



U.S. Department
of Transportation

**Federal Railroad
Administration**

REGULATORY OVERVIEW

(Safety Rulemaking, Reports, and Program Development)

January 5, 2006

Legend

ANPRM	Advance Notice of Proposed Rulemaking
<i>Italics</i>	<i>Indicates project has been identified for development through the Railroad Safety Advisory Committee or a similar forum for collaborative rulemaking</i>
AAR	Association of American Railroads
APTA	American Public Transportation Association
BLE	Brotherhood of Locomotive Engineers and Trainmen
BMWE	Brotherhood of Maintenance of Way Employes
FMCSA	Federal Motor Carrier Safety Administration
FHWA	Federal Highway Administration
FRA	Federal Railroad Administration
FTA	Federal Transit Administration
NPRM	Notice of Proposed Rulemaking
NTSB	National Transportation Safety Board
RSAC	Railroad Safety Advisory Committee
RSPA	Research and Special Programs Administration
OMB	Office of Management and Budget
OST	Office of the Secretary of Transportation
RSI	Railway Supply Institute
SACP	Safety Assurance and Compliance Program

UTU

United Transportation Union

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NOTES:

Centralized Docket Management System - Dockets established after October 7, 1998, are available on the DOT Centralized Docket Management System facility and can be accessed over the Internet (<http://dms.dot.gov>). Detailed information is available at the Web site to assist in viewing documents.

Revised Docket Filing Procedures for FRA Rulemaking and Adjudicatory Dockets - Final Rule (64 FR 70193) - This final rule amends certain FRA rules to provide accurate information to the public regarding filing requirements for FRA proceedings. The final rule is effective 2/14/00.

RSAC Website - See the RSAC website for details on pending tasks at:
<http://rsac.fra.dot.gov>. Public Website contains all of the documents provided at meetings.
The secured site is accessible by Working Group and task force members and provides minutes and working documents and information from Working Group and task force meetings.

SUMMARY OF ONGOING CONSENSUS RULEMAKING EFFORTS

Railroad Safety Advisory Committee:

The last full Committee meeting was held on 10/11/05. Since its first meeting in 1996, the RSAC has accepted twenty tasks. Below is a summary review of the RSAC initiatives to date. For complete information, see the status section in Safety Rules and Reports.

Last RSAC Working Group Activity Update published in the *Federal Register* on 12/6/05 (70 FR 73513).

Next RSAC meeting: 2/22/06.

For a summary of previous consensus rulemaking activity, see entries under Passenger Safety and Roadway Worker Protection, below.

The list below is a summary of the current status of each RSAC task. For more information and the history on each task, please reference the “Safety Rules and Reports - General” section of this report.

Open RSAC Tasks

Task No.	Subject	Status
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96-4	Tourist Railroads	Open task to address needs of tourist and historic railroads. On 4/1/96 the RSAC authorized the formation of a Working Group to monitor and assist completion of the steam locomotive regulations task. Planned future activities involve review of other regulations for possible adaptation to the safety needs of tourist and historic railroads.
97-1	Locomotive Crashworthiness	The NPRM was published on 11/2/04 (69 FR 63890). The comment period ended on 2/3/05. The Working Group met to review public comments on 6/27-28/05. The Working Group reached consensus on 7/1/05. The Working Group's recommendations were adopted by the full RSAC, by mail ballot, on 8/5/05. The final rule is in review and clearance.
97-2	Locomotive Cab Working Conditions	<p>Task accepted 6/24/97; Working Group held initial meeting 9/10-11/97. The Working Group established task forces on noise and temperature.</p> <p>[Sanitation: Completed.]</p> <p>Noise: The NPRM was published in the <i>Federal Register</i> on 6/23/04 (69 FR 35146). The comment period ended 9/21/04. Task Force and Working Group meetings were held 3/1, and 3/2-3/05, respectively, to review the public comments and recommend a final rule. The Working Group reached agreement on all issues. The Working Group's recommendations were adopted by the full RSAC on 5/18/05. FRA is preparing the final rule, which will then undergo review and clearance within the Executive Branch.</p> <p>[Cab Temperature: Task Withdrawn.]</p> <p>Future Actions: FRA will request the Working Group to review data and analysis regarding the effect of vibrations on health following the conclusion of the Noise task.</p>
97-4, 97-5, 97-6	Positive Train Control	<p>[Report to Congress: Completed.]</p> <p>Roadway Worker Terminal: A task force on protection of roadway workers through use of advanced technology is completing a report to the Working Group.</p> <p>Other activity: Following publication of the final rule described below, FRA may request the Working Group to undertake additional activities to advance PTC. RSAC PTC Working Group met on 7/14-15/05, to discuss implementation guidance and receive a task force report on roadway worker terminals.</p> <p>Rulemaking: FRA submitted the final rule on Performance Standards for Processor-Based Signal and Train Control Systems to OST on 9/29/03, and OMB completed review on 12/29/04. The final rule was published in the <i>Federal Register</i> on 3/7/05 (70 FR 11051), effective 6/6/05. On 12/5/06, FRA published in the <i>Federal Register</i>, (70 FR 72382), language clarifications and technical amendments to the final rule.</p>
03-01	Passenger Safety Issues for the 21st Century	<p>First meeting held 9/9-10/03. Consolidated list of issues completed. Second meeting held 11/6-7/03. Five task groups established: 96-6/glazing; emergency preparedness; mechanical-general issues; mechanical-safety appliances; and track/vehicle interaction. Task groups met and reported on activities for Working Group consideration at third meeting held 5/11-12/04, and a fourth meeting held 10/26-27/04.</p> <p>Initial recommendations on mechanical issues (revisions to 49 CFR Part 238) were approved by the full Committee on 1/26/05.</p> <p>At the Working Group meeting held 3/9-10/05, the Working Group received and</p>

		approved the consensus report of the Emergency Preparedness Task Force related to emergency egress and rescue access and supported the Task Force's request to being working on an NPRM. The Working Group's recommendations were presented to and approved by the full Committee on 5/18/05. An NPRM is now under development. The Working Group met on 9/7-8/05, and additional, supplementary recommendations were presented to and accepted by the full RSAC on 10/11/05.
05-01	Roadway Worker Protection	Task accepted on 1/26/05, to review 49 CFR 214, Subpart C, Roadway Worker Protection, and related sections of Subpart A; recommend consideration of specific actions to advance the on-track safety of railroad employees and contractors engaged in maintenance-of-way activities throughout the general system of railroad transportation, including clarification of existing requirements. The Working Group met on 4/12-13/05, 6/22-24/05, 8/8-11/05, 9/20-22/05, and 11/8-9/05. The next Working Group meeting is scheduled for 1/10-11/06.
05-02	Operating Rules (Human Factors)	Task was accepted by RSAC on 5/18/05, to reduce the number of human factor-caused train accidents and employee injuries. Working Group meetings were held on 7/12-13/05, 8/31-9/1/05, 9/28-29/05, 10/25-26/05, 11/16-17/05 and 12/6-7/05. The final Working Group meeting is scheduled for 2/8-9/06. The Working Group is expected to submit initial recommendations in February 2006.

Completed RSAC Tasks

Task No.	Subject	History
96-1	Power Brake Regulations, Freight, General Revision	Final rule published 1/17/01 (66 FR 4104). An amendment, extending the effective date of the final rule until 5/31/01, was published on 2/12/01 (66 FR 9905); and a subsequent amendment further deferred the compliance date for providing a written record of a test required under 232.409(c) until further notice (66 FR 29502; 5/31/01). FRA reviewed petitions for reconsideration and published amendments to Subpart D of the final rule (66 FR 36983; 8/1/01). Remaining responses to petitions for reconsideration were published 4/10/02 (69 FR 17556). (Completed)
96-2	Track Safety Standards, General Revision	Final rule published 6/22/98; effective 9/21/98. The Gage Restraint Measurement System (GRMS) final rule amendment was published 1/10/01(66 FR 1894). On 1/31/01, FRA published a notice extending the effective date of the GRMS amendment to 4/10/01 (66 FR 8372). On 2/8/01, FRA published a notice delaying the effective date until 6/9/01, in accordance with the Regulatory Review Plan (66 FR 9676). (Completed)
96-3	Railroad Communications (including revision of Radio Standards and Procedures)	Final rule published 9/4/98 (63 FR 47182). Effective 01/4/99. (Completed)
96-5	Steam-Powered Locomotives, Revision of Inspection Standards	Final rule published 11/17/99 (64 FR 62828). Effective 1/18/00. (Completed)
96-6	Locomotive Engineer Qualification and Certification, General Revision	Final rule published 11/8/99 (64 FR 60966). Effective 01/7/00. (Completed)

96-7	Roadway Maintenance Machines (On-Track Equipment) Safety Standards	The NPRM was published on 1/10/01 (66 FR 1930). The final rule was published on 07/28/03 (68 FR 44388). Response to petitions for reconsideration was published on 2/26/04 (69 FR 8834). Effective 4/26/04. (Completed)
96-8	Locomotive Crashworthiness and Working Conditions (planning task)	Planning task accepted 10/31/96; planning group met 1/23/97; two task statements were accepted by the full Committee at the 6/24/97 meeting [see 97-1, 97-2]. (Completed)
97-7	Calculation of Damages for Reportable Train Accidents	The full RSAC, at the 2/13/02 meeting agreed to terminate action based on consensus recommendations from the Working Group. (Completed.)
97-3	Event Recorders (data survivability)	Final rule published 6/30/05 (70 FR 37920). Effective 10/1/05. (Completed)
00-1	Blue Signal Protection of Workers	First meeting held 10/16-18/00, followed by five additional meetings. Working Group was unable to achieve consensus on recommendations. The Administrator announced at the full RSAC meeting on 12/02/03 that the issue may be pursued at a later date. (Completed - task withdrawn.)
01-1	Accident/Incident Reporting; conformity with OSHA injury/illness amendments; updates to Guide	The NPRM was published in the <i>Federal Register</i> on 10/9/02. Final rule published 3/3/03. Effective 5/1/03. (Completed)

SAFETY RULES AND REPORTS - GENERAL

Accident/Incident Reporting - COMPLETED

General Revision

Summary: The Rail Safety Enforcement and Review Act of 1992 (Pub.L. No.102-365) barred FRA from adjusting the monetary threshold for reporting of train accidents until the methodology was revised. In addition, FRA identified the need to comprehensively revise these regulations, which had not been revised since 1974. The report of the Committee of Conference on the Department of Transportation and Related Agencies Appropriation Act, 1996, directed FRA to issue a final rule in this proceeding by 6/1/96.

History: An NPRM was issued 8/19/94, followed by public hearings and written comment. A public regulatory conference was convened 1/30-2/3/95 in an effort to resolve outstanding issues. A notice of decision to issue a supplemental NPRM was published 7/3/95, but was withdrawn in a notice published on 1/24/96.

Status: Completed. Final rule was issued 5/30/96 and published 6/18/96 (61 FR 30940). Stay requests were denied, and technical amendments were published 11/22/96 (61 FR 59368). A notice of availability of custom software was also published 11/22/96 (61 FR 59485). On 12/16/96, the Administrator signed final rule amendments, which were published 12/23/96 (61 FR 67477). Final rule became effective 1/1/97.

Reporting Threshold (RSAC Task 2000-1) - COMPLETED

FRA offered RSAC a task on 9/30/97 to review the definition of events required to be reported as train accidents, as requested by the Committee on 6/24/97. By request of the Committee, the task was limited to determination of damages qualifying an event as a reportable train accident. The Working Group held its initial meeting 2/8/99. The Working Group designed a survey form to collect specific data about damages on railroad equipment. The survey began 8/1/00 and ended 1/31/01. The survey was voluntary, but most of the larger freight railroads participated, as well as four passenger railroads. Report was completed the last week of April 2001. The Working Group met 5/21-23/01 to review the report. Pilot proved to be unworkable. The Working Group agreed to terminate action after reviewing the comments. A close-out report was provided to the Working Group for sign-off on 12/02/01. The full RSAC approved termination at the 2/13/02 meeting.

