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TO: General Passenger Safety Task Force, Passenger Safety Working Group,
Railroad Safety Advisory Committee

SUBJECT: Draft proposed amendments to FRA's passenger train emergency preparedness regulations (49 CFR Part 239)

DATE: June 17, 2009

SECTION I: Background

Senior Passenger System Safety and Emergency Preparedness Specialist Daniel Knotte and Passenger System Safety and Emergency Preparedness Specialist Robert Scarola requested that FRA's Office of Chief Counsel draft proposed amendments to present to the General Passenger Safety Task Force (Task Force). These amendments would modify the passenger train emergency preparedness regulations in Part 239 and accomplish the following four tasks: (1) To clarify that operational (efficiency) testing under Part 239 may be conducted as part of a railroad's efficiency testing program required under 49 C.F.R. § 217.9; (2) To limit the need for FRA to formally approve purely administrative changes to approved emergency preparedness plans and update FRA headquarters' address in Part 239; (3) To require that railroad personnel who communicate and coordinate with first responders during a passenger train emergency are the individuals who are receiving control center employee training; and (4) To require that railroads develop specific procedures in their emergency preparedness plans for assisting disabled and other passengers needing (additional/particular/special) assistance during an emergency.

FRA attorneys Anna Winkle and I presented our draft of proposed rule language to the Task Force. On July 12, 2007, January 3, 2008, April 23-24, 2008, September 16, 2008, and December 3-4, 2008, the Task Force met, reviewed, discussed, and revised that draft proposed rule language. On December 4, 2008, the Task Force voted on and approved the proposed rule language found at Appendix A of this memo.

The draft proposed language has been slightly revised to conform more closely to technical drafting guidelines and to attempt to clarify the intent of the Task Force; this revised version of the rule is at Section II of this memo.

I have broken down the new language by task. Language that would be added to the existing regulations is underlined. Any subsections of an affected regulation that are not listed would not be altered in any way. Language that has been struck through has been removed from the regulation.

SECTION II – Appendix A Language as Slightly Revised by FRA Staff Reviewers

Task 1. Efficiency Testing.

Objective: To clarify that operational (efficiency) testing under Part 239 may be conducted as part of a railroad's efficiency testing program required under 49 C.F.R. § 217.9

Regulation affected: 49 C.F.R. § 239.301 – Operational (efficiency) tests.

Suggested regulatory language (new wording (i.e., proposed additions to the existing section) is underlined):

(a) Requirement to conduct operational tests and inspections. Each railroad to which this part applies shall periodically conduct operational (efficiency) tests of on-board, control center, and emergency response communications center personnel employed by the railroad, under a contract or subcontract with the railroad, or employed by a contractor or subcontractor to the railroad, to determine the extent of compliance with its emergency preparedness plan.

(1) Written program of operational tests and inspections. Operational (efficiency) tests shall be conducted pursuant to a written program of operational tests and inspections. New railroads shall adopt such a program within 30 days of commencing rail operations. The program shall—

- (i) Provide for operational testing and inspection on appropriate courses of action in response to various potential emergency situations and on the responsibilities of an employee of the railroad, of an individual who is a contractor or subcontractor to the railroad, or an employee of a contractor or subcontractor to the railroad as they relate to the railroad's emergency preparedness plan.
- (ii) Describe each type of operational test and inspection required, including the means and procedures used to carry it out.
- (iii) State the purpose of each type of operational test and inspection.
- (iv) State, according to operating divisions where applicable, the frequency with which each type of operational test and inspection is to be conducted.
- (v) Identify the officer(s) by name, job title, and, division or system, who shall be responsible for ensuring that the program of operational tests and inspections is properly implemented. A railroad with divisions shall identify at least one officer at the system headquarters who is responsible for overseeing the entire program and the implementation by each division.
- (vi) Require that each railroad officer who conducts operational tests and inspections be trained on those aspects of the railroad's emergency preparedness plan that are relevant to the tests and inspections that the officer will conduct, and that the officer be qualified on the procedures for conducting such tests and inspections in accordance with the railroad's written program of operational tests and inspections and the requirements of this section.

(2) The operational (efficiency) testing program required by paragraph (a)(1) of this section may be combined with the written program of operational tests and inspections required by § 217.9(c) of this chapter.

