat release rate per unit area in the time period beginning at the time of ignition and ending 180 seconds later.

*Critical radiant flux* (C.R.F.) means, as defined in ASTM E 648-00, a measure of the be-

havior of horizontally-mounted floor covering systems exposed to a flaming ignition source in a graded radiant heat energy environment in a test chamber.

*Flame spread index* ( $I_s$ ) means, as defined in ASTM E 162-98, a factor derived from the rate of progress of the flame front ( $F_s$ ) and the rate of heat liberation by the material under test ( $Q$ ), such that  $I_s = F_s \times Q$ .

*Flaming dripping* means periodic dripping of flaming material from the site of material burning or material installation.

*Flaming running* means continuous flaming material leaving the site of material burning or material installation.

*Heat release rate* means, as defined in ASTM E 1354-99, the heat evolved from a specimen per unit of time.

*Specific extinction area* ( $\sigma_f$ ) means, as defined in ASTM E 1354-99, specific extinction area for smoke.

*Specific optical density* ( $D_s$ ) means, as defined in ASTM E 662-01, the optical density measured over unit path length within a chamber of unit volume, produced from a specimen of unit surface area, that is irradiated by a heat flux of 2.5 watts/cm<sup>2</sup> for a specified period of time.

*Surface flammability* means the rate at which flames will travel along surfaces.

(c) *Required test methods and performance criteria.* The materials used in locomotive cabs and passenger cars shall be tested according to the methods and meet the performance criteria set forth in the following table and notes:

**Test Procedures and Performance Criteria for the Flammability and Smoke Emission  
Characteristics of Materials Used in Passenger Cars and Locomotive Cabs**

CATEGORY	FUNCTION OF MATERIAL	TEST METHOD	PERFORMANCE CRITERIA
Cushions, Mattresses	All <sup>1, 2, 3, 4, 5, 6, 7, 8</sup>	ASTM D 3675-98	$I_s \leq 25$
		ASTM E 662-01	$D_s(1.5) \leq 100$ $D_s(4.0) \leq 175$
Fabrics	Seat upholstery, mattress ticking and covers, curtains, draperies, wall coverings, and window shades <sup>1, 2, 3, 6, 7, 8</sup>	14 CFR 25, Appendix F, Part I, (vertical test)	Flame time $\leq 10$ seconds Burn length $\leq 6$ inches
		ASTM E 662-01	$D_s(4.0) \leq 200$
Other Vehicle Components <sup>9, 10, 11, 12</sup>	Seat and mattress frames, wall and ceiling panels, seat and toilet shrouds, tray and other tables, partitions, shelves, opaque windscreens, end caps, roof housings, and component boxes and covers <sup>1, 2</sup>	ASTM E 162-98	$I_s \leq 35$
		ASTM E 662-01	$D_s(1.5) \leq 100$ $D_s(4.0) \leq 200$
	Flexible cellular foams used in armrests and seat padding <sup>1, 2, 4, 6</sup>	ASTM D 3675-98	$I_s \leq 25$
		ASTM E 662-01	$D_s(1.5) \leq 100$ $D_s(4.0) \leq 175$
	Thermal and acoustic insulation <sup>1, 2</sup>	ASTM E 162-98	$I_s \leq 25$
		ASTM E 662-01	$D_s(4.0) \leq 100$
	HVAC ducting <sup>1, 2</sup>	ASTM E 162-98	$I_s \leq 35$
		ASTM E 662-01	$D_s(4.0) \leq 100$
	Floor covering <sup>12, 13</sup>	ASTM E 648-00	C.R.F. $\geq 5$ kW/m <sup>2</sup>
		ASTM E 662-01	$D_s(1.5) \leq 100$ $D_s(4.0) \leq 200$
	Light diffusers, windows and transparent plastic windscreens <sup>2, 14</sup>	ASTM E 162-98	$I_s \leq 100$
		ASTM E 662-01	$D_s(1.5) \leq 100$ $D_s(4.0) \leq 200$
Elastomers <sup>1, 10, 11</sup>	Window gaskets, door nosings, inter-car diaphragms, roof mats, and seat springs	ASTM C 1166-00	Average flame propagation $\leq 4$ inches
		ASTM E 662-01	$D_s(1.5) \leq 100$ $D_s(4.0) \leq 200$
Structural Components <sup>15</sup>	Flooring <sup>16</sup> , Other <sup>17</sup>	ASTM E 119-00a	Pass

<sup>1</sup>Materials tested for surface flammability shall not exhibit any flaming running or dripping.