Status: Completed.

Accidents/Incidents Revision of Monetary Reporting Threshold for Rail Equipment - COMPLETED

Summary: In this rule, FRA will establish a revised formula for calculating the monetary threshold for reporting certain railroad accidents/incidents involving railroad property damage.

History: An Interim Final Rule (IFR) with a request for comments was published on 12/30/02 (67 FR 79533), effective 1/1/03. The IFR established at \$6,700 the monetary threshold for reporting certain railroad accidents/incidents involving railroad property damage that occurred during calendar year 2003 and, until further notice, during subsequent calendar years. The rule was issued because the Bureau of Labor Statistics (BLS) ceased collecting and publishing certain rail industry wage data that was previously used in the formula for calculating the reporting threshold. The IFR established a temporary threshold to give FRA time to find and evaluate a new data source, and to revise the formula for calculating the threshold, as necessary.

Status: The NPRM was published in the *Federal Register* on 4/19/05 (70 FR 20333). Comment period closed 6/20/05. No comments received. The final rule was published in the *Federal Register* on 12/20/05 (70 FR 75414). The Rule becomes effective 1/1/06.

OSHA Conformity and Misc. Revisions (RSAC Task 2001-1) - COMPLETED

Summary: FRA offered an additional task at the RSAC meeting of 4/23/01, which was accepted by the full RSAC and assigned to the Accident/Incident Working Group. The task concerns amendments needed to conform Part 225 to the Occupational Safety and Health Administration's revised record keeping and reporting rule (1/18/01). In addition, the RSAC approved the review of, need for, and content of, various proposed changes to the Reporting Guide. The Working Group met initially on 5/21-23/01 and reached consensus at a final meeting 4/24-26/02. A briefing was held at the full RSAC meeting held on 5/29/02 and agreement was reached to use a ballot for approval. The full RSAC approved the Working Group recommendations on the draft NPRM on 7/19/02 by letter ballot. The NPRM was published in the *Federal Register* on 10/9/02 (67 FR 63022), and a correction notice was published 11/26/02 (67 FR 70809). Working Group met to go over the comments on 12/4/02 and reached agreement on recommendations for resolution. Final rule published 3/3/03 (68 FR 10108), effective 5/1/03.

Status: Completed.

Adjustment of Civil Monetary Penalties for Inflation, 2004 - COMPLETED

Summary: In this rule, FRA adjusted the minimum and maximum civil monetary penalties it issues for violations of railroad safety statutes.

Status: Completed. Final rule published 5/28/04 (69 FR 30591), which became effective 6/28/04, except for the amendments to 49 CFR Part 222, which are effective 12/18/04.

Adjustment of Civil Monetary Penalties for Inflation, 2005 - WITHDRAWN

Summary: In this rule, FRA adjusted the minimum and maximum civil monetary penalties it issues for violations of railroad safety statutes.

Status: FRA has reviewed the penalties and determined that the ordinary maximum civil penalties need to be adjusted. An appropriate notice is expected to be issued in 2005. Final rule published 6/8/05, (70 FR 33380), with an effective date of 7/8/05.

Update: This rule has been withdrawn due to an error made in the initial review of the ordinary maximum civil penalty. A final rule withdrawing the previous publication (70 FR 33380), was published on 7/6/05.

Adjustment of Hazardous Materials Civil Penalties for Inflation - COMPLETED

Summary: This rule adjusted the minimum and maximum civil monetary penalties FRA issues to mirror the Research and Special Programs Administration's increase in its civil monetary penalties for its enforcement of hazardous materials transportation laws and regulations.

Status: Completed. Final rule published 5/28/04 (69 FR 30590), which became effective 6/28/04.

Blue Signal Protection (RSAC Task 2000-1 [withdrawn])

Summary: This proceeding considered possible revisions to the blue signal regulations contained in 49 CFR Part 218.

Background: On 8/16/93, FRA published a final rule (58 FR 43292, as amended at 60 FR 11049, 3/1/95) permitting one or more utility employees to associate themselves with a train crew for the purpose of performing normal operating functions that require employees to go on, under or between rolling stock, without use of blue signal protection (which is ordinarily appropriate for mechanical duties). During the proceeding it was noted that rules for locomotive engineers working alone were not clearly defined. FRA published a final rule amendment governing single engineers working alone on 3/1/95 effective 5/15/95 (60 FR 11050), but granted a requested

suspension of the amendment on 6/9/95 effective 5/15/95 (60 FR 30469), pending development of additional facts. Since that time, additional blue signal issues have continued to emerge, including application of the requirements to contractors performing the subject functions on railroad property.

Status: The Administrator announced the decision at the full RSAC meeting on 12/02/03 that the issue may be pursued at a later date. Task withdrawn.

Bridge Displacement Detection Systems (Report) - COMPLETED

Summary: The Federal Railroad Safety Authorization Act of 1994 (Pub.L. No.103-440, Title II), required FRA to submit a report on systems to detect bridge displacement of the type that caused the derailment of the Sunset Limited at Mobile, Alabama 9/22/93.

Statutory deadline: 5/2/96

Status: Completed. A technical evaluation report was published 6/23/94 and made available to the respective committees. A formal report was issued and forwarded to the Congress on 4/11/00.

Bridge Worker Safety - Fall Protection - COMPLETED

Summary: FRA amended its regulation on Roadway Workplace Safety to clarify an ambiguous provision concerning the circumstances under which life vests or buoyant work vests are required for bridge workers working over water.

Status: The Interim Final Rule was published 2/10/05 (70 FR 7047), with written comments due no later than 3/28/05. No comments were received and the IFR became effective 4/11/05. The DOT DMS Docket Number is FRA-2001-10426. The final rule was published on 7/27/05 (70 FR 43325).

Control of Alcohol and Drug Use - Foreign Crews - COMPLETED

Summary: This rulemaking addresses the application of random testing and other requirements to employees of a foreign railroad who are based outside the United States and perform train service in the United States. FRA's regulation on the control of alcohol and drug use (49 CFR Part 219) applies to all railroads that operate on the general rail system of transportation in the United States. However, part 219 had exempted from certain subparts, operations of foreign railroads employing crews based outside the U.S. Such an employee whose primary reporting point is outside the U.S. but who performs service in the U.S. subject to the hours of service laws (train, dispatching, or signal) was exempt from pre-employment and random testing. FRA

prepared a rule proposing to limit the exemption to foreign railroad's foreign-based employees who perform signal service in the U.S.

Status: Completed. The NPRM was published 12/11/01 (66 FR 64000). On 02/14/02, FRA conducted a public hearing on the NPRM. The comment period was extended through 03/14/02 in order to receive post-hearing submissions. On 7/10/02, the Canadian Human Rights Commission published its policy on alcohol and drug testing. On 12/10/02, FRA issued a *Federal Register* notice inviting comment on the policy and extending the comment period until further notice while it engaged in further consultations with the Governments of Canada and Mexico on safety issues in the NPRM (67 FR 75966). On 7/28/03, FRA published a *Federal Register* notice setting the deadline for comment submissions as 8/27/03 (68 FR 44276). The final rule was published on 4/12/04, effective 6/11/04 (69 FR 19270).

Event Recorder Next-Generation Performance Standards (RSAC Task 97-3) - COMPLETED

Summary: The NTSB has noted the loss of data from event recorders in several accidents due to fire, water and mechanical damage. In issuing final rules for event recorders which became effective 5/5/95, FRA noted the need to provide more refined technical standards. In a letter to FRA, NTSB proposed performance standards for data survivability.

Background: Conducted an initial meeting of an informal Working Group comprised of AAR, RSI, and labor, and co-chaired by NTSB and FRA experts, on 12/7/95 to consider development of technical standards. At the RSAC meeting on 7/24-7/25/96, the AAR agreed to continue this inquiry, and on 11/1/96, AAR reported to the RSAC the status of work on proposed industry standards. On 3/5/97, NTSB issued recommendations regarding testing and maintenance of event recorders as a result of finding in the investigation of the BNSF accident of 2/1/96 at Cajon Pass, California. On 3/24/97, the RSAC indicated its desire to receive a task to consider NTSB recommendations with respect to crash survivability, testing and maintenance.

Status: RSAC accepted task 6/24/97. The Event Recorder Working Group first met 9/12/97. The Working Group and a Task Force have conducted meetings and a draft proposed rule is being reviewed. NPRM drafts were circulated to the Working Group on 5/21/01 and again on 1/30/02 (accompanied by a draft regulatory evaluation). Working Group meetings were held 3/28/02, 4/23/02, and 5/30-31/02. FRA circulated a final draft to Working Group on 10/08/03. NPRM received concurrence by full RSAC 1/13/03. The executive branch completed its review of the NPRM and approved it on 06/14/04. An NPRM was published on 6/30/04 (69 FR 39774). Comment period ended 8/31/04. Requests for public hearing ended 8/15/04. A public

hearing was conducted on 9/30/04 and the comment period was extended to 10/11/04. Comments were reviewed and summarized.

The Working Group met 12/15-16/04, and agreed upon recommendations for resolution of the comments submitted in response to the NPRM. The Working Group approved the draft final rule by mail ballot on 5/9/05. The full committee was briefed on the Working Group recommendations on 5/18/05. The Committee approved the draft final rule by mail ballot on 6/6/05. The final rule was published on 6/30/05 (70 FR 37920), effective 10/1/05.

Florida Overland Express - COMPLETED

Summary: FRA received a petition for a rule of particular applicability for operations over a new high-speed railroad between Miami and Tampa via Orlando. The State of Florida had established a dedicated funding stream of \$70 million per year towards creation of this new private/public partnership.

Status: Received petition for rule of particular applicability 2/18/97. FRA issued NPRM 12/12/97 (62 FR 65478). Comment period closed. FRA reviewed comments received and held a public hearing on 11/23/98 to discuss a variety of issues. The State of Florida withdrew its support and funding for this project 01/99, suspending all activity on development. **The rulemaking was terminated** (65 FR 50952; 8/22/00).

Freight Car Safety Standards; Maintenance-of-Way Cars - COMPLETED

Summary: Cars not in compliance with the Freight Car Safety Standards may be operated at track speed in revenue trains if they are company-owned, stenciled cars. FRA published an NPRM 3/10/94 to close this loophole. FRA requested the AAR to amplify its comments by letter of 12/20/94. AAR response received 8/4/95. FRA offered a task to the RSAC to resolve final rule issues on 9/30/97, but objection was made by the AAR.

Status: Completed. FRA published termination notice in the *Federal Register* on 3/27/02 (67 FR 14665).

Locomotive Crashworthiness and Working Conditions

Summary: The Rail Safety Enforcement and Review Act of 1992 (Pub.L. No.102-365) required FRA to conduct a proceeding regarding locomotive crashworthiness and working conditions and to issue regulations or submit a report. Areas for consideration included structural means of preventing harm to crew members in collisions (collision posts, anticlimbers, etc.) and matters related to safety, health and productivity (e.g., noise, sanitation).

Statutory deadline: 3/2/95 (report or regulations)

Background: FRA conducted research, outreach, and a survey of locomotive conditions and finalized a report to Congress transmitted by letter of 9/18/96. The report conveyed data and information developed by FRA to date, closed out those areas of investigation for which further action is not warranted, and defined issues that should be pursued further in concert with the industry parties, either for voluntary or regulatory action. On 10/31/96, the RSAC accepted a preliminary planning task. The Locomotive Crew Safety Planning Group met 1/23/97, and subsequent consultations led to preparation of task statements.

Status: RSAC accepted two tasks 6/24/97, and those tasks are being pursued through two separate Working Groups as set forth below.