- (b) Keeping records of operational tests and inspections.
- (c) Retention of operational test and inspection records.
- (d) Keeping records of written program of operational tests and inspections. Each railroad shall retain one copy of its current operational (efficiency) testing program required by paragraph (a) of this section and one copy of each subsequent amendment to such program. These records shall be retained at the system headquarters and at each division headquarters where the tests and inspections are conducted for three calendar years after the end of the calendar year to which they relate. These records shall be made available to representatives of FRA.
- (e) Annual summary of operational tests and inspections. Before March 1 of each calendar year, each railroad to which this part applies shall retain, at each of its division headquarters and at the system headquarters of the railroad, one copy of a written summary of the following with respect to its previous calendar year activities: the number, type, and result of each operational test and inspection, stated according to operating divisions where applicable, that was conducted as required by paragraphs (a) and (c) of this section. These records shall be retained for three calendar years after the end of the calendar year to which they relate and shall be made available to representatives of FRA and States participating under part 212 of this chapter for inspection and copying during normal business hours.

Task 2. More Efficient Emergency Preparedness Plan Approval Process; FRA Safety Official's Title and Headquarters' Address Change.

Objectives: To limit the need for FRA to formally approve purely administrative changes to approved emergency preparedness plans and update the title of the head of the FRA safety program and the FRA headquarters' address in Part 239.

Regulation affected: 49 C.F.R. § 239.201 – Emergency preparedness plan; filing and approval.

Suggested regulatory language (new wording is underlined):

(a) Filing of plan and amendments.

(1) Filing of plan. Each passenger railroad to which this part applies and all railroads hosting its passenger train service (if applicable) shall jointly adopt a single emergency preparedness plan for that service, and the passenger railroad shall file one copy of that plan with the Associate Administrator for Railroad Safety/Chief Safety Officer, Federal Railroad Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590, not less than 60 days prior to commencing passenger operations. The emergency preparedness plan shall include the name, title, address,

and telephone number of the primary person on each affected railroad to be contacted with regard to review of the plan, and shall include a summary of each railroad's analysis supporting each plan element and describing how every condition on the railroad's property that is likely to affect emergency response is addressed in the plan. Each subsequent amendment to a railroad's emergency preparedness plan shall be filed with FRA by the passenger railroad not less than 60 days prior to the proposed effective date.

(2) Filing of Amendments to plan.

(i) Except as provided in paragraph (a)(2)(ii) of this section, each subsequent amendment to a railroad's emergency preparedness plan shall be filed with FRA by the passenger railroad not less than 60 days prior to the proposed effective date. When filing an amendment, the railroad must provide FRA a written summary of the proposed changes to the previously approved plan in the amendment and, as applicable, a training plan stating how and when current and new employees and contractors would be trained on any amendment to the approved plan.

(ii) If the proposed amendment is adding or amending an address, or the name or contact information of the primary person, FRA will not conduct the formal approval process set forth in paragraph (b)(3)(i) of this section. These proposed amendments may be implemented by the railroad upon filing with FRA's Associate Administrator for Railroad Safety/Chief Safety Officer. All other proposed amendments must comply with the formal approval process set forth in paragraph (b)(3)(i) of this section.

* * *

(b)(3) Review of amendments. (i) Except as provided in paragraph (a)(2)(ii) of this section, FRA will review each proposed plan amendment within 45 days of receipt. FRA will then notify the primary contact person of each affected railroad of the results of the review, whether the proposed amendment has been approved by FRA, and if not approved, the specific points in which the proposed amendment is deficient.

* * *

Task 3. Emergency Response Communications Centers, Ensuring that Railroad Personnel who Coordinate First Responders Receive Control Center Employee Training.

Objective: To ensure that all railroad employees, employees of railroad contractors, subcontractors, and individuals who are contractor or subcontractors to the railroad, who communicate and coordinate with first responders during a passenger train emergency are the individuals who are receiving control center employee training.

Explanation: Under the current regulatory language, train dispatchers employed by a railroad must receive control center employee training. However, in most emergency responses, train dispatchers notify only internal railroad officials about the emergency and provide block protection for the affected train(s). Most railroads maintain a separate desk, either within the train dispatcher office or the railroad police communication office that establishes and maintains communications with the first responders as well as assists in coordinating the actual response. These proposed regulatory changes require that all railroad employees, employees of railroad contractors or subcontractors, and individuals who are contractors or subcontractors to the

railroad who actually communicate and coordinate with first responders in emergency situations receive control center employee training.

