



U.S. Department
of Transportation

**Federal Railroad
Administration**

**2015 FEDERAL RAILROAD ADMINISTRATION
REPORT TO CONGRESS ON
ACTIONS TAKEN TO IMPLEMENT
UNMET STATUTORY MANDATES AND
ADDRESS OPEN RECOMMENDATIONS BY THE
NATIONAL TRANSPORTATION SAFETY BOARD AND
THE DEPARTMENT OF TRANSPORTATION'S
INSPECTOR GENERAL
REGARDING RAILROAD SAFETY**

June 2016

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Basis for This Report

This report responds to Section 106 of the Rail Safety Improvement Act of 2008 (RSIA), Public Law Number 110-432, Division A, 122 Statute 4848 et seq., enacted on October 16, 2008. Section 106 reads as follows:

SEC. 106. REPORTS ON STATUTORY MANDATES AND RECOMMENDATIONS.

Not later than December 31, 2008, and annually thereafter, the Secretary shall transmit a report to the House of Representatives Committee on Transportation and Infrastructure and the Senate Committee on Commerce, Science, and Transportation on the specific actions taken to implement unmet statutory mandates regarding railroad safety and each open railroad safety recommendation made by the National Transportation Safety Board or the Department's Inspector General.

Reliance on the Federal Railroad Administration's 2014 Report

In preparing this report on behalf of the Secretary of Transportation, the Federal Railroad Administration (FRA) relied on the report it prepared as of December 2014 (2014 Report) and transmitted to the appropriate congressional committees to fulfill this annual requirement. Mandates and recommendations either added to or removed from the 2014 Report are noted below.

Treatment of Mandates in the RSIA and the FAST Act Regarding Railroad Safety

The RSIA and the Fixing America's Surface Transportation Act of 2015 (FAST Act), Public Law Number 114-94, 129 Statute 1312, 1675, enacted on December 4, 2015, introduced numerous mandates regarding railroad safety. Some of these mandates require action to be taken after the completion of this report, and FRA has not included in this report the mandates with statutory deadlines after December 31, 2015.

FRA reiterates its commitment to meet each new statutory deadline to the extent practicable and has a centralized process for tracking and monitoring implementation of all congressional rail safety mandates. This process uses Microsoft SharePoint, an Intranet-based application accessible to FRA leadership and assigned staff to review and edit information to facilitate the planning and managing of work assignments. This system is called Regulations and Program Development Tracking. In addition, the Office of Policy in the Office of the Secretary of Transportation oversees a separate, Department-wide Intranet-based tracking system that uses a different type of software called the Legislative Implementation Plan Data System.

The Office of the Secretary of Transportation also has other systems for tracking the status of congressionally mandated reports to Congress, and for tracking rulemakings. FRA is available to provide additional information on these tracking systems and its progress in implementing the various mandates.

Discussion of Exhibit A: Unmet Congressional Rail Safety Mandates

Exhibit A lists FRA's six congressional rail safety mandates that were unmet as of December 31, 2015, and actions to implement them. Congressional rail safety mandates that were previously implemented or not yet due have been excluded from Exhibit A. The following items are unmet mandates that were listed in the 2014 Report:

1. Emergency Escape Breathing Apparatus
2. Alcohol and Controlled Substance Testing for Maintenance of Way Employees
3. Development and Use of Rail Safety Technology
4. Hours of Service Regulatory Authority
5. Railroad Safety Risk Reduction
6. Safe Rail Transport of Certain Radioactive Materials

FRA excluded from Exhibit A ongoing congressional rail safety mandates that require FRA to produce regular reports, conduct regular safety inspections, establish rail safety programs, or take other action with no specific deadline or endpoint.¹ In addition, FRA excluded from Exhibit A rail safety mandates that require "immediate" action without a specific deadline (there is only one such rail safety mandate for this report).² FRA has taken action to fulfill these mandates, recognizes the need to take additional periodic action in the future, and has a process in place to meet these mandates.