Locomotive Crashworthiness (RSAC Task 97-1)

Working Group met initially 9/8-9/97 and established a task force on engineering issues that reviewed collision history and design options. The Working Group reviewed the results of research and is drafting performance-based standard. The review of collision data for use in the regulatory action was completed in 9/00. An accident review task force has evaluated the potential effectiveness of suggested improvements. A draft NPRM was circulated to the Working Group, which met 10/9-10/10/01 to review the draft and consider economic issues. Next meeting was held 1/17-18/02 to go over proposed drafts. AAR and the railroad members of the Working Group presented revised crashworthiness standards for consideration by the Working Group. The Working Group reached tentative agreement on the elements of a proposed rule. The Working Group approved the NPRM on 3/21/04. The full RSAC approved the NPRM on 4/14/04. The FRA sent the NPRM to OST on 5/27/04. On 7/20/04, OST sent the NPRM to OMB, which approved it on 10/18/04. The NPRM was published on 11/2/04 (69 FR 63890). The comment period ended on 2/3/05. The Working Group met to review public comments on 6/27-28/05. The Working Group reached consensus on 7/1/05. The Working Group's recommendations were adopted by the full RSAC, by mail ballot, on 8/5/05. The final rule is in review and clearance.

Locomotive Cab Working Conditions (RSAC Task 97-2)

Working Group met for the first time 9/10-11/97 and established task forces on noise and temperature, while the Working Group focused on sanitation.

Sanitation. The Working Group approved a draft NPRM on cab sanitation, which was approved by the full committee on 12/7/00. The NPRM was published 01/02/01 (66 FR 136). A public hearing was held 4/2/01; and the docket remained open through 5/1/01. Refinement and substantive changes were incorporated into the rule

language. A meeting was held 8/2/01 to discuss the comments in response to the NPRM. Agreement was reached on resolution of the comments to the NPRM, subject to review of meeting minutes capturing agreements. Verbal consent given by the Working Group to send to full RSAC for ballot vote. Full RSAC approved by ballot voting on 1/02/02. Ballots were due by 12/10/01. Final rule published 4/4/02 (67 FR 16032). Rule was effective 6/3/02. **(Completed)**

Noise. The Cab Working Group met in Chicago on 11/12-11/14/02 and reached tentative consensus on draft rule text. The NPRM was published in the *Federal Register* on 6/23/04 (69 FR 35146). The comment period ended on 9/21/04. Task Force and Working Group meetings were held 3/1, and 3/2-3/05, respectively, to review the public comments and recommend a final rule. The Working Group reached agreement on all issues. The Working Group's recommendations were adopted by the full Committee on 5/18/05. FRA is preparing the final rule, which may then undergo review and clearance within the Executive Branch.

Temperature. The Cab Working Group has also considered issues related to cab temperature, but could not reach agreement to proceed. The temperature task was withdrawn from RSAC and terminated by FRA (05/03). The Cab Working Group is expected to consider additional issues (such as vibration) in the future. **(Terminated).**

Locomotive Engineer Certification; Revisions (RSAC Task 96-6) - COMPLETED

Summary: The final rule for locomotive engineer certification became effective in 1991, but certain issues were left unresolved. Unresolved or difficult issues associated with the rule were not recognized until it was implemented. FRA issued two Interim Final Rules as temporary solutions to these unresolved problems. The final interim rule published 4/93 (58 FR 18982) limited certification to operators of traditional locomotives and refined the types of conduct for which decertification is appropriate. The second interim rule published 10/12/95 (60 FR 53133) refined agency practice and procedure concerning the dispute resolution process for engineer certification, recertification and revocation appeals. In 1996, the RSAC agreed to review all aspects of the rule including any comments received with regard to the two interim rules.

Status: Completed. Based on the RSAC's consensus recommendations, an NPRM was published 9/22/98 (63 FR 50625). The RSAC's Working Group met to resolve issues presented in public comments to the NPRM, and on 8/99 the RSAC voted to transmit recommendations regarding issues for which the Working Group had received comments. The final rule was published 11/8/99 (64 FR 60966); effective date 1/7/00. (FRA Docket No. RSOR-9. Notice 12).

Mail delays: On 01/2/02 (67 FR 22), FRA issued an Interim Final Rule to deal with the problem of significant mail delivery delays caused by domestic terrorism that could

potentially harm petitioners under FRA's dispute resolution process; this interim rule amended the definition of "filing."

Locomotive Headlights - COMPLETED

Summary: It was determined that headlight lamps offered to primary vendors may not meet the regulatory criteria of 200,000 candela. FRA reviewed the issue to determine under what circumstances current headlights should be considered adequate.

Status: Completed. Interim Final Rule published 8/19/03 (68 FR 49713). Comment period closed 9/18/03. Final rule published 3/16/04 (69 FR 12532). Effective date 3/16/04.

Northeast Corridor (NEC) Signal & Train Control - COMPLETED

Summary: In 1998, FRA issued an Order of Particular Applicability (Order) requiring all trains operating on the Northeast Corridor (NEC) between New Haven, CT and Boston, MA to be equipped to respond to the new Advanced Civil Speed Enforcement System (ACSES) (63 FR 39343).

In August of 2001, Amtrak requested that FRA temporarily suspend the Order's requirement to enforce temporary speed restrictions through the use of temporary transponders on the North End of the NEC. After reviewing the data that Amtrak provided in 08/2003 on its current transponder attrition rate, FRA has decided to grant the requested relief until 4/1/05 (69 FR 52, effective 3/17/04). Prior to this action, FRA has amended the Order eight times to reset the implementation schedule and make technical changes as follows: 64 FR 54410, 10/6/99; 65 FR 62795, 10/19/00; 66 FR 1718, 01/09/01; 66 FR 34512, 6/28/01; 66 FR 57771, 11/16/01; 67 FR 6753, 2/12/02; 67 FR 14769, March 22, 2002; and 67 FR 47884, July 22, 2002.

Status: Completed. The system has been cut over between New Haven and Boston and on certain high-speed segments south of New York City. FRA continues to work with parties on implementation issues, and future proceedings may consider extension of the system to the entire NEC.

Northeast Corridor Safety (NEC) Committee

Summary: This committee had not met recently because of funding constraints under the advisory committee cap (now removed) and as a result of the need to intensively address specific issues with Amtrak and other NEC operators related to recent corridor improvements and the beginning of Acela Express service at speeds to 150 mph. Issues addressed in past years included signal/train control criteria to support these new high-speed operations, emergency response, coordination of freight and passenger service on the NEC, vandalism and trespassing. The committee's work has prompted important safety research, legislative proposals and regulatory action. An NEC forum was held on 12/11/02.

Background: The NEC Safety Committee was originally created pursuant to the Railroad Safety Improvement Act of 1988 (Pub.L. No.100-342), as amended by the Rail Safety Enforcement and Review Act of 1992 (Pub.L. No.102-365). The statute provided for the Committee to expire on 01/01/99, or on such date as the Secretary deems to be appropriate. It has served as an effective forum for interested parties to address safety issues related to the operation of the Nation's foremost high-speed passenger line. There is a continuing need for advice on safety issues, but since it is not necessary to re-activate the statutory Committee, it has been re-established as a discretionary committee. An NEC forum was held 12/11/01.

Operating Rules (Human Factors)

Summary: To reduce the number of human factor-caused train accidents and employee injuries. Review the primary human factor causes of rail accidents/incidents and existing railroad operating rules relevant to primary causes; determine the sufficiency of railroad operating rules that address major categories of human factor train accidents and the extent to which improved compliance with existing railroad operating rules would contribute to reductions in human factor accidents and incidents; review railroad programs of operating rules instruction, training, and oversight related to principal human factor causes and relevant portions of the Code of Federal Regulations; determine means of improving accountability for compliance with critical operating rules; and consider the sufficiency of rules and training for railroad operating employees regarding interface with automated warning systems at highway-rail crossings.

Status: Task accepted by RSAC 5/18/05; Working Group formed; initial recommendations of Working Group required 2/06, consistent with the Secretary's Rail Safety Action Plan. Working Group meetings were held on 7/12-13/05, 8/31-9/1/05, 9/28-29/05, 10/25-26/05, 11/16-17/05, and 12/6-7/05. The final Working Group is scheduled for 2/8-9/06. The Working Group is expected to submit initial recommendations in February 2006.

Passenger Equipment Safety Standards - COMPLETED

Summary: The Federal Railroad Safety Authorization Act of 1994 (Pub. L. 103-440, Title II) required FRA to issue initial passenger safety standards within 3 years and complete standards within 5 years. The agency was authorized to consult with industry parties outside the Federal Advisory Committee Act, making it possible to conduct an informal negotiated rulemaking.

Statutory deadline: 11/2/97 (initial); 11/2/99 (final).

Status: Completed. An initial meeting of the Passenger Equipment Safety Working Group (passenger railroads, operating employee organizations, mechanical employee organizations, and representatives of rail passengers) was held on 6/7/95, and the group

met regularly to develop an NPRM. Manufacturer/supplier representatives served as associate members. FRA prepared an ANPRM indicating the issues under review by the Working Group, which was published 6/17/96 (61 FR 30672). The Working Group held its final meeting on the NPRM 9/30-10/2/96, having reached consensus on a portion of the issues presented. An NPRM was published 9/23/97 (62 FR 49728). A public hearing was held 11/21/97 (62 FR 55204; 10/23/97). Comments were due 11/24/97. Final Working Group meeting on the initial standards was held 12/15-16/97, and an additional meeting on intercity and high speed issues was held 1/6/98. The final rule was published 5/12/99 (64 FR 25540). Final rule amendments responsive to petitions for reconsideration on issues regarding inspection, testing and maintenance of passenger cars were published 7/3/00 (65 FR 41284). FRA's notice responding to all remaining issues except for fire safety issues was published in the FR on 4/23/02 (67 FR 19970). Fire safety amendments were published 6/25/02 (67 FR 42892).

Passenger Train Emergency Preparedness - COMPLETED

Summary: The Federal Railroad Safety Authorization Act of 1994 (Pub.L. No.103-440, Title II) required FRA to issue emergency preparedness standards for passenger service. Initial standards were required within 3 years and complete standards within 5 years. The agency was authorized to consult with industry parties outside the Federal Advisory Committee Act, making it possible to conduct an informal negotiated rulemaking.

Statutory deadline: 11/2/97 (initial); 11/2/99 (final)

Background: An initial meeting of the Working Group for passenger train emergency preparedness standards was held on 8/8/95. The group met 2/6-7/96 to develop elements of an NPRM and met jointly with the Passenger Equipment Safety Standards Working Group on 3/26/96 to consider related issues, including the implications of Emergency Order No. 20 and recommendations of the NTSB. The Working Group included representatives of passenger railroads, operating employee and dispatcher organizations, and rail passenger organizations, and an advisor from the NTSB. The Working Group approved draft rule text, which was incorporated in an NPRM forwarded for review and clearance. Changes requested during review and clearance were provided to the Working Group during the week of 12/16/96.

Status: Completed. The NPRM was published 2/24/97 (62 FR 8330), and a notice of public hearings was published 3/6/97 (62 FR 10248). Public hearings were held in Chicago on 4/4/97 and in New York City on 4/7/97. Written comments were due by 4/25/97. The Working Group met 8/28/97 and agreed in principle to revisions for

inclusion in the final rule. The final rule was published 5/4/98 (63 FR 24630), and a correction notice was published 7/6/98 (63 FR 36376). Effective date: 7/6/98.

NOTE: *The following order is closely associated with the two prior entries:*

Emergency Order No. 20 - COMPLETED

Summary: This order deals with the safety of push/pull and electric multiple unit service. The order was issued 2/20/96 (61 FR 6876; 2/22/96), and amended 2/29/96 (61 FR 8703; 3/5/96). Intercity and commuter passenger railroads were required to adopt operating rules providing for observance of reduced speed where delays are incurred in blocks between distant signals and signals at interlocking or controlled points. Marking of emergency exits and testing of emergency windows was required. Interim system safety plans were required to be filed.

