

PROPOSED PASSENGER SAFETY TASK FOR THE RSAC

Background:

In the period 1994-1999, FRA was assisted by industry working groups in preparing the Passenger Equipment Safety Standards (49 CFR Part 238) and the Passenger Train Emergency Preparedness regulations (49 CFR Part 239). FRA continued to fine tune Part 238 through June of 2002, responding to petitions for reconsideration. After two fatal collisions involving commuter trains in February of 1996, FRA also issued Emergency Order No. 20, which remains in effect. E.O. 20 was modified following consultations with the affected parties.

Other joint activities have included the following:

- The American Public Transportation Association (APTA) established the Passenger Rail Equipment Safety Standards Task Force (PRESS), which developed and is maintaining a manual of standards and recommended practices for passenger rolling stock, supplementing the Federal regulations. FRA continues to participate in the PRESS effort, which includes labor and supplier representatives. The commuter railroads subscribe to these standards.
- FRA has sponsored periodic Passenger Research Needs Workshops involving interested parties. The workshops have contributed significantly to FRA's research plan.
- APTA has established a System Safety Program for commuter railroads, building on a similar program for rail transit. FRA participates in training and audit activities with the objective of helping to ensure that the SSP process takes into account safety issues noted by FRA and others during normal compliance activities and within the Safety Assurance and Compliance Programs on the respective properties.

Need for a new RSAC Task:

Development of passenger safety requirements during the 1990's was undertaken under the Federal Railroad Safety Authorization Act of 1994. See Pub. L. No. 103-440, 108 Stat. 4619, 4623-4624, November 2, 1994), which permitted FRA to consult with certain parties outside the constraints of the Federal Advisory Committee Act. The 1994 Act mandated the establishment of minimum standards for the safety of cars used by railroad carriers to transport passengers, taking into account the (i) crashworthiness of the cars, (ii) safety of interior features, (iii) maintenance and inspection of the cars, (iv) emergency response procedures and equipment, (v) and any operating rules and conditions directly affecting safety not otherwise governed by regulations. See 49 U.S.C. 20133. With publication of the passenger equipment and emergency preparedness regulations, FRA believes it has complied with the statutory mandate to establish minimum standards for the safety of cars used by railroad carriers to transport passengers. These regulations constitute a comprehensive set of standards that address both

the safety concerns expressly identified in the statute and others affecting passenger and employee safety. However, with the mandate of the 1994 legislation fulfilled, the informal consultation authority by provided by that legislation is no longer available.

During the preparation of the existing regulations, FRA noted a number of issues that should be revisited at a later date in light of the results of further research and analysis. Further, FRA recognizes that any regulations can be refined and improved, especially to take advantage of advancing technologies. Emergency Order No. 20 is a clear example of a longstanding requirement that should be reviewed for codification (as written or with modifications) or termination based on service history.

FRA Request

FRA requests that RSAC provide the venue for further regulatory and program development in furtherance of safe rail passenger service. FRA suggests that a new Passenger Safety Working Group be established to carry forward this effort. The Working Group would function as a overall planning and review body, executing the following responsibilities:

1. Review passenger safety results to date and experience under existing standards.
2. Identify needs and propose responses (regulatory and non-regulatory).
3. Establish and supervise any task forces needed to address particular needs (e.g., a task force on revision of the fire safety requirements).
4. Report regularly to the full Committee with respect to work undertaken, milestones established and results achieved.
5. Determine any consensus recommendations for future action and forward them for review by the full Committee.

Scope and Pace of the Activity

Although the subject matter under the purview of the new Working Group would be very broad, FRA believes that the work should proceed deliberately and that no regulatory proceeding or other action should be initiated until the Working Group is satisfied that (i) there is a need to do so, (ii) the work clearly has priority over other candidate work, (iii) the basic facts are at hand to support the proposed action, and (iv) resources, both public and private, are available to support ***prompt completion*** of the action. In short, FRA expects that work will proceed only as clearly warranted and that the number of separate actions underway at any given time would be very small in number. Further, issues that can be resolved through non-regulatory means will be handled in that manner.