Regulations affected: 49 C.F.R. §§ 239.7, 239.101, 239.105, and 239.301.

Suggested regulatory language (new wording is underlined):

§ 239.7 Definitions.

* * *

Emergency response communications center means a central location designated by a railroad with responsibility for establishing, coordinating, or maintaining communication with emergency responders, representatives of adjacent modes of transportation, and appropriate railroad officials during a passenger train emergency. The emergency response communications center may be part of the control center.

* * *

§ 239.101 Emergency preparedness plan.

(a)(1)(ii) Notification by control center or emergency response communications center. The control center or the emergency response communications center, as applicable under the plan, shall promptly notify outside emergency responders, adjacent rail modes of transportation, and appropriate railroad officials that a passenger train emergency has occurred. Each railroad shall designate an employee responsible for maintaining current emergency telephone numbers for use in making such notifications.

(a)(2)(ii) Control center and emergency response communications center personnel. The railroad's emergency preparedness plan shall require initial training of responsible control center and any emergency response communications center personnel employed by the railroad, under a contract or subcontract with the railroad, or employed by a contractor or subcontractor to the railroad, as well as periodic training at least once every two calendar years thereafter, on appropriate courses of action for each potential emergency situation specific to the individual's duties under the plan. At a minimum, the initial and periodic training shall include the following:

- (A) ~~Dispatch~~ Territory familiarization; ~~and~~
- (B) How to retrieve information to aid emergency personnel in responding to an emergency scene or situation;
- (C) Protocols governing internal communications between appropriate control center and emergency response communications center personnel whenever an imminent potential or actual emergency situation exists, as applicable under the plan; and
- (D) Protocols for establishing and maintaining external communications between the railroad's control center or emergency response communications center, or both, and emergency responders, as applicable under the plan.

(a)(2)(iii) *Initial training schedule for current employees of the railroad, current employees of contractors and subcontractors to the railroad, and individuals who are contracted or subcontracted by the railroad.* The railroad's emergency preparedness plan shall provide for the completion of initial training of all on-board and control center employees, and any emergency response communications center personnel, who are employed by the railroad, under a contract or subcontract with the railroad, or employed by a contractor or subcontractor to the railroad on the date that the plan is conditionally approved under § 239.201(b)(1), in accordance with the following schedule:

(A) For each railroad that provides commuter or other short-haul passenger train service and whose operations include less than 150 route miles and less than 200 million passenger miles annually, ~~not more than one year after January 29, 1999, or not more than 90 days after commencing passenger operations, whichever is later.~~

(B) For each railroad that provides commuter or other short-haul passenger train service and whose operations include at least 150 route miles or at least 200 million passenger miles annually, ~~not more than two years after January 29, 1999, or not more than 180 days after commencing passenger operations, whichever is later.~~

(C) For each railroad that provides intercity passenger train service, regardless of the number of route miles or passenger miles, ~~not more than two years after January 29, 1999, or not more than 180 days after commencing passenger operations, whichever is later.~~

(D) For each freight railroad that hosts passenger train service, regardless of the number of route miles or passenger miles of that service, ~~not more than one year after January 29, 1999, or not more than 90 days after the hosting begins, whichever is later.~~

(a)(2)(iv) *Initial training schedule for new railroad employees, contractor or subcontractor employees, and contracted individuals.* The railroad's emergency preparedness plan shall provide for the completion of initial training of all on-board, control center personnel, as well as any emergency response communications center personnel, who are hired by the railroad, contracted or subcontracted hired by the railroad, or hired by a contractor or subcontractor to the railroad after the date on which the plan is conditionally approved under § 239.201(b)(1). Each individual shall receive initial training within 90 days after the individual's initial date of service.

(a)(2)(v) *Testing of on-board, control center, and emergency response communications center railroad employees, contractor or subcontractor employees, and contracted individuals.* A railroad shall have procedures for testing a person being evaluated for qualification under the emergency preparedness plan that is employed by the railroad, under a contract or subcontract with the railroad, or employed by a contractor or subcontractor to the railroad. The types of testing selected by the railroad shall be: *personnel.*

(A) Designed to accurately measure an individual employee's, contractor's, or subcontractor's knowledge of his or her responsibilities under the plan;

* * *

(a)(6) *On-board emergency equipment.*

(i) *General.* Each railroad's emergency preparedness plan shall state the types of emergency equipment to be kept on board and indicate their location(s) on each passenger car that is in

service. ~~Effective May 4, 1999, or~~ Not more than 120 days after the railroad commences passenger operations, ~~whichever is later,~~ this equipment shall include, at a minimum:
(ii) ~~Effective May 4, 1999, or~~ Not more than 120 days after commencing passenger operations, ~~whichever is later,~~ each railroad that provides intercity passenger train service shall also equip each passenger train that is in service with at least one first-aid kit accessible to crewmembers that contains, at a minimum, the following:

§ 239.105 Debriefing and critique.