Status: Completed. The order has been fully implemented. On 3/26/96, the Passenger Equipment Safety Working Group and the Emergency Preparedness Working Group met jointly to consider implementation issues and crossover issues with the two rulemaking proceedings and recent recommendations of the NTSB. The APTA and its members have undertaken a number of actions in response to (but not required by) the emergency order, including development of comprehensive system safety plans. Codification, revision or termination of provisions will be considered by the Passenger Safety Working Group under Task No. 2003-1.

Passenger Safety Issues for the 21st Century (RSAC Task 03-01)

Summary: On 5/20/03 the full RSAC agreed to assign RSAC the task of considering enhancements to the passenger safety standards (Passenger Equipment Safety Standards and Passenger Train Emergency Preparedness), based on ongoing research, development of detailed standards by the American Public Transportation Association (APTA) Passenger Rail Equipment Safety Standards (PRESS) task force, and other identified needs.

Status: Nominations for membership to the Passenger Safety Working Group were submitted by 6/05/03. The Working Group met on 9/9-9/10/03 and completed a consolidated list of issues. The Working Group next met on 11/6-11/07/03 and established five task groups to focus on the following areas: crashworthiness/glazing; emergency preparedness; mechanical-general issues; mechanical-safety appliances; and track/vehicle interaction. The Working Group identified other issues for consideration at a later date, taking into account whether additional study/research was needed, priorities, and available resources. The task groups met and reported on their activities for consideration at a third Working Group meeting held 5/11-5/12/04, and the fourth meeting held 10/26 - 10/27/04. The Working Group itself reports to the full

Committee at each scheduled Committee meeting, including providing milestones for completion of projects and progress toward completion. All but the mechanical task groups will continue meeting and have reported on their activities at the Working Group meetings held 3/9-10/05 and 9/7/05.

Emergency Preparedness Task Force

Status: At the Working Group meeting of 3/9-10/05, the Working Group received and approved the consensus report of the Emergency Preparedness Task Force related to emergency egress and rescue access and supported the Task Force's request to begin working on an NPRM. The Working Group's recommendations were presented to and approved by the full Committee on 5/18/05. An NPRM is now under development. The Working Group met on 9/7-8/05, and additional, supplementary recommendations were presented to and accepted by the full RSAC on 10/11/05.

Mechanical Task Force

General Issues - Miscellaneous Amendments

Summary: FRA is proposing to clarify and amend its existing regulations in an effort to address various mechanical issues relevant to the manufacture, efficient utilization, and safe operation of passenger equipment and trains that have arisen since FRA's original issuance of the Passenger Equipment Safety Standards. FRA proposes miscellaneous amendments to its existing regulations in four areas: (1) by clarifying the terminology related to piston travel indicators; (2) by providing alternative design and additional inspection criteria for new passenger equipment not designed to allow inspection of the application and release of the brakes from outside the equipment; (3) by permitting some latitude in the use of passenger equipment with redundant air compressors when a limited number of the compressors become inoperative; and (4) by recognizing current locomotive manufacturing techniques by proposing an alternative pneumatic pressure test for main reservoirs. This action is based on recommendations of the Passenger Safety Working Group that were approved by the full Committee on 1/26/05. The NPRM was submitted to OMB designation list (60-day list) as non-significant on 4/21/05. At the Working Group meeting of 9/7/05, the Task Force presented additional perfecting amendments that will be included in the NPRM, and the full RSAC approved them on 10/11/05.

NPRM published in the *Federal Register* on 12/8/05 (70 FR 73070). Public comments are due by 2/17/06.

Safety Appliances

Summary: FRA is also proposing to clarify the existing regulatory requirements related to the attachment of safety appliances and is proposing an identification and inspection protocol to address existing passenger equipment containing welded safety appliances or welded safety appliance brackets or supports.

Status: This item was removed from the RSAC due to lack of consensus. The subject issues are included in the NPRM published 12/8/05 (referenced immediately above).

Positive Train Control (PTC)

Evaluation of needs and feasibility (implementation)(RSAC Tasks 97-4 and 97-5)

Summary: These tasks involve defining PTC functionalities, describing available technologies, evaluating costs and benefit of potential systems, and considering implementation opportunities and challenges, including demonstration and deployment.

Status: Accepted by RSAC 9/30/97. Monitoring of implementation continues. Data and Implementation Task Force completed report on future of PTC, which was accepted by the full RSAC on 9/8/99. Working Group meetings were held 10/22-23/02, 3/4-3/6/03, and 7/8-7/9/03.

Performance Standards for PTC Systems (RSAC Task 97-6) – COMPLETED

Summary: Existing signal and train control regulations are built around relay-based controllers and traditional track circuits, but technology is rapidly advancing. This task requires revising various regulations, including 49 CFR Part 236, to address the safety implications of processor-based signal and train control technologies, including communication-based operating systems. The purpose of the effort is to encourage deployment of innovative technology by providing a predictable environment. The concept of PTC refers to the ability to prevent train-to-train collisions, over speed derailments and casualties to roadway workers who are within authorized work zones along the railroad.

Status: Accepted by RSAC 9/30/97. The proposed rule on processor-based signal and train control systems was approved by consensus at the full RSAC meeting on 9/14/00. The NPRM was published in the *Federal Register* on 8/10/01 (66 FR 42352). The comment period was extended until 11/8/01. The Working Group met 12/4-6/01 in San Antonio, TX, and efforts continue to develop recommendations for resolution of issues raised by the public comments. Full RSAC briefed on the “base case” on 5/29/02. Consultations on “base case” issue continue; team met 10/1-4/02 in Chicago to prepare suggestions for consideration by the full Working Group. Full

Working Group met 10/22-23/02 and 3/4-3/6/03 and 7/8-7/9/03 to consider resolution of remaining issues. Full RSAC disapproved the consensus recommendations by mail ballot on 8/14/03. FRA completed the final rule and placed it in review and clearance within the Executive Branch on 9/29/03. OMB completed review of the final rule on 12/29/04. The final rule was published on 3/7/05 (70 FR 11051), effective 6/6/05. On 12/5/06, FRA published in the *Federal Register*, (70 FR 72382), language clarifications and technical amendments to the final rule.

Update: RSAC PTC Working Group met on 7/14-15/05 to discuss implementation guidance and receive a task force report on roadway worker terminals.

Progress Report to the Congress–COMPLETED

Summary: The Swift Rail Development Act of 1994 (Pub.L. No.103-440, Title I) required FRA to submit a status report on the implementation of positive train control as a follow-up to FRA's 7/94 Report to Congress entitled *Railroad Communications and Train Control*.

Statutory deadline: 12/31/95

Status: The Report was issued in letter format and forwarded to the Congress on 5/17/00. It enclosed the RSAC Report entitled *Implementation of Positive Train Control Systems* (approved 9/8/99).

2004 Report on Costs and Benefits of PTC–COMPLETED

Summary: The Appropriations Conferees included in their report on the FY 2003 DOT Appropriations Act (Pub.L. No.108-7, Title I) a requirement for a second review of the costs and benefits of PTC. On 8/17/04, FRA submitted the economic evaluation to Congress.

Status: The Accident Review Team of the PTC Working Group described two levels of PTC for study, with recommendations for estimation of safety benefits. FRA contracted for a study of costs and business benefits of PTC (to railroads, shippers and the public) and also conducted in-house analysis. A peer review workshop involving invited experts reviewed materials provided for development of the report on 4/13/04. The Report was delivered to the Appropriations Committees on 8/17/04.

Power Brakes - COMPLETED

Summary: The Rail Safety Enforcement and Review Act of 1992 (Pub.L. No. 102-365) required FRA to revise the power brake regulations. The statute required

adoption of requirements for 2-way end-of-train telemetry devices (EOTs) and "standards for dynamic brakes."

Statutory deadlines: Final rule by 12/31/93; 2-way EOTs to be used on trains operating greater than 30 mph or in mountain grade territory to be equipped by 12/31/97.

Status: FRA published an NPRM 9/16/94 and conducted six days of public hearings ending 12/94. Due to strong objections to the NPRM, additional options were requested from passenger interests by 2/27/95 and from freight interests by 4/3/95. Further action is as follows:

- 1) ***Passenger standards revision: Completed.*** FRA requested the Passenger Equipment Safety Standards Working Group to incorporate new proposals for revisions of the power brake regulations in the NPRM for passenger equipment safety. Working Group proceedings on the elements of the NPRM concluded 10/2/96 without full agreement on power brake elements. See Passenger Equipment Safety Standards for final rule action.
- 2) ***Freight standards revision (RSAC Task 96-1): Completed.*** On 4/1/96, the RSAC accepted the task of preparing a second NPRM. The Working Group initiated its efforts in May, and on 10/31/96 the RSAC extended the deadline for a final report until 1/15/97. At the Working Group meeting 12/4/96, an impasse was declared, and subsequent efforts to revive discussions were not successful. On 5/29, FRA notified the Working Group by letter that the task will be formally terminated. FRA withdrew task at 6/24/97 full Committee meeting. FRA prepared second NPRM reflective of what was learned through the collaborative process. NPRM was published on 9/9/98 (63 FR 48294) (FRA Docket No. PB-9, Notice No. 13). (RSAC Task 96-1--terminated). Public hearings were conducted on 10/26/98 and 11/13/98 and a technical conference was held on 11/23-24/98. Final date for submission of comments was extended until 3/1/99. The final rule was published 1/17/01 (66 FR 4101). An amendment extending the effective date of the final rule until 5/31/01, was published on 2/12/01 (66 FR 9905); and a subsequent amendment further deferred the compliance date for providing a written record of a test required under 232.409(c) until further notice (66 FR 29502; 5/31/01). FRA reviewed petitions for reconsideration and published amendments to Subpart D of the final rule (66 FR 36983; 8/1/01). Remaining responses to petitions for reconsideration was published in the *Federal Register* 4/10/02 (67 FR 17555).

- 3) ***Two-way end-of-train devices: Completed.*** FRA published notice on 2/21/96 that this issue would be separated from the balance of the freight issues and expedited for completion of a final rule. A public regulatory conference was convened 3/5/96 to explore remaining issues, and written comments were due 4/15/96. (Railroads also agreed to an expedited schedule that ensured application of this technology by 12/15/96 on 2% or greater grades and by 7/1/97 for other trains.) The final rule was published 1/2/1997 (62 FR 278) (FRA Docket No. PB-9, Notice No. 6), and it became effective 7/1/97. FRA received two petitions for reconsideration (“local train” definition and implementation date for smaller railroads). A notice denying the request to delete the tonnage restriction for local trains and granting extension of the compliance date for railroads with fewer than two million work hours was published 6/4/97 (62 FR 30461). On 11/4/97, FRA held a technical conference on the petition of American Short Line Railroad Association regarding operation of very light trains over grade territory (see 62 FR 52370; 10/7/97); FRA subsequently granted certain relief (66 FR 4193, 01/17/01, as amended at 67 FR 17584, 4/10/2002).

On 1/16/98, FRA published an NPRM to clarify application of two-way EOT requirements to intercity passenger trains with express equipment at the rear (63 FR 195). Final rule was issued 5/1/98 (63 FR 24130). (FRA Docket No. PB-9, Notice No. 11).

Note: On 2/6/96, the Administrator issued Emergency Order No. 18, requiring use by the BNSF of 2-way EOTs or equivalent protection for heavy grade operations over the Cajon Pass (61 FR 505; 2/9/96). BNSF has filed a request for recession of the Emergency Order based on changed circumstances. On January 15, 2004, FRA met with BNSF and two labor unions to discuss the potential recession. It was decided that BNSF will work with the labor unions to reach an acceptable solution, which FRA will then review for possible approval. On 10/12/04, FRA published a notice (69 FR 196) stating that it considered the emergency situation requiring the issuance of Emergency Order 18 to have abated at the conclusion of a 60-day interim transition period, beginning October 9, 2004, during which the BNSF would comply with a series of modified operational requirements before beginning full operation under the existing Federal regulations related to EOT devices.