FRA is happy to provide a separate report on the status of any congressional rail safety mandate not included in Exhibit A.

Discussion of Exhibit B: Open Railroad Safety Recommendations by the National Transportation Safety Board (NTSB) to the Federal Railroad Administration (FRA)

Exhibit B is a list of the 64 rail safety recommendations the NTSB issued to FRA that were open as of December 31, 2015, and a summary of FRA's actions to address them. The NTSB has accepted this report as the main source of updates on open recommendations. However, FRA is providing the NTSB with regular and ongoing updates, verbal and written, on open NTSB recommendations. FRA believes this increased communication and engagement helps the NTSB understand FRA's actions and the rationale for FRA's particular responses to the NTSB

¹ Under Section 11405 of the FAST Act, if FRA receives a reasonable request for a railroad's bridge inspection report, FRA will require that the railroad produce that information and make it available to the appropriate parties. FRA launched a Web-based system to process bridge inspection report requests on February 26, 2016, and will continue to maintain the system and process requests submitted through the system.

² On October 29, 2015, the Positive Train Control Enforcement and Implementation Act of 2015 (PTCEI Act), amended RSIA to extend the PTC implementation deadline(s) and provide qualifying small railroads with additional time to comply. *See* Public Law Number 114-73, 129 Statute 568, 576-82; 49 U.S.C. 20157(a)(1), (a)(2)(B), and (k). Congress made further amendments in the FAST Act, which clarified FRA's authority under the PTCEI Act. *See* Public Law 114-94, Section 11315(d), 129 Statute 1312, 1675 (December 4, 2015) (codified at 49 U.S.C. 20157(g)). FRA issued a Final Rule on February 29, 2016, amending its regulations so that they conform to the statutory language. *See* 81 FR 10126.

recommendations and will lead to the NTSB considering FRA's actions more favorably in the future.

In addition, FRA continues to use its Microsoft SharePoint NTSB Recommendation Tracking to track each rail safety recommendation. FRA will gladly provide additional information on this tracking system upon request. FRA is committed to ensuring that the NTSB receives an initial response to each recommendation within 90 days of issuance. FRA's practice is to submit a tentative implementation schedule as part of that initial response, when appropriate.

Of the 68 recommendations listed in the 2014 Report, the NTSB closed the following safety recommendation numbers (Rec. Nos.): R-05-09, R-08-05, R-12-37, R-12-43, R-14-01, and R-14-70, with the classification "Closed – Acceptable Action"; R-08-11, with the classification "Closed – Acceptable Alternate Action"; R-12-37, with the classification "Closed – Superseded"; and R-00-01, R-04-01, R-13-06, and R-14-37, with the classification "Closed – Unacceptable." These recommendations are therefore not listed in Exhibit B.

The NTSB recommendations are listed in the following order by NTSB classification: Item Numbers 1–33, "Open – Acceptable Response"; Item Number 34, "Open – Acceptable Alternate Response"; Item Numbers 35–58, "Open – Unacceptable Response"; Item Numbers 59–63, "Open – Response Received"; and Item Number 64, "Open – Await Response." Within each NTSB classification, the NTSB recommendations are listed in chronological order by the date of issuance of the recommendation with the most recent listed first, and within the same date of issuance, by the number of the recommendation.

Discussion of Railroad Safety Recommendations by the Office of Inspector General

As of December 31, 2015, there were no open railroad safety recommendations from the Department's Office of Inspector General (OIG).

The 2014 Report contained two open OIG recommendations. On April 17, 2013, the OIG issued Report No. CR-2013-070 titled "*FRA Is Nearing Completion of Rules Required by the Rail Safety Improvement Act, but Needs to Improve Oversight.*" The report contained six recommendations involving the OIG's assessment of FRA's regulatory and enforcement programs related to the implementation of the RSIA. The OIG closed four of the six recommendations prior to December 31, 2014. The OIG closed these two remaining recommendations in March 2015 as noted in the 2014 Report. The full report is available on the OIG's Web site at www.oig.dot.gov.