<sup>2</sup>The ASTM E 662-01 maximum test limits for smoke emission (specific optical density) shall be measured in either the flaming or



non-flaming mode, utilizing the mode which generates the most smoke.

<sup>3</sup>Testing of a complete seat assembly (including cushions, fabric layers, upholstery) according to ASTM E 1537-99 using the pass/fail criteria of Cal TB 133, and testing of a complete mattress assembly (including foam and ticking) according to ASTM E 1590-01 using the pass/fail criteria of Cal TB 129 shall be permitted in lieu of the test methods prescribed herein, provided the assembly component units remain unchanged or new (replacement) assembly components possess equivalent fire performance properties to the original components tested. A fire hazard analysis must also be conducted that considers the operating environment within which the seat or mattress assembly will be used in relation to the risk of vandalism, puncture, cutting, or other acts which may expose the individual components of the assemblies to an ignition source. Notes 5, 6, 7, and 8 apply.

<sup>4</sup>Testing is performed without upholstery.

<sup>5</sup>The surface flammability and smoke emission characteristics shall be demonstrated to be permanent after dynamic testing according to ASTM D 3574-95, Test I<sub>2</sub> (Dynamic Fatigue Test by the Roller Shear at Constant Force) or Test I<sub>3</sub> (Dynamic Fatigue Test by Constant Force Pounding) both using Procedure B, except that the test samples shall be a minimum of 6 inches (154 mm) by 18 inches (457 mm) by the thickness of the material in its end use configuration, or multiples thereof. If Test I<sub>3</sub> is used, the size of the indenter described in paragraph 96.2 shall be modified to accommodate the specified test specimen.

<sup>6</sup>The surface flammability and smoke emission characteristics shall be demonstrated to be permanent by washing, if appropriate, according to FED-STD-191A Textile Test Method 5830.

<sup>7</sup>The surface flammability and smoke emission characteristics shall be demonstrated to be permanent by dry-cleaning, if appropriate, according to ASTM D 2724-87.

<sup>8</sup>Materials that cannot be washed or dry-cleaned shall be so labeled and shall meet the applicable performance criteria after being cleaned as recommended by the manufacturer.

<sup>9</sup>Signage is not required to meet any flammability or smoke emission performance criteria specified in this Appendix.

<sup>10</sup>Materials used to fabricate miscellaneous, discontinuous small parts (such as knobs, rollers, fasteners, clips, grommets, and small electrical parts) that will not contribute materially to fire growth in end use configuration are exempt from flammability and smoke emission performance requirements, provided that the surface area of any individual small part is less than 16 square inches (100 cm<sup>2</sup>) in end use configuration and an appropriate fire hazard analysis is con-

ducted which addresses the location and quantity of the materials used, and the vulnerability of the materials to ignition and contribution to flame spread.

<sup>11</sup>If the surface area of any individual small part is less than 16 square inches (100 cm<sup>2</sup>) in end use configuration, materials used to fabricate such a part may be tested in accordance with ASTM E 1354-99 as an alternative to both (a) the ASTM E 162-98 flammability test procedure, or the appropriate flammability test procedure otherwise specified in the table, and (b) the ASTM E 662-01 smoke generation test procedure. Testing shall be at 50 kW/m<sup>2</sup> applied heat flux with a retainer frame. Materials tested in accordance with ASTM E 1354-99 shall meet the following performance criteria: average heat release rate ( $\dot{q}''_{180}$ ) less than or equal to 100 kW/m<sup>2</sup>, and average specific extinction area ( $\sigma_T$ ) less than or equal to 500 m<sup>2</sup>/kg over the same 180-second period.

<sup>12</sup>Carpeting used as a wall or ceiling covering shall be tested according to ASTM E 162-98 and ASTM E 662-01 and meet the respective criteria of I<sub>s</sub> less than or equal to 35 and D<sub>s</sub> (1.5) less than or equal to 100 and D<sub>s</sub> (4.0) less than or equal to 200. Notes 1 and 2 apply.