Railroad Communications - COMPLETED (Including Radio Standards and Procedures)(RSAC Task 96-3)

Summary: In submitting the required report to the Congress on Railroad Communications and Train Control on 7/13/94, FRA noted the need to revise existing

Federal standards for radio communications in concert with railroads and employee representatives. On 4/1/96, the RSAC accepted the task of preparing an NPRM, including consideration of communication capabilities required in railroad operations. The Working Group presented a consensus NPRM to the full Committee on 3/24/97, and the Committee voted to recommend issuance of the NPRM to the Administrator in balloting that ended 4/14/97. NPRM issued 6/11/97 and published 6/26/97 (62 FR 34544) (FRA Docket No. RSOR-12, Notice No. 4). Comment period closed 8/25/97. (FRA Docket No. RSOR-12, Notice No. 5).

Status: Completed. Final rule published 9/4/98 (63 FR 47182). Effective date: 1/4/99.

Reflectorization of Freight Rolling Stock - COMPLETED

Summary: FRA first examined the use of reflectors in the early 1980's. The Federal Railroad Safety Authorization Act of 1994 (Pub.L. No.103-440, Title II) required the FRA to revisit the issue of railcar visibility. FRA conducted an additional study of railcar visibility which determined that technological advances in reflective material have made reflective material a more feasible and cost-effective option in enhancing rail safety.

Status: Cost-benefit analysis found that reflectors are a cost-effective method of enhancing railcar visibility. NPRM published on 11/6/03 (68 FR 62942). FRA held a public hearing on 01/27/04. The comment period for the NPRM closed 3/5/04. The final rule was published 1/3/05 (70 FR 144). FRA is currently considering three petitions for reconsideration. On 5/26/05, FRA published a stay of the effective date (70 FR 30378) pending resolution of the petitions. FRA is completing final rule amendments responsive to certain issues raised on reconsideration. On 10/28/05, FRA published the final rule amendments responsive to petitions for reconsideration and lifted the stay of effectiveness (70 FR 62166).

Regulatory Reinvention - COMPLETED

Summary: In response to the Administration's call for regulatory review, elimination and reinvention, FRA took several actions to repeal obsolete regulations and simplify agency processes that affect external customers. Major elements of this effort are included in regulatory revision efforts described under other headings.

Status: Completed. Interim Final Rule amendments reducing frequency of reporting regarding signal and train control systems (49 CFR Part 233), simplifying review requirements for certain modifications of signal systems (49 CFR Part 235), and making conforming changes regarding inspection of ATC/ATS/ACS (49 CFR Part

236) published 7/1/96 (61 FR 33871). These Interim Final Rule amendments were adopted as a final rule published 9/28/01 (66 FR 49556). Effective date: 9/28/2001.

Note: FRA's proposed 1999 rail safety reauthorization legislation, introduced in the 106th Congress as H.R. 2683 and S. 1496, included provisions to permit flexibility for railroads to make accident/incident reports less frequently than monthly (e.g., as in the case of a small railroad with nothing to report) and to eliminate outdated requirements for notarization of reports. No action was taken on this legislation. Section 104 of the Department's 2002 reauthorization proposal, which was transmitted to the Congress on 7/8/02, renewed this suggestion. The Department's 2003 reauthorization proposal contained similar language, which was incorporated into Section 206 of S. 1402, ordered reported by the Senate Commerce Committee on 7/17/03.

Roadway Maintenance Machines - COMPLETED (*RSAC Task 96-7*)

Summary: A 1990 petition to FRA from the Brotherhood of Maintenance of Way Employees asked FRA, among other requests, to propose standards related to the safety of persons riding or operating MOW equipment. FRA elected not to immediately pursue that issue given other pending workload. However, this issue was renewed during the deliberations of the RSAC Track Safety Standards Working Group.

Status: Completed. On 10/31/96, the RSAC accepted a task of drafting proposed rules for the safety of this equipment. A task force of the Track Safety Standards Working Group was formed to address this issue. The NPRM was approved by the full RSAC and the NPRM was published 1/10/01 (66 FR 1930). The task force met 2/27-3/1/02 to review comments FRA received in response to the NPRM and agreed to disposition of comments for the final rule. A ballot was issued to the Working Group and all responders concurred. The full RSAC approved the Working Group's recommendations for the final rule on 5/29/02. Final rule was published on 07/28/03 (68 FR 44388). FRA responded to two petitions for reconsideration on 2/26/04 (69 FR 8834). Effective date 4/26/04.

Roadway Worker Safety - COMPLETED

Summary: In requiring the review of the Track Safety Standards, the Rail Safety Enforcement and Review Act of 1992 (Pub.L. No.102-365) required FRA to evaluate the safety of maintenance-of-way employees. In addition, the Brotherhood of Maintenance-of-Way Employees and the Brotherhood of Railroad Signalmen petitioned FRA to issue "on-track safety" rules.

Background: FRA published a notice 8/17/94 initiating a formal negotiated rulemaking. The negotiated rulemaking committee reported a statement of principles 5/17/95 and completed an NPRM draft 8/95. NPRM published 3/14/96 (61 FR 10528); initial written comments were due 5/13/96. Public hearing held 7/11/96.

Status: Completed. The final rule was published 12/16/96 (61 FR 65959); effective 1/15/97. Petitions for reconsideration were denied in a notice published 4/21/97 (62 FR 19234). A consolidated hearing on waiver petitions was held 5/22/97, and written comments were due by 6/9/97. FRA issued decisions on individual petitions as investigations and analysis were completed.

Roadway Worker Protection—Review and Revision (RSAC Task 05-01)

Summary: To review 49 CFR 214, Subpart C, Roadway Worker Protection, and related sections of Subpart A; recommend consideration of specific actions to advance the on-track safety of railroad employees and contractors engaged in maintenance-of-way activities throughout the general system of railroad transportation, including clarification of existing requirements.

Status: The Working Group met on 4/12-13/05, 6/22-24/05, 8/8-11/05, 9/20-22/05 and 11/8-9/05. The next Working Group meeting is scheduled for 1/10-11/06.

Safety Integration Plans - COMPLETED

Summary: In response to the proposed acquisition of Conrail by Norfolk Southern and CSX Transportation, FRA suggested, and the STB required, that the petitioners file with the Board of Safety Integration Plans (SIPs). In coordination with the Board, FRA proposed regulations requiring preparation and FRA review of SIPs in connection with future railroad mergers.

Status: Completed. FRA and the STB jointly issued an NPRM 12/31/98 (63 FR 72225) to institutionalize the SIP process to ensure that proper safety planning and safety investments are undertaken during a merger. The proposed rule spells out the types of transactions that will require SIPs and outlines the roles of FRA and the STB in overseeing the SIP process. On 3/8/02, the FRA Administrator and the STB approved the SIP final rule to address safety concerns that may arise in railroad mergers. The final rule was published in the *Federal Register* on 3/15/02 (67 FR 11582). Responses to petition for reconsideration were published in the *Federal Register* on 11/08/02 (67 FR 68041).

Small Railroads; Final Policy Statement - COMPLETED

Summary: The Small Business Regulatory Enforcement Fairness Act of 1996 (Pub.L. No.104-121, Title II) amended the Regulatory Flexibility Act and required, among other things, that each agency establish small business communication and enforcement programs.

Statutory deadline: 3/29/97

Status: Completed. Interim policy statement published 8/11/97 (62 FR 43024). Public meeting to address definition of “small entity” was held on 9/28/99. The final policy statement was published on 5/9/03 (68 FR 24891).

Steam Locomotives - COMPLETED (RSAC Task 96-5)

Summary: A committee of steam locomotive experts from tourist and historic railroads sought a partnership with FRA to revise the steam locomotive regulations. The revisions relieve regulatory burdens while updating and strengthening the technical requirements.

Status: Completed. Revision of the Steam Locomotive Inspection regulations was tasked to the RSAC on 7/24/96. A Task Force of the Tourist and Historic Railroads Working Group worked actively toward finalization of a final rule. NPRM rule text was agreed upon within the task force and was approved by the Tourist and Historic Working Group on 9/3/97 and provided to the RSAC on 9/30/97. The RSAC approved the consensus NPRM by mail ballot 2/17/98. NPRM published 9/25/98 (63 FR 51404) (FRA Docket No. RSSL 98-1, Notice No. 1). Public hearing was held 2/4/99. Task Force formulated recommendations in response to comments received. The recommendations were accepted by the Working Group, and the full Committee voted to incorporate the recommendations in the final rule. The final rule was published 11/17/99 (64 FR 62828) (FRA Docket No. RSSL 98-1, Notice No. 3); effective date 1/18/00.

***Inspection and Maintenance Standards for Steam Locomotives* - COMPLETED**

Summary: This rulemaking would correct FRA Form 4 in Appendix C of Part 230, which was published in the *Federal Register* on 11/17/1999 (64 FR 62828). Part 230 relates to inspection and maintenance standards of steam locomotives, and the form is used to record information about inspections of steam locomotives. Initially, a section on the form to record the shearing stress on rivets was inadvertently omitted.

Status: The NPRM was published in the *Federal Register* on 4/19/05 (70 FR 20337). Comment period closed 5/19/05. The final rule was published 7/21/05 (70 FR 41995), effective 8/22/05.

Tourist Railroad Report - COMPLETED/Review of Regulatory Applicability (RSAC Task 96-4)

Summary: The Swift Rail Development Act of 1994 (Pub.L. No. 103-440, Title I) required FRA to submit a report to the Congress regarding FRA's actions to recognize the unique factors associated with these generally small passenger operations that often utilize historic equipment.

Statutory deadline: 9/30/95

Status: Completed. Report submitted to the Congress 6/10/96. The RSAC authorized formation of a Tourist and Historic Railroads Working Group 4/1/96. The Working Group held its initial meeting 6/17-6/18/96 and established a task force which prepared the first comprehensive revision of the Steam Locomotive Standards. The consensus products were published as a proposed rule on 09/25/98 (63 FR 51404) and a final rule on 11/17/99 (64 FR 62828).

The Working Group future tasks will include the possible development of requirements for the training of steam locomotive operators and maintenance personnel. Planned future activities involve review of other regulations for possible adaptation to the safety needs of tourist and historic railroads.

Track Safety Standards - COMPLETED (RSAC Task 96-2)

Summary: The Rail Safety Enforcement and Review Act of 1992 (Pub.L. No. 102-365) required FRA to revise the Track Safety Standards, taking into consideration, among other things, such issues as continuous welded rail and excepted track. FRA chose to use the project to issue track safety standards for high speed train service and to update safety standards addressing rail flaw detection and gage restraint measurement in light of products of research.

Statutory deadline: Final rule by 9/1/95.

Background: FRA published an NPRM 11/6/92 and conducted workshops in the period 1/93-3/93. The RSAC accepted the task of preparing an NPRM on 4/2/96. The Track Safety Standards Working Group reported a draft NPRM to the full committee on 10/31/96. In balloting that concluded 11/21/96, RSAC voted to accept the Working Group report.

Status: Completed. NPRM was published 7/3/97 (62 FR 36138) (FRA Docket No. RST-90-1, Notice No. 5). Hearing held 9/4/97; comment period closed 9/15/97. Additional comment was invited regarding certain high-speed track geometry issues by notice of 12/12/97 (62 FR 65401) not later than 12/22/97. Final rule published 6/22/98 (63 FR 33991) (FRA Docket No. RST-90-1, Notice No. 8); effective 9/21/98.

Gage Restraint Measurement System amendment. Completed. The final rule amendment to the track safety standards which added Gage Restraint Measurement System (GRMS) standards was approved by the full RSAC and published 1/10/01(66 FR 1894). On 1/31/01, FRA published a notice extending the effective date of the GRMS amendment to 4/10/01 (66 FR 8372). On 2/9/01, FRA published a notice delaying the effective date until 6/9/01, in accordance with the Regulatory Review Plan (66 FR 9676). The GRMS rule was subsequently reviewed within the Department and is final.