* * *

(c) *Purpose of debriefing and critique.* The debriefing and critique session shall be designated to determine, at a minimum, the following:

* * *

(3) Whether the control center or the emergency response communications center promptly initiated the required notifications, as applicable under the plan;

* * *

§ 239.301 Operational (efficiency) tests.

(See Item 1, for suggested changes to regulatory language in 239.301)

Task 4. Addressing Passengers with Disabilities in Emergency Situations.

Objective: To ensure that railroads develop specific procedures in their emergency preparedness plans for assisting disabled passengers during an emergency.

Explanation: Presidential Executive Order 13347 (“Individuals with Disabilities in Emergency Preparedness”) calls for the Federal government to appropriately support safety and security for individuals with disabilities in all types of emergency situations. Therefore, this proposed new section would require emergency preparedness plans to include a section addressing the evacuation of disabled persons during an emergency situation. This suggested regulation change conforms with Executive Order 13347 and ensures that the railroads address in their emergency preparedness plans the unique concerns of special needs passengers during a passenger train emergency.

Regulations affected: 49 C.F.R. § 239.101 – Emergency preparedness plan.

Suggested regulatory language (new wording is underlined):

(a)(8) Procedures regarding *passengers with a disability*. A railroad shall have procedures in its emergency preparedness plan intended to promote the safe evacuation of each passenger with a disability. This does not require the railroad to maintain any list of passengers that have such a

disability. However, these procedures shall include a process for notifying emergency responders in an emergency situation about the presence of each such passenger, when the railroad has knowledge that the passenger is on board the train.

Note: See also **Item 3**. for other suggested revisions to § 239.101.

Appendix: Original Straw Man Language Approved by General Passenger Safety Task Force

APPENDIX A: Original Straw Man Language Approved by General Passenger Safety Task Force

Task 1. Efficiency Testing.

Regulation affected: 49 C.F.R. § 239.301 – Operational (efficiency) tests.

Suggested regulatory language (new wording is underlined):

- (a) Requirement to conduct operational tests and inspections. Each railroad to which this part applies shall periodically conduct operational (efficiency) tests of its on-board and control center employees, and any emergency response communications center personnel employed or contracted by the railroad, to determine the extent of compliance with its emergency preparedness plan.

(1) Written program of operational tests and inspections. Operational (efficiency) tests shall be conducted pursuant to a written program of operational tests and inspections. New railroads shall have such a program within 30 days of commencing rail operations. The program shall—

- (i) Provide for operational testing and inspection on appropriate courses of action for various potential emergency situations and on the employee's responsibilities as they relate to the railroad's emergency preparedness plan.
- (ii) Describe each type of operational test and inspection required, including the means and procedures used to carry it out;
- (iii) State the purpose of each type of operational test and inspection;
- (iv) State, according to operating divisions where applicable, the frequency with which each type of operational test and inspection is to be conducted;
- (v) Identify the officer(s) by name, job title, and, division or system, who shall be responsible for ensuring that the program of operational tests and inspections is properly implemented. A railroad with divisions shall identify at least one officer at the system headquarters who is responsible for overseeing the entire program and the implementation by each division.
- (vi) Require that each railroad officer who conducts operational tests and inspections be trained on those aspects of the railroad's emergency preparedness plan that are relevant to the tests and inspections the officer will conduct, and qualified on the procedures for conducting such tests and inspections in accordance with the railroad's written program of operational tests and inspections and the requirements of this section.

(2) The operational (efficiency) testing program in paragraph (a)(1) of this section may be combined with the written program of operational tests and inspections in section 217.9(c) of this chapter.

- (b) Recordkeeping of operational tests and inspections.

Note: Current 239.301(b) becomes (b)(1); 239.301(c) becomes (b)(2).