<sup>13</sup>Floor covering shall be tested with padding in accordance with ASTM E 648-00, if the padding is used in the actual installation.

<sup>14</sup>For double window glazing, only the interior glazing is required to meet the requirements specified herein. (The exterior glazing is not required to meet these requirements.)

<sup>15</sup>Penetrations (ducts, etc.) shall be designed against acting as passageways for fire and smoke and representative penetrations shall be included as part of test assemblies.

<sup>16</sup>A structural flooring assembly separating the interior of a vehicle from its undercarriage shall meet the performance criteria during a nominal test period as determined by the railroad. The nominal test period must be twice the maximum expected time period under normal circumstances for a vehicle to stop completely and safely from its maximum operating speed, plus the time necessary to evacuate all the vehicle's occupants to a safe area. The nominal test period must not be less than 15 minutes. Only one specimen need be tested. A proportional reduction may be made in the dimensions of the specimen provided it serves to truly test the ability of the structural flooring assembly to perform as a barrier against under-vehicle fires. The fire resistance period required shall be consistent with the safe evacuation of a full load of passengers from the vehicle under worst-case conditions.

<sup>17</sup>Portions of the vehicle body which separate major ignition sources, energy sources, or sources of fuel-load from vehicle interiors, shall have sufficient fire endurance as determined by a fire hazard analysis acceptable to

the railroad which addresses the location and quantity of the materials used, as well as vulnerability of the materials to ignition, flame spread, and smoke generation. These portions include equipment carrying portions of a vehicle's roof and the interior structure separating the levels of a bi-level car, but do not include a flooring assembly subject to Note 16. A railroad is not required to use the ASTM E 119-00a test method.

[67 FR 42910, June 25, 2002]

APPENDIX C TO PART 238—SUSPENSION SYSTEM SAFETY PERFORMANCE STANDARDS

This appendix contains the minimum suspension system safety performance standards for Tier II passenger equipment as required by §238.427. These requirements shall be the basis for evaluating suspension system safety performance until an industry standard acceptable to FRA is developed and approved under the procedures provided in §238.21.

(a) Passenger equipment suspension systems shall be designed to limit the lateral and vertical forces and lateral to vertical (L/V) ratios, for the time duration required to travel five feet at any operating speed or over any class of track, under all operating conditions as determined by the railroad, as follows:

(1) The maximum single wheel lateral to vertical force (L/V) ratio shall not exceed Nadal's limit as follows:

$$\text{Wheel L/V} \leq \frac{\tan(\delta) - \mu}{1 + \mu \tan(\delta)}$$

where:  $\delta$ =flange angle (deg).

$\mu$ =coefficient of friction of 0.5.

(2) The net axle lateral force shall not exceed 0.5 times the static vertical axle load.

(3) The vertical wheel/rail force shall not be less than or equal to 10 percent of the static vertical wheel load.

(4) The sum of the vertical wheel loads on one side of any truck shall not be less than or equal to 20 percent of the static vertical axle load. This shall include the effect of a crosswind allowance as specified by the railroad for the intended service.

(5) The maximum truck side L/V ratio shall not exceed 0.6.

(6) When stopped on track with a uniform 6-inch superelevation, vertical wheel loads, at all wheels, shall not be less than or equal to 60 percent of the nominal vertical wheel load on level track.

(b) For purposes of this appendix, wheel/rail force measurements shall be processed through a low pass filter having a cut-off frequency of 25 Hz.

APPENDIX D TO PART 238—REQUIREMENTS FOR EXTERNAL FUEL TANKS ON TIER I LOCOMOTIVES

The requirements contained in this appendix are intended to address the structural and puncture resistance properties of the locomotive fuel tank to reduce the risk of fuel spillage to acceptable levels under derailment and minor collision conditions.

(a) *Structural strength.*

(1) *Load case 1—minor derailment.* The end plate of the fuel tank shall support a sudden loading of one-half the weight of the car body at a vertical acceleration of 2g, without exceeding the ultimate strength of the material. The load is assumed to be supported on one rail, within an eight inch band (plus or minus) at a point nominally above the head of the rail, on tangent track. Consideration should be given in the design of the fuel tank to maximize the vertical clearance between the top of the rail and the bottom of the fuel tank.