Track Safety Standards–Continuous Welded Rail

“SAFETEA-LU,” the 2005 surface transportation authorization act, required FRA to issue requirements for inspection of joint bars in continuous welded rail (CWR) to detect cracks that could affect the integrity of the track structure. FRA published an Interim Final Rule establishing new requirements for inspections on 11/2/05 (70 FR 66288). On 10/11/05, FRA offered the RSAC a task to review comments on this IFR, but the conditions could not be established under which the Committee could have undertaken this with a view toward consensus. Comments on the IFR were received through 12/19/05. FRA is reviewing the comments.

U.S. Locational Requirement for Dispatching of U.S. Rail Operations - COMPLETED

Summary: New 49 CFR Part 241 requires all dispatching of railroad operations that occur in the United States to be performed in the United States, with certain exceptions.

Status: Completed. The Interim Final Rule (new Part 241) 12/11/01, prohibited dispatchers located in foreign countries from dispatching railroad operations that occur in the United States (extraterritorial dispatching), with limited exceptions. The interim rule solicited comments from the public that would be reviewed before issuance of a final rule; FRA held a public hearing on 2/12/02. On 12/10/02, FRA published a final rule that generally prohibits railroads from using dispatchers located outside the United States to dispatch railroad operations in the United States (“extraterritorial dispatching”) (67 FR 75938). The interim rule had permitted Canadian railroads to continue extraterritorial dispatching of four short lines in the United States while comments were gathered. Under the final rule, the Canadian railroads can continue to extraterritorially dispatch there for a 90-day period to permit the filing of waiver petitions. If a petition is filed within the transitional period, the railroads may continue to conduct the extraterritorial dispatching until FRA acts on the waiver petition. The final rule also permits waivers to be granted for extraterritorial dispatching of cross-border operations in areas of the United States immediately adjacent to the border with Canada and

Mexico to facilitate the hand-off of cross-border operations to domestic dispatchers. Finally, the final rule permits extraterritorial dispatching in emergency situations.

HIGHWAY-RAIL CROSSING SAFETY

Commercial Driver Disqualification - Railroad-Highway Grade Crossing Violation - COMPLETED

Summary: To enhance the safety of commercial motor vehicle (CMV) operations on our nation's highways and complete action initiated in response to the requirements specified in section 403 of the ICC Termination Act of 1995 (Pub.L. No. 104-88), the FMCSA revised its regulations (49 CFR Parts 383 and 384) to require that CMV drivers who are convicted of violating Federal, State, or local laws or regulations pertaining to railroad-highway grade crossings be disqualified from operating a CMV.

Status: Completed. Final rule published on 09/02/99 (64 FR 48104). Effective date: 10/4/99

Grade Crossing Signals (Inspection, Testing and Maintenance) - COMPLETED

Summary: FRA issued a final rule for inspection, testing and maintenance of automated warning devices 9/30/94, and the rule went into effect 1/1/95 (49 CFR Part 234). During the initial year, FRA worked with railroads and signal employees to disseminate information, conduct training, and identify any areas of ambiguity or weakness in the standards. At a technical resolution committee (TRC) meeting during the week of 3/13/95 that included participation by railroads, the Brotherhood of Railroad Signalmen, and States, several issues were identified that require clarification or refinement. An interim manual dated 4/14/95 incorporated the findings of the TRC.

Status: Completed. Interim Final Rule amendments published 6/20/96 (61 FR 31802). The final rule was adopted from the Interim Final Rule (66 FR 49557). Effective date: 9/28/01.

Locomotive Visibility/Auxiliary Alerting Lights - COMPLETED

Summary: In 1991, FRA initiated a new phase of research on locomotive conspicuity in relation to safety at highway-rail crossings. The Amtrak Authorization and Development Act of 1992 (Pub.L. No.102-533) mandated that the research be completed and that a regulation be issued to apply alerting lights to locomotives.

Statutory deadline: Final rule by 6/30/95.

Background: FRA published a “grand-fathering rule” on 2/3/93 (58 FR 6899) and amendments on 5/13/94 (59 FR 24960). After the research was substantially completed in early summer of 1995, FRA briefed the industry parties on the results, discussed options for regulatory action, and elicited additional information concerning railroads’ progress in equipping their fleets. An NPRM was published on 8/25/95. The AAR and the ASTRA requested a technical conference to perfect the rule for final issuance, and that conference was held 11/28/95.

Status: Completed. Final rule was published 3/6/96 (61 FR 31802). Equipping of locomotives used as lead units at speeds exceeding 20 mph was required to be completed by 12/31/97, as provided by law.

Private Highway-Rail Grade Crossings

Summary: The Secretary's Action Plan for Grade Crossing Safety (6/94) commits FRA to conducting a special safety inquiry on private crossings. This initiative was carried forward in the new Secretary’s Action Plan for Highway-Rail Crossing Safety and Trespass Prevention (6/04).

Background: Conducted workshop on possible guidelines 7/93; timing of further action to be determined.

In the new action plan, the Department committed to lead an effort to define responsibility for safety at private highway-rail crossings, including provisions of minimum criteria for signage at private crossings. FRA is planning a series of public workshops on the current state of safety at private grade crossings to be held during the 1st quarter of CY 2006.

Ten Most Hazardous Crossings Report - COMPLETED

Summary: In the Appropriations Committees required submission of a report on the ten most hazardous highway-rail crossings in each state. The report was to be submitted jointly by FHWA and FRA.

Status: Completed. Report was submitted to the Committees on 11/20/02. The report is available on FRA’s website <http://www.fra.dot.gov/Content3.asp?P=803>.

Selection of Grade Crossing Automated Warning Devices - COMPLETED

Summary: FRA published an NPRM on 3/2/95 (60 FR 11649) and received over 3,000 written comments through 6/14/95.

Status: Completed. Termination notice published 8/8/97 (62 FR 42733).

U.S. DOT Agencies Crossing Safety Action Plan - COMPLETED

Summary: As a part of its Conference Report for the Department of Transportation FY 2003 appropriations bill (Pub.L. No.108-7, Title I), the Senate directed the Secretary of Transportation to submit, at the time of the Department's FY 2005 budget request, an action plan outlining specific efforts to be pursued by the FRA, along with the FTA, the FHWA, the FMCSA, the NHTSA, and the ITS Joint Program Office, to improve safety at public and private highway-rail grade crossings.

Status: The 2004 Secretary's Action Plan for Highway-Rail Crossing Safety and Trespass Prevention was released on 6/7/04 and is available at http://www.fra.dot.gov/downloads/safety/action_plan_2004.pdf.

Use of Locomotive Horns (Whistle Bans)

Summary: Section 302 of The Federal Railroad Safety Authorization Act of 1994 (Pub.L. No.103-440, Title II), enacted with the Swift Rail Development Act of 1994, required FRA to issue regulations providing for the use of train horns at highway-rail crossings.

Statutory deadline: Final rule 11/2/96 (most hazardous crossings), 11/2/98 (other crossings). Note: deadlines were superseded by legislation (Pub.L. No. 104-264) barring FRA from issuing a final rule before 7/1/01.

Background: This legislative mandate anticipated FRA follow up to Emergency Order No. 15, which addressed local whistle bans on the Florida East Coast Railroad between Jacksonville and Miami. FRA released a report on the national impacts of local whistle bans on 6/1/95 and conducted an extensive program of public outreach to make communities aware of the forthcoming rulemaking and to seek information on supplementary safety measures that would support allowance of quiet zones in communities sensitive to train horn noise. Contacts were established with 160+ jurisdictions known to have whistle bans in place. FRA representatives met with or addressed forums of state and local officials and community groups. Met with AAR/BRS/AAHSTO/FHWA 12/13/95 to address technical specifications for 4-quadrant gates.

Numerous congressional offices encouraged FRA to continue outreach and data collection. FRA advised the Congress that the deadline for an initial final rule would not be met as a result. Immediately prior to adjournment, the 104th Congress enacted the FAA reauthorization bill (Pub.L. No. 104-264; 10/9/96), which included amendments

to the original whistle ban legislation. In general, the legislation affirmed the latitude available to the Secretary to provide for phase-in of regulations and focus on safety results.

Status: NPRM published 1/13/00 (65 FR 2230) (Docket No. FRA-1999-6439, Notice No. 1). Written comments were due 5/26/00. FRA held 12 public hearings and a technical conference to receive oral comments. FRA received and reviewed more than 3,000 comments (combined for the NPRM and draft environmental impact statement). Labor, Health and Human Services Appropriations Act, 2001, prohibited issuance of final rule before 7/1/01 (Pub. L. No. 106-554; 12/21/00.) The Interim Final Rule was published 12/18/03 (68 FR 70585). FRA held a public hearing on the Interim Final Rule on 2/4/04 in Washington, D.C. The comment period for the Interim Final Rule was extended to 4/19/04 (69 FR 7169). The effective date of the Interim Final Rule was also changed from 12/18/04 to 4/1/05 (69 FR 67858) and from 4/1/05 to 6/24/05 (70 FR 13117), to prevent the Interim Final Rule from taking effect before the final rule was issued. The final rule was submitted to OST for review on 10/4/04 and to OMB for review and clearance on 11/16/04. The final rule was withdrawn from OMB on 2/23/05 and re-submitted to OMB on 3/17/05. OMB cleared the final rule on 4/21/05. The final rule was published on 4/27/05 (70 FR 21843). FRA has responded by letter to petitions for reconsideration and prepared final rule amendments responsive to certain issues presented in the petitions. OMB has classified the amendments as significant, and they are currently in review and clearance within the Executive Branch.

Department of Transportation's Technical Working Group (TWG) - COMPLETED

Summary: The TWG was established to develop recommendations on new standards for the use and implementation of highway-rail grade crossing warning devices (cross bucks, lights, gates, grade separation). The FRA and the FHWA are co-chairs of the Working Group, whose members include representatives of the FTA, the NTSB, the AAR, the American Shortline and Regional Railroad Association, state transportation agencies, county transportation agencies, the supply industry and academia. The Working Group completed its report in November of 2002, and the final report is available from FRA's Highway-Rail Crossing Safety Division.

HAZARDOUS MATERIALS

New Directions for Hazardous Materials Safety by Rail

Summary: The movement of hazardous materials throughout the railroad industry provides an excellent example of the dynamic interrelationship between shippers, carriers, freight car builders, repair companies, and Federal, State, and Tribal

governments. Under authority delegated to us by the Secretary of Transportation, FRA administers a safety program that oversees the movement of hazardous materials (including dangerous goods), such as petroleum and chemical products and nuclear shipments throughout the Nation's rail transportation system. FRA also has authority to oversee the movement of a package marked to indicate compliance with a Federal or international standard, even if such a package does not contain a hazardous material. FRA's current hazardous materials safety regulatory program and standards-related partnerships include the following items:

- Hazardous Materials Incident Reduction Program
- Tank Car Facility Conformity Assessment Program
- Spent Nuclear Fuel and High-Level Nuclear Waste Program
- Rulemaking, Approvals, and Exemptions
- Standards-Related Partnerships

Rulemaking, Approvals, and Exemptions

Tank Car Crashworthiness and Retest

Summary: RSPA Dockets HM-175A and HM-201 addressed further improvements in tank car crashworthiness, and adoption of advanced non-destructive testing to improve tank retest procedures, respectively.

Status: Completed. Final rules published 9/21/95 (60 FR 49048).

Notices

Hazardous Materials: Enhancing Rail Transportation Security for Toxic Inhalation Hazard Materials

Summary: The RSPA and the Transportation Security Administration, Department of Homeland Security, are examining the need for enhanced security requirements for the rail transportation of hazardous materials that pose a toxic inhalation hazard. The departments are seeking comments on the feasibility of initiating specific security enhancements and the potential costs and benefits of doing so. Security measures being considered include improvements to security plans, modification of methods used to identify shipments, enhanced requirements for temporary storage, strengthened tank car integrity, and implementation of tracking and communication systems.

Status: Notice published 8/16/04 (69 FR 50988). Deadline to submit comments 10/18/04.