- (c) Recordkeeping of written program of operational tests and inspections. Each railroad shall retain one copy of its current operational (efficiency) testing program required by paragraph (a) of this section and one copy of each subsequent amendment to such program. These records shall be retained at the system headquarters and at each division headquarters where the tests and inspections are conducted for three calendar years after the end of the calendar year to which they relate. These records shall be made available to representatives of the FRA and States participating under part 212 of this chapter for inspection and copying during normal business hours.
- (d) Annual summary of operational tests and inspections. Before March 1 of each calendar year, each railroad to which this part applies shall retain, at each of its division headquarters and at the system headquarters of the railroad, one copy of a written summary of the following with respect to its previous calendar year activities: The number, type, and result of each operational test and inspection, stated according to operating divisions where applicable, that was conducted as required by paragraphs (a) and (c) of this section. These records shall be retained for three calendar years after the end of the calendar year to which they relate and shall be made available to representatives of the FRA and States participating under part 212 of this chapter for inspection and copying during normal business hours.

Task 2. More Efficient Emergency Preparedness Plan Approval Process; FRA Headquarters' Address Change.

Regulation affected: 49 C.F.R. § 239.201 – Emergency preparedness plan; filing and approval.

Suggested regulatory language (new wording is underlined):

(a) Filing. Each passenger railroad to which this part applies and all railroads hosting its passenger train service (if applicable) shall jointly adopt a single emergency preparedness plan for that service and the passenger railroad shall file one copy of that plan with the Associate Administrator for Safety, Federal Railroad Administration, Mail Stop 25, 1200 New Jersey Avenue, S.E., Washington, D.C. 20590, not less than 60 days prior to commencing passenger operations. The emergency preparedness plan shall include the name, title, address, and telephone number of the primary person on each affected railroad to be contacted with regard to review of the plan, and shall include a summary of each railroad's analysis supporting each plan element and describing how every condition on the railroad's property that is likely to affect emergency response is addressed in the plan. Each subsequent amendment to a railroad's emergency preparedness plan shall be filed with FRA by the passenger railroad not less than 60 days prior to the proposed effective date.

(1) Amendments.

(i) Except as provided in paragraph (a)(1)(ii) of this section, each subsequent amendment to a railroad's emergency preparedness plan shall be filed with FRA by the passenger railroad not less than 60 days prior to the proposed effective date. When filing an amendment, the railroad must provide FRA a written summary of the proposed changes to the previously approved plan

in the amendment and, as applicable, a training plan stating how and when current and new employees and contractors would be trained on any amendment to the approved plan.

(ii) If the proposed amendment is adding or amending a review date, an address, or the name or contact information of the primary person, FRA will not conduct the formal approval process set forth in paragraph (b)(3)(i) of this section. These proposed amendments may be implemented by the railroad upon filing with FRA's Associate Administrator of Safety. All other proposed amendments must comply with the formal approval process set forth in paragraph (b)(3)(i) of this section.

(b)(3) *Review of amendments.* (i) Except as provided in paragraph (a)(1)(ii) of this section, FRA will review each proposed plan amendment within 45 days of receipt. FRA will then notify the primary contact person of each affected railroad of the results of the review, whether the proposed amendment has been approved by FRA, and if not approved, the specific points in which the proposed amendment is deficient.

Note: All subsections of 49 C.F.R. § 239.201 not listed above will be left unaltered.

Task 3. Emergency Response Communications Centers, Ensuring that Railroad Personnel who Coordinate First Responders Receive Control Center Employee Training.

Regulations affected: 49 C.F.R. §§ 239.7, 239.101, 239.105, and 239.301.

Suggested regulatory language (new wording is underlined):

§ 239.7 Definitions.

Emergency response communications center means a central location designated by a railroad with responsibility for establishing, coordinating, or maintaining communication with emergency responders, representatives of adjacent modes of transportation, and appropriate railroad officials during a passenger train emergency. The emergency response communications center may be part of the control center.

§ 239.101 Emergency preparedness plan.

(a)(1)(ii) *Notification by control center or emergency response communications center.* The control center or the emergency response communications center, as applicable under the plan, shall promptly notify outside emergency responders, adjacent rail modes of transportation, and appropriate railroad officials that a passenger train emergency has occurred. Each railroad shall designate an employee responsible for maintaining current emergency telephone numbers for use in making such notifications.