Conclusion

The U.S. Department of Transportation (DOT) recognizes the significance of each unmet statutory mandate and open recommendation of the NTSB and the OIG regarding railroad safety. FRA has focused its efforts on implementing each unmet mandate and addressing each open recommendation in a timely manner to the extent practicable. FRA will happily provide any additional information on its progress in doing so and on the status of any mandate or recommendation.

Exhibit A: Unmet Congressional Rail Safety Mandates (as of December 31, 2015)

Item No.	Short Title, Public Law Citation, and Enactment Date	Section and U.S. Code Citation, If Any	Unmet Statutory Mandate	Actions Taken by FRA	Actions Needed to Be Taken by FRA
1	Rail Safety Improvement Act of 2008, Pub. L. No. 110-432, Div. A, October 16, 2008.	Section 413 (Emergency Escape Breathing Apparatus) Amended 49 U.S.C. by adding new Section 20166	“Not later than 18 months after the date of enactment of the Rail Safety Improvement Act of 2008, the Secretary of Transportation shall prescribe regulations that require railroad carriers—(1) to provide emergency escape breathing apparatus suitable to provide head and neck coverage with respiratory protection for all crewmembers in locomotive cabs on freight trains carrying hazardous materials that would pose an inhalation hazard in the event of release; (2) to provide convenient storage in each freight train locomotive to enable crewmembers to access such apparatus quickly; (3) to maintain such equipment in proper working condition; and (4) to provide their crewmembers with appropriate training for using the breathing apparatus.”	On October 5, 2010, FRA published a Notice of Proposed Rulemaking (NPRM) proposing to require railroads to provide breathing apparatuses to their crewmembers on certain trains, as well as specified training. 75 FR 61386. The NPRM invited public comments by December 6, 2010. A draft of the final rule, including a response to comments received in the docket, is being revised and updated, and FRA continues to identify and evaluate more economical means of compliance. When cleared internally, FRA will submit the draft final rule to the Office of Management and Budget (OMB) for interagency review under EO 12866. OMB designated this rulemaking as significant.	Consider alternatives and issue guidance.

Item No.	Short Title, Public Law Citation, and Enactment Date	Section and U.S. Code Citation, If Any	Unmet Statutory Mandate	Actions Taken by FRA	Actions Needed to Be Taken by FRA
2	Rail Safety Improvement Act of 2008, Pub. L. No. 110-432, Div. A, October 16, 2008.	Section 412 (Alcohol and Controlled substance Testing for Maintenance of Way Employees)	“Not later than 2 years following the date of enactment of this Act, the Secretary of Transportation shall complete a rulemaking proceeding to revise the regulations prescribed under Section 20140 of Title 49, United States Code, to cover all employees of railroad carriers and contractors or subcontractors to railroad carriers who perform maintenance-of-way activities.”	On June 10, 2016, FRA published a final rule entitled Control of Alcohol and Drug Use: Coverage of Maintenance of Way (MOW) Employees and Retrospective Regulatory Review-Based Amendments. 81 Fed. Reg. 37893. The final rule expands the scope of FRA’s drug and alcohol regulations found at Title 49 CFR Part 219 to cover MOW employees. In the final rule, FRA adopts the definition of “roadway worker” found in 49 CFR Part 214 to define “MOW employee” under 49 CFR Part 219. As the final rule explains, FRA did not expand 49 CFR Part 219’s scope to cover every employee performing safety-sensitive functions that 49 CFR §§ 209.301 and 209.303, describe, as FRA has found no overriding safety interest justifying such an expansion. FRA continues to monitor other railroad employee crafts by conducting post-accident toxicological testing for all railroad employees who are fatally-injured in train accidents and incidents under 49 CFR § 219.203(a)(4)(ii).	None.