(2) *Load case 2—jackknifed locomotive.* The fuel tank shall support transversely at the center a sudden loading equivalent to one half the weight of the locomotive at a vertical acceleration of 2g, without exceeding the ultimate strength of the material. The load is assumed to be supported on one rail, distributed between the longitudinal center line and the edge of the tank bottom, with a rail head surface of two inches.

(3) *Load case 3—side impact.* In a side impact collision by an 80,000 pound Gross Vehicle Weight tractor/trailer at the longitudinal center of the fuel tank, the fuel tank shall withstand, without exceeding the ultimate strength, a 200,000 pound load (2.5g) distributed over an area of six inches by forty-eight inches (half the bumper area) at a height of thirty inches above the rail (standard DOT bumper height).

(4) *Load case 4—penetration resistance.* The minimum thickness of the sides, bottom sheet and end plates of the fuel tank shall be equivalent to a  $\frac{5}{16}$ -inch steel plate with a 25,000 pounds-per-square-inch yield strength (where the thickness varies inversely with the square root of yield strength). The lower one third of the end plates shall have the equivalent penetration resistance by the above method of a  $\frac{3}{4}$ -inch steel plate with a 25,000 pounds-per-square-inch yield strength. This may be accomplished by any combination of materials or other mechanical protection.

(b) *Sideswipe.* To minimize fuel tank damage during sideswipes (railroad vehicles and grade crossings), all drain plugs, clean-out ports, inspection covers, sight glasses, gauge openings, etc., must be flush with the tank surface or adequately protected to avoid catching foreign objects or breakage. All seams must be protected or flush to avoid catching foreign objects.

(c) *Spill controls.* Vents and fills shall be designed to avert spillage of fuel in the event of a roll over.

APPENDIX E TO PART 238—GENERAL PRINCIPLES OF RELIABILITY-BASED MAINTENANCE PROGRAMS

(a) Any maintenance program has the following four basic objectives:

- (1) To ensure realization of the design level of safety and reliability of the equipment;
- (2) To restore safety and reliability to their design levels when deterioration has occurred;
- (3) To obtain the information necessary for design improvements of those items whose design reliability proves inadequate; and
- (4) To accomplish these goals at a minimum total cost, including maintenance costs and the costs of residual failures.

(b) Reliability-based maintenance programs are based on the following general principles. A failure is an unsatisfactory condition. There are two types of failures: functional and potential. Functional failures are usually reported by operating crews. Conversely, maintenance crews usually discover potential failures. A potential failure is an identifiable physical condition, which indicates that a functional failure is imminent. The consequences of a functional failure determine the priority of a maintenance effort. These consequences fall into the following general categories:

- (1) Safety consequences, involving possible loss of the equipment and its occupants;
- (2) Operational consequences, which involve an indirect economic loss as well as the direct cost of repair;
- (3) Non-operational consequences, which involve only the direct cost of repair; or
- (4) Hidden failure consequences, which involve exposure to a possible multiple failure as a result of the undetected failure of a hidden function.

(c) In a reliability-based maintenance program, scheduled maintenance is required for any item whose loss of function or mode of failure could have safety consequences. If preventative tasks cannot reduce the risk of such failures to an acceptable level, the item requires redesign to alter its failure consequences. Scheduled maintenance is also required for any item whose functional failure will not be evident to the operating crew, and therefore reported for corrective action. In all other cases the consequences of failure are economic, and maintenance tasks directed at preventing such failures must be justified on economic grounds. All failure consequences, including economic consequences, are established by the design characteristics of the equipment and can be altered only by basic changes in the design. Safety consequences can, in nearly all cases, be reduced to economic consequences by the

use of redundancy. Hidden functions can usually be made evident by instrumentation or other design features. The feasibility and cost effectiveness of scheduled maintenance depend on the inspectability of the component, and the cost of corrective maintenance depends on its failure modes and design reliability.

(d) The design reliability of equipment or components will only be achieved with an effective maintenance program. This level of reliability is established by the design of each component and the manufacturing processes that produced it. Scheduled maintenance can ensure that design reliability of each component is achieved, but maintenance alone cannot yield a level of reliability beyond the design reliability.