(a)(2)(ii) *Control center and emergency response communications center personnel.* The railroad's emergency preparedness plan shall require initial training of responsible control center and any emergency response communications center personnel employed or contracted by the railroad, as well as periodic training at least once every two calendar years thereafter, on

appropriate courses of action for each potential emergency situation specific to the employee's duties under the plan. At a minimum, the initial and periodic training shall include:

(A) ~~Dispatch~~ Territory familiarization; ~~and~~

(B) How to retrieve information to aid emergency personnel in responding to an emergency scene or situation;

(C) Protocols governing internal communications between appropriate control center and emergency response communications center personnel whenever an imminent potential or actual emergency situation exists, as applicable under the plan; and

(D) Protocols for establishing and maintaining external communications between the railroad's control center or emergency response communications center, or both, and emergency responders, as applicable under the plan.

(a)(2)(iii) *Initial training schedule for current employees.* The railroad's emergency preparedness plan shall provide for the completion of initial training of all on-board and control center employees, and any emergency response communications center personnel, who are employed or contracted by the railroad on the date that the plan is conditionally approved under §239.201(b)(1), in accordance with the following schedule:

(A) For each railroad that provides commuter or other short-haul passenger train service and whose operations include less than 150 route miles and less than 200 million passenger miles annually, ~~not more than one year after January 29, 1999, or~~ not more than 90 days after commencing passenger operations, ~~whichever is later.~~

(B) For each railroad that provides commuter or other short-haul passenger train service and whose operations include at least 150 route miles or at least 200 million passenger miles annually, ~~not more than two years after January 29, 1999, or~~ not more than 180 days after commencing passenger operations, ~~whichever is later.~~

(C) For each railroad that provides intercity passenger train service, regardless of the number of route miles or passenger miles, ~~not more than two years after January 29, 1999, or~~ not more than 180 days after commencing passenger operations, ~~whichever is later.~~

(D) For each freight railroad that hosts passenger train service, regardless of the number of route miles or passenger miles of that service, ~~not more than one year after January 29, 1999, or~~ not more than 90 days after the hosting begins, ~~whichever is later.~~

(a)(2)(iv) *Initial training schedule for new employees.* The railroad's emergency preparedness plan shall provide for the completion of initial training of all on-board and control center employees, and any emergency response communications center personnel, who are employed or contracted ~~hired~~ by the railroad after the date on which the plan is conditionally approved under §239.201(b)(1). Each employee shall receive initial training within 90 days after the employee's initial date of service.

(a)(2)(v) *Testing of on-board, control center, and emergency response communications center employees ~~personnel~~.*

(a)(6) *On-board emergency equipment.*

(i) *General.* Each railroad's emergency preparedness plan shall state the types of emergency equipment to be kept on board and indicate their location(s) on each passenger car that is in

service. ~~Effective May 4, 1999, or~~ Not more than 120 days after commencing passenger operations, ~~whichever is later,~~ this equipment shall include, at a minimum:

(ii) ~~Effective May 4, 1999, or~~ Not more than 120 days after commencing passenger operations, ~~whichever is later,~~ each railroad that provides intercity passenger train service shall also equip each passenger train that is in service with at least one first-aid kit accessible to crewmembers that contains, at a minimum:

§ 239.105 Debriefing and critique.

(c) *Purpose of debriefing and critique.* The debriefing and critique session shall be designated to determine, at a minimum:

(3) Whether the control center or the emergency response communications center promptly initiated the required notifications, as applicable under the plan;

§ 239.301 Operational (efficiency) tests.

(See **Item 1**, for suggested changes to regulatory language in 239.301)

Note: All subsections of 49 C.F.R. §§ 239.7, 239.101, 239.105, and 239.301 not listed above will be left unaltered.

Task 4. Addressing Passengers with Disabilities in Emergency Situations.

Regulations affected: 49 C.F.R. § 239.101 – Emergency preparedness plan.

Suggested regulatory language (new wording is underlined):

(a)(8) *Passengers with disabilities.* A railroad shall have procedures in its emergency preparedness plan addressing the safe evacuation of passengers with disabilities. Nothing in this section implies that any list of passengers with disabilities must be maintained by the railroads. However, these procedures shall include a process for notifying first responders in an emergency situation about the presence of such passengers, when the railroad has knowledge that these passengers are on board the train.

Note: See also **Item 3**, for other suggested revisions to 239.101.