Standards-Related Partnerships

Chapter 9, Article 906(1) and (2), of the North American Free Trade Agreement (NAFTA), states:

Recognizing the crucial role of standards-related measures in promoting and protecting legitimate objectives, the Parties shall. . . .work jointly to enhance the level of safety and of the protection of human, animal, and plant life and health, the environment and consumers. . . .the Parties shall, to the greatest extent practicable, make compatible their respective standards-related measures, so as to facilitate trade in a good or service between the Parties.

To accomplish the goals of NAFTA, the United States, Canada, and Mexico have agreed to develop standard-related measures, based on the *United Nations Recommendations on the Transport of Dangerous Goods* (orange book). One part of the standard concerns the design, construction, inspection, testing, and maintenance of tank cars. The development of the standard follows actions taken by the North American Free Trade Agreement, Land Transportation Standards Subcommittee (LTSS), Working Group on the Transportation of Dangerous Goods (Group 5) on June 11, 1998, in Montreal, Quebec, Canada. To meet this objective, Canada, Mexico, and the United States agreed to promote the development of an industry-sponsored standard-related measure for tank cars (North American Model Standard for Tank Cars [NAMS-TC]).

OTHER SAFETY PROJECTS AND PARTNERSHIP EFFORTS

Bridge Structural Safety - COMPLETED

Summary: Following a survey of bridge conditions and railroad inspection practices, FRA determined that regulatory action is not necessary, but that FRA should continue to exercise an oversight role regarding bridge structural safety programs. FRA issued an interim **statement** of policy 4/27/95 (60 FR 20654), with comments due 6/26/95.

Status: Completed. Comments support continued FRA partnership role. FRA issued a final bridge statement of policy for safety of railroad bridges that establishes suggested criteria for railroads to use to ensure the structural integrity of bridges that carry railroad tracks. The statement was published in the *Federal Register* on 8/30/00 (65 FR 52667).

Movable Bridges: A nationwide review of movable bridges has been completed. Also reviewing the enforcement manual on movable bridges. New technical training course started this year on movable bridges.

Note: On 2/12/96, the Administrator issued Emergency Order No. 19, which removed from service a bridge on the Tonawanda Island Railroad in New York State pending necessary structural repairs (61 FR 628; 2/16/96). In 12/16/99, the Administrator reissued Emergency Order No. 22, which removed from service a bridge on the Oregon Pacific Railroad in Oregon State pending inspection of repairs to assure safety (64 FR 71844; 12/16/99). This Emergency Order was partially lifted on 1/20/2000 (65 FR 5018; 2/21/00).

Discolored Wheels - COMPLETED

Completed. FRA has granted a master waiver of the Freight Car Safety Standards permitting continued use of discolored heat-treated, curved plate wheels, which have superior resistance to thermal abuse. Data gathered under the waiver, together with results of analysis already provided, may support a permanent change in the regulation.

Environmental Impacts - COMPLETED

Completed. FRA revised its Procedures for Considering Environmental Impacts to update or eliminate outdated references to programs or statutory authorities that no longer exist and to correct inconsistencies with the Council on Environmental Quality's National Environmental Policy Act implementing regulations. The revised procedures were published in the *Federal Register* on 5/26/99 (64 FR 28545).

Hours of Service Electronic Recordkeeping

Current hours of service record keeping uses paper and ink, but four major railroads (UP, CSX, NS, and FEC) have been given relief to keep electronic records. Other railroads are in the process of preparing electronic recordkeeping programs and may seek similar relief. Permanent amendments to the recordkeeping and reporting requirements may be proposed. FRA is assisting railroads in developing electronic systems by providing guidance materials.

Remote Control Locomotives (RCL)

On 5/15/00, FRA published a notice of a technical conference to examine the current status of safety issues related to use of remote control locomotives (65 FR 31056). The technical conference was held on 7/19/00. The Technical Conference focused on the changes in RCL operations that have occurred over the past five years. A Notice of Safety Advisory 2001-01, which establishes recommended minimum guidelines for the operation of remote control locomotives was published 02/14/01 (66 FR 10340).

FRA continues to work with interested parties on best practices. FRA is also closely monitoring training required by 49 CFR Part 240 and conducting surveillance of new remote control operations. Furthermore, in response to a request from Senators John McCain and Ernest Hollings on September 2, 2003, FRA produced a preliminary report on the safety of remote control locomotives on 05/13/04, and will produce a more detailed report in 2005. The preliminary (or interim) report is available on FRA's website at <http://www.fra.dot.gov/us/content/1462>. A final report has been prepared, and it is in review and clearance within the Executive Branch.

Shared Use of General Railroad System - Joint Statement of Agency Policy - COMPLETED

Completed. FRA and the FTA have worked together to develop a policy concerning safety issues related to light rail transit operations on the general railroad system, how the two agencies intend to coordinate use of their respective safety authorities, and the waiver process related to shared use operations. A proposed joint statement of policy was published 5/25/99 (64 FR 28238) with comments due on 7/30/99. Comment

period extended on 7/28/99 to 10/29/99 (64 FR 40931). Additional extension on 10/28/99 to 1/14/00 (64 FR 58124). FRA issued a final joint policy statement describing the extent of its statutory jurisdiction over railroad passenger operations and explaining how it will exercise its jurisdiction. The statement was published 7/10/2000 (65 FR 42526). (Docket No. FRA-1999-5685.)

Shared Use of General Railroad System - FRA Jurisdiction Policy Statement - COMPLETED

Completed. FRA issued a proposed statement of agency policy on 11/1/99 (64 FR 59046) (FRA Docket No. FRA-1999-5685, Notice No. 4) describing the extent of its statutory jurisdiction over railroad passenger operations (which covers all railroads except urban rapid transit systems not connected to the general railroad system) and to explain how it will exercise that jurisdiction. Comments were due by 1/14/00. Final Policy Statement published 7/10/00 (65 FR 42529).

TOFC/COFC Securement - COMPLETED

Summary: Following a serious accident at Smithfield, N.C., on 5/16/94, FRA formed a partnership with major railroads and labor organizations to evaluate and improve securement of intermodal loads. A report to the Secretary dated 9/15/94 documented the initial results of that effort.

Status: FRA held a meeting on 2/22/95 that focused on an item-by-item discussion of the status and progress made within the industry with respect to the seven recommendations identified in the report to the Secretary. The AAR has established an Intermodal Equipment Handling Task Force that has developed a number of training aids. A follow-up TOFC/COFC loading and securement safety survey was conducted during 1996. FRA conducted additional loading and securement field evaluations during July-August 1997. Joint training activity brought together railroads, TTX and FRA to maintain strong emphasis on compliance with AAR loading requirements. FRA continues to monitor securement of trailers and trucks in transportation and to work on this issue through SACP's on individual railroads. In 8/99, FRA inspectors began bi-regional team audits, with 18 inspections per team completed by 08/01. To date, the survey of intermodal loading facilities is progressing as planned. The deficiencies found are tracking at a rate similar to previous studies. As of 8/01/01, the teams had surveyed 7,636 railcars, 3,745 trailer platforms, and 10,872 container platforms. A total of 3,095 deficiencies were noted. Team audits were scheduled to continue another eighteen months. A mid-point report was completed 1/30/02. Looking to see if railroads are complying with AAR guidelines IC 113 7/06/98. Final report was released July 2004.

Train Dispatcher Training

FRA submitted a report to the Congress on 01/5/95 regarding the functions of contemporary train dispatching offices. The report noted that traditional pools of candidates for recruitment of train dispatchers are no longer adequate to the need. In partnership with the American Train Dispatchers Department/BLE (ATDD), FRA identified the need for a model train dispatcher training program.

Experts from Amtrak, the ATDD, the Burlington Northern/Santa Fe Railroad and FRA developed a list of elements for dispatcher training programs. Required competencies and training program elements have been abstracted from this effort for a model program. The RSAC was briefed on this effort on 3/24/97, with participants in the training task force indicating reluctance to attempt a “one size fits all” regulatory approach. More recent discussion in the RSAC has indicated a renewed interest by the ATDD in development of uniform minimum standards for dispatcher training and qualification.

In 05/01, the FRA Office of Research and Development published *Understanding How Train Dispatchers Manage and Control Trains* (DOT/FRA/ORD-01/02), which is available at <http://www.fra.dot.gov/downloads/Research/ord0102.pdf>.

SAFETY ADVISORIES/DIRECTIVES/BULLETINS

No.	Subject
Safety Advisories	
2005-04	This notice advises shippers, consignees, and railroads of the dangers of allowing cars of “time sensitive” chemicals to remain undelivered beyond their anticipated date of placement and to recommend enhanced procedures to avoid such occurrences.
2005-03	This notice facilitates improved cooperation in the investigation of collisions at highway-rail grade crossings. Published 5/2/05 (70 FR 22750).
2005-02	This notice provides information on the potential catastrophic failure of locomotive main reservoir tanks manufactured by R&R Metal Fabricators, Incorporated, and installed on General Electric Transportation System (GETS) locomotives. Published 4/20/05 (70 FR 20632).
2005-01	This notice advises all railroads to review their operating rules and take necessary action to ensure that train crews who operate manual (hand-operated) main track switches in non-signaled territory restore the switches to their normal position after use. Published 1/13/2005 (70 FR 2455).

No.	Subject
2004-4	Sleep Disorders. This notice addresses suggested measures that railroads and employees should utilize to prevent work-related errors and on-the-job accidents as a result of sleep disorders. Published 10/1/2004 (69 FR 58995).
2004-3	Importance of Restoring Failed or Malfunctioning Highway-Rail Grade Crossing Warning Systems to Proper Operation Without Undue Delay. Published 8/11/04 (69 FR 48904).
2004-2	Importance of having clear safety and response procedures for use in the event of reports of railroad signal system problems. Published 8/10/2004 (69 FR 48560).
2004-1	Protection of Roadway Workers from Traffic on Adjacent Tracks and Heighten Awareness to Prevent Inadvertent Fouling of Track When On-Track Safety is not Provided. Published 5/3/04 (69 FR 24220).
2003-03	Additional Information on Potential Catastrophic Failure of 100-ton Truck Bolsters from National Castings of Sahagun, Mexico. This advisory identifies another series of bolsters, AAR Identification B-2409 and National Pattern 52202, which pose a similar potential safety hazard to those referenced in Safety Advisory 2002-03. Published 11/24/03 (68 FR 65982).
2003-02	Proper Use of Railroad Tank Car Excess Flow Valves. This advisory advises all persons involved in loading and unloading products from railroad tank cars that they cannot rely on internal excess flow valves to stop the flow of product except under the limited conditions for which these valves were designed and installed. Published 9/4/03 (68 FR 52626).
2003-01	Importance of Verifying Compatibility of Packaging Components when Haz Mat Commodity is Changed. This advisory recommends that all persons involved in the packaging and offering of hazardous materials verify the compatibility of all tank car components, such as valves and gaskets, to resist corrosion, permeability, premature aging, pitting, or embrittlement. Published 01/23/03 (68 FR 3304).
2002-03	Failures of 100-ton Truck Bolsters from National Castings of Sahagun, Mexico. This advisory recommends that all railroads and car repair shops adhere to the instructions provided in AAR's maintenance advisory and early warning letters. AAR has identified a list of cars that may be equipped with the bolsters. Published 12/30/02 (67 FR 79686).