(e) When a maintenance program is developed, it includes tasks that satisfy the criteria for both applicability and effectiveness. The applicability of a task is determined by the characteristics of the component or equipment to be maintained. The effectiveness is stated in terms of the consequences that the task is designed to prevent. The basic types of tasks that are performed by maintenance personnel are each applicable under a unique set of conditions. Tasks may be directed at preventing functional failures or preventing a failure event consisting of the sequential occurrence of two or more independent failures which may have consequences that would not be produced by any of the failures occurring separately. The task types include:

- (1) Inspections of an item to find and correct any potential failures;
- (2) Rework/remanufacture/overhaul of an item at or before some specified time or age limit;
- (3) Discard of an item (or parts of it) at or before some specified life limit; and
- (4) Failure finding inspections of a hidden-function item to find and correct functional failures that have already occurred but were not evident to the operating crew.

(b) Components or systems in a reliability-based maintenance program may be defined as simple or complex. A simple component or system is one that is subject to only one or a very few failure modes. This type of component or system frequently shows decreasing reliability with increasing operating age. An age/time limit may be used to reduce the overall failure rate of simple components or systems. Here, safe-life limits, fail-safe designs, or damage tolerance-based residual life calculations may be imposed on a single component or system to play a crucial role in controlling critical failures. Complex components or systems are ones whose functional failure may result from many different failure modes and show little or no decrease in overall reliability with increasing age unless there is a dominant failure mode. Therefore, age limits imposed on complex

components or systems have little or no effect on their overall failure rates.

(g) When planning the maintenance of a component or system to protect the safety and operating capability of the equipment, a number of items must be considered in the reliability assessment process:

(1) The consequences of each type of functional failure;

(2) The visibility of a functional failure to the operating crew (evidence that a failure has occurred);

(3) The visibility of reduced resistance to failure (evidence that a failure is imminent);

(4) The age-reliability characteristics of each item;

(5) The economic tradeoff between the cost of scheduled maintenance and the benefits to be derived from it;

(6) A multiple failure, resulting from a sequence of independent failures, may have consequences that would not be caused by any one of the individual failures alone. These consequences are taken into account in the definition of the failure consequences for the first failure; and

(7) A default strategy governs decision making in the absence of full information or agreement. This strategy provides for conservative initial decisions, to be revised on the basis of information derived from operating experience.

(h) A successful reliability-based maintenance program must be dynamic. Any prior-to-service program is based on limited information. As such, the operating organization must be prepared to collect and respond to real data throughout the operating life of the equipment. Management of the ongoing maintenance program requires an organized information system for surveillance and analysis of the performance of each item under actual operating conditions. This information is needed to determine the refinements and modifications to be made in the initial maintenance program (including the adjustment of task intervals) and to determine the need for product improvement. The information derived from operating experience may be considered to have the following hierarchy of importance in the reliability-based maintenance program:

(1) Failures that could affect operating safety;

(2) Failures that have operational consequences;

(3) The failure modes of units removed as a result of failures;

(4) The general condition of unfailed parts in units that have failed; and

(5) The general condition of serviceable units inspected as samples.

(i) At the time an initial maintenance program is developed, information is usually available to determine the tasks necessary to protect safety and operating capability. However, the information required to deter-

mine optimum task intervals and the applicability of age or life limits can be obtained only from age or life exploration after the equipment enters service. With any new equipment there is always the possibility of unanticipated failure modes. The first occurrence of any serious unanticipated failure should immediately set into motion the following improvement cycle:

(1) An inspection task is developed to prevent recurrences while the item is being redesigned;

(2) The operating fleet is modified to incorporate the redesigned part; and

(3) After the modification has proved successful, the special inspection task is eliminated from the maintenance program.

(j) Component improvements based on identification of the actual reliability characteristics of each item through age or life exploration, is part of the normal development cycle of all complex equipment.

## PART 239—PASSENGER TRAIN EMERGENCY PREPAREDNESS

### Subpart A—General

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APPENDIX A TO PART 239—SCHEDULE OF CIVIL PENALTIES

AUTHORITY: 49 U.S.C. 20102–20103, 20105–20114, 20133, 21301, 21304, and 21311; 49 U.S.C. 20133; 28 U.S.C. 2461 note; and 49 CFR 1.49(c), (g), (m).