No.	Subject
2002-01	Importance of Clear Safety Procedures - Highway-rail grade crossing warning systems. This advisory addressed the importance of clear, precise and unambiguous railroad safety procedures to ensure the safety of highway-rail grade crossing warning systems or wayside signal systems that are temporarily removed from service. Published 1/23/2002 (67 FR 3258).
2001-3	Failures of Airbrake Angle Cocks from Ellcon-National. This advisory recommends the immediate replacement or installation of retrofit kit for Ellcon-National Model 7000 Thread-to-Thread and Model 7270 Thread-to-Flange Angle Cocks, at both ends of airbrake system. Published 05/01/01 (66 FR 21811).
2001-2	Structural Integrity of Cast Steel Draft Sills. This advisory establishes recommended minimal guidelines for inspection, and operation of Trinity Industries covered hopper cars, with draft sills manufactured by American Steel Foundries. Also guidelines if car is involved in derailment and/or found defective. Published 03/12/01 (66 FR 14432).
2001-1	Remote Control Locomotives. This advisory establishes recommended minimal guidelines for the operation of remote control locomotives. Published 02/14/01 (66 FR 10340).
2000-3	Switching Operations. This advisory provides safety practices to reduce the risk of serious injury or death both to railroad employees engaged in switching operations and to the general public. Published 11/2/00 (65 FR 65895).
2000-2	Signal Units. This advisory recommends replacement of certain components in Harmon Industries' "Electro Code 4" and "Electro Code 4 Plus" intermediate signal units. Published 6/2/00 (65 FR 35418).
2000-1	Model B1 relays. This advisory asks railroads to inspect and test certain relays for which there is a concern regarding potential malfunction. Published 5/11/00 (65 FR 30474).
99-3	Securement of floor beam cross-members on RoadRailer trailers: Safety practices to prevent the highway tandem wheel on RoadRailer trailers from falling onto the rails on moving trains. Published 11/10/99 (64 FR 61377).
99-2	[Not issued.]
99-1	Lifting or jacking of railroad equipment: Safety practices related to lifting or jacking of railroad equipment in order to remove trucks or repair other components on a piece of railroad equipment which requires individuals to work beneath railroad equipment while it is raised. Published 6/16/99 (64 FR 32300).

No.	Subject
98-3	Safe Use of Prescription and Over-the-Counter Drugs: Safety practices for the safe use of prescription and over-the-counter drugs by safety-sensitive railroad employees. Published 12/24/99 (63 FR 71334)
98-2	Emergency application of airbrakes: Safety practices to reduce the risk of casualties caused by failure to activate the available two-way end-of-train telemetry device (two-way EOT) to initiate an emergency brake application beginning at the rear of the train when circumstances require an emergency application of the train airbrakes. Published 6/5/98 (63 FR 30808).
98-1	Vision standards of certified locomotive engineers: Addresses the vision standards of certified locomotive engineers in order to reduce the risk of accidents arising from vision impaired engineers. Published 5/28/98 (63 FR 29297).
97-3	Authorization of train movements past stop indications of absolute signals: Safety practices to reduce the risk of accidents arising from conflicting train movements when train dispatchers and control operators authorize movements past a stop indication of an absolute signal. Published 9/18/97 (62 FR 49047).
97-2	Failure to properly secure unattended rolling equipment: Safety practices to reduce the risk of casualties from run away locomotives, cars, and trains caused by failure to properly secure unattended rolling equipment left on sidings or other tracks. Published 9/18/97 (62 FR 49046)
97-1	Protection of trains and personnel from hazards caused by severe weather conditions: Safety practices to reduce the risk of casualties from train derailments caused by damage to tracks, roadbed and bridges resulting from uncontrolled flows of water and similar weather-related phenomena. Note: This was amended on November 12, 1997, by revising the recommendations concerning the transmission of flash flood warning to train dispatchers or other employees controlling the movement of trains. Published 9/4/97 (62 FR 46794).
Directives	
97-1	Review of operational tests and inspection programs and review of train dispatching procedures in non-sigaled territory: Safety practices to evaluate the integrity of all railroads' programs of operational tests and inspections to ensure that safety-critical information is accurately conveyed and acknowledged for operations in non-sigaled Direct Train Control (DTC) territory. Published 6/30/97 (62 FR 35331).

No.	Subject
97-2	Initiating emergency application of train airbrakes descending heavy grades: Safety practice to prevent run-away trains on heavy grades of 2 percent or greater by initiating emergency application of airbrakes whenever train speed exceeds maximum authorized speed by five miles or more. Published 2/27/97 (62 FR 9014).
Bulletins	
97-1	Loss of dynamic braking due to unintentional activation of emergency MU fuel-line cut-off device: Safety practices for certain locomotives equipped with emergency MU fuel-line cut-off devices located inside the locomotive control compartment at a location which enables the cut-off device to be activated unintentionally. Published 1/30/97 (62 FR 4569).

Unnumbered: Recommended safety practices for Direct Train Control Operations. Published 12/3/96 (61 FR 64191).

PENDING PETITIONS AND SUGGESTIONS FOR RULEMAKING

Docket No.	Dated	Status
Petitions for Rulemaking¹		
93-2	11/5/93	BMW Petition for Bridge Safety Standards Summary: Requests issuance of rules for construction, maintenance, repair and inspection of structural components of railroad bridges. Status: FRA published a final policy statement on bridge structural safety 8/30/00 (65 FR 52667). FRA determined that regulations are not necessary at this time. FRA continues to address bridge safety issues directly with individual railroads and through emergency orders. CLOSED.

¹FRA rules of practice (49 CFR Part 211) prescribe requirements that must be met by petitions for rulemaking. Some petitions do not contain all required information. FRA generally retains the those petitions for further consideration, rather than dismissing them, so that the issues can be more fully developed.

Docket No.	Dated	Status
94-1	5/19/94	<p>BLE Petition for Positive Train Separation</p> <p>Summary: Requests rulemaking to make changes to 49 CFR Part 236 (Rules, Standards and Instructions) to lower the speeds at which signal and train control systems are required, establish visibility standards for wayside signals, and require that at least two signals in advance display less than clear indications if a stop is required.</p> <p>Status: This petition was referred to the PTC Working Group. With BLE participation, RSAC has focused on use of innovative technology to address the purposes of the petition. <i>See</i> Report of the RSAC to the Federal Railroad Administrator entitled <i>Implementation of Positive Train Control Systems</i> (September 1999).</p>
96-1	8/22/96	<p>UTU Petition Regarding HelperLink Technology</p> <p>Summary: Requests regulations governing use, testing and calibration of electronic devices used to control automatic airbrakes on helper locomotive consists.</p> <p>Status: This petition and issues regarding this technology were incorporated into the Freight Power Brake rulemaking and were addressed in the final rule (§232.219©); 66 FR 4104, 4206; 1/17/01). CLOSED.</p>
98-1	12/23/97	<p>BMWE Petition; Bridge Worker Safety Amendments</p> <p>Summary: Requests elimination of use of body belts to conform to OSHA rule amendment.</p> <p>Status: Interim Final Rule published 1/15/02 (67 FR 1903). Corrections published 3/12/02 (67 FR 11055) and 5/8/02 (67 FR 30819).</p>
98-2	3/25/98	<p>BMWE Petition for Crane Safety and Training of Crane Operators</p> <p>Summary: Requests rulemaking through RSAC to address crane operator training, crane inspection, and load rigging and hoisting issues.</p> <p>Status: Petition is pending consideration by the Roadway Equipment Task Force of the Track Safety Standards Working Group. Discussion in full RSAC indicated that informal consultations should assist FRA in describing need for and parameters of possible task. Members of the Track Safety Standards Working Group have been requested to consult.</p>
98-3	4/14/98	<p>BLE Petition to Prohibit Operation of Locomotive in Position Opposite of Normal</p> <p>Status: The FRA Administrator responded to the petition letter on 05/5/98. Issue was handled in SACP.</p>

Docket No.	Dated	Status
98-4	3/20/98	<p>UTU Petition for Exemption from Personal Liability</p> <p>Summary: Requests rulemaking to exempt all train and engine service employees from personal liability for violations of FRA safety regulations “for which such employees have no power or authority to comply.” Alternately, FRA is requested to grant the employees the power to refuse to operate equipment which is not in compliance with Federal law.</p> <p>Status: Pending.</p>
2000-8422	11/16/00	<p>BLE Petition for Rulemaking for Remote Control Locomotives.</p> <p>Summary: BLE requests commencement of a rulemaking restricting use of remote control technology.</p> <p>Status: Safety Advisory 2001-1 was published 2/14/01. On March 11, 2003, the Transportation Trades Department, AFL-CIO, renewed this request. On May 1, 2003, FRA sent a letter to BLE responding to their request stating that FRA did not intend to take any further action in connection with BLE’s rulemaking petition at this time. FRA also noted in the letter that they had declined to issue an emergency order because no emergency had been shown to exist.</p>
2001-10494	8/14/01	<p>UTU Petition to repeal 49CFR § 240.7.</p> <p>Summary: UTU requests that the FRA initiate a rulemaking to repeal 49 CFR § 240.7 governing movement of locomotives by non certified personnel.</p> <p>Status: Petition denied 6/18/2002.</p>
2003-15103	5/2/03	<p>UTU Petition for Rulemaking To Cover Escape Hatches on Passenger Locomotives</p> <p>Summary: UTU requests that all passenger cars be equipped with escape hatches, to prevent future fatalities and injuries in the event of a derailment where cars flip on their sides.</p> <p>Status: Referred to the new RSAC Passenger Safety Working Group for consideration.</p>
2004-18738	6/28/04	<p>United Transportation Union - Petition to Amend the FRA's Alcohol and Drug Regulations</p> <p>Summary: UTU requests that the FRA prohibit railroads from requiring or requesting employees to undergo alcohol or drug testing, other than those tests which are mandatory under Federal regulations.</p> <p>Status: Pending.</p>

Docket No.	Dated	Status
2004-18739	8/18/04	<p>Association of American Railroads - Petition to Delete 49 CFR § 229.131, Locomotive Sanders</p> <p>Summary: AAR petitions the FRA to delete 49 CFR § 229.131. Section 229.131 requires that locomotives be equipped with operable sanders. AAR stated that the regulatory requirement for sanders be deleted because locomotive sanders do not serve a safety purpose.</p>
2004-19789	12/02/04	<p>Association of American Railroads - Petition to Delete the Requirement for a Glazing Stencil</p> <p>Summary: AAR petitions the FRA to delete 49 CFR § 223.17. Section 223.17 requires a stencil on the interior wall of a locomotive indicating compliance with the applicable glazing standards. AAR requests that Section 223.17 be deleted because cab windows must be permanently marked with information indicating compliance with the glazing standards.</p>
2005-20112-9	2/25/05	<p>Association of American Railroads - Restructure the Requirements for Locomotive Inspections</p> <p>Summary: AAR requested that FRA institute a performance standard under which the railroads could devise their own inspection programs as long as their overall safety performance met set targets for both accidents and injuries. Under the railroads' proposal, each railroad would submit a risk management plan containing, <i>inter alia</i>, the railroad's inspection and testing requirements, maintenance policies, and employee training program.</p> <p>Association of American Railroads - Facilitate Electronic Recordkeeping</p> <p>Summary: AAR requested that FRA impose the same requirements on both electronic and paper recordkeeping systems. The only difference between the two systems would be that paper systems would use handwritten signatures, while electronic recordkeeping systems would need an adequate electronic signature as a substitute.</p>
2005-21094	4/27/05	<p>Consumer Protection and Safety Division of the Public Utilities Commission of the State of California - Petition for Rulemaking</p> <p>Summary: The Commission requests a rulemaking for unattended remote control locomotive operations at public highway-rail grade crossings.</p>

Docket No.	Dated	Status
2005- 21016	4/20/05	American Public Transportation Association - Petition for Rulemaking Summary: The APTA requests that FRA consider amending 49 CFR 238 to add an out-of-service credit for passenger cars similar to those currently allowed for locomotives.

Other Suggestions for Rulemaking
<p>Locomotive Safety Standards</p> <p>Summary: AAR suggested by letter that FRA undertake a review and revision of the Locomotive Safety Standards.</p> <p>Status: RSAC was advised of the request, and FRA has noted the need to include this activity in future planning. FRA anticipates offering a task to the RSAC in 2006.</p>
<p>Training and Certification of Safety-Critical Employees</p> <p>Status: By letter of 5/8/00, UTU and BRS requested that this topic be considered by the RSAC. FRA has presented to RSAC information regarding current regulatory requirements and possible areas of exploration. Parties have been invited to assist in refining and developing the suggestion. Item is carried on RSAC agenda.</p>