Item No.	Short Title, Public Law Citation, and Enactment Date	Section and U.S. Code Citation, If Any	Unmet Statutory Mandate	Actions Taken by FRA	Actions Needed to Be Taken by FRA
3	Rail Safety Improvement Act of 2008, Pub. L. No. 110-432, Div. A, October 16, 2008.	Section 406 (Development and Use of Rail Safety Technology) Amended 49 U.S.C. by adding new Section 20164	“(a) IN GENERAL.—Not later than 1 year after enactment of the [Rail] Safety [Improvement] Act of 2008, the Secretary of Transportation shall prescribe standards, guidance, regulations, or orders governing the development, use, and implementation of rail safety technology in dark territory, in arrangements not defined in Section 20501 or otherwise not covered by Federal standards, guidance, regulations, or orders that ensure the safe operation of such technology, such as—(1) switch position monitoring devices or indicators; (2) radio, remote control, or other power-assisted switches; (3) hot box, high water, or earthquake detectors; (4) remote control locomotive zone limiting devices; (5) slide fences; (6) grade crossing video monitors; (7) track integrity warning systems; or (8) other similar rail safety technologies, as determined by the Secretary.”	The Positive Train Control (PTC) effort under RSIA Section 104 delayed work on this project. A task statement was presented to FRA’s Railroad Safety Advisory Committee (RSAC) for acceptance during the September 23, 2010, meeting and was accepted. The RSAC working group was formed and held its first meeting in March 2011. FRA planned to publish a proposed rule that if adopted would require each railroad that has already implemented, or chooses to implement, a certain safety device in dark territory (such as an unusual contingency detector, track integrity system, switch point monitoring system, or power-assisted switch) to adopt and comply with an FRA-approved plan for the maintenance, inspection, and repair of these devices. Several members of the RSAC working group involved with the safety risk reduction rulemaking under RSIA Section 103 raised the point that FRA’s approach to dark territory is similar to the technology safety plan component of that rulemaking. As of December 31, 2015, FRA is holding the dark territory rulemaking in abeyance because technology implementation plans expected in the railroads’ risk reduction and system safety programs will likely obviate this rule. (See Item II.A.1. below regarding the rulemaking under Section 103 of RSIA.)	Issue Risk Reduction Program (RRP) final rule.

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4	Rail Safety Improvement Act of 2008, Pub. L. No. 110-432, Div. A, October 16, 2008.	Section 108 (Hours of Service Regulatory Authority) Amended 49 U.S.C. by adding new Section 21109	“(e) PILOT PROJECTS.—(1) IN GENERAL.— Not later than 2 years after the date of enactment of the Rail Safety Improvement Act of 2008, the Secretary shall conduct at least 2 pilot projects of sufficient size and scope to analyze specific practices which may be used to reduce fatigue for train and engine and other railroad employees as follows: (A) A pilot project at a railroad or railroad facility to evaluate the efficacy of communicating to employees notice of their assigned shift time 10 hours prior to the beginning of their assigned shift as a method for reducing employee fatigue. (B) A pilot project at a railroad or railroad facility to evaluate the efficacy of requiring railroads who use employee scheduling practices that subject employees to periods of unscheduled duty calls to assign employees to defined or specific unscheduled call shifts that are followed by shifts not subject to call, as a method for reducing employee fatigue.”	Conduct studies of at least two specified pilot projects involving examination and analysis of hours of service issues. In one project, a railroad must provide ten hours of notice of the next assigned shift; in the other project, a railroad must assign employees to defined shifts subject to unscheduled calls, followed by shifts not subject to unscheduled calls. Section 108(e). FRA must receive requests from railroads and rail labor organizations in order to fulfill this requirement properly. FRA has not received any requests, but continues to encourage participation.	Continue efforts to encourage affected parties to participate in the pilot projects.

Item No.	Short Title, Public Law Citation, and Enactment Date	Section and U.S. Code Citation, If Any	Unmet Statutory Mandate	Actions Taken by FRA	Actions Needed to Be Taken by FRA
5	Rail Safety Improvement Act of 2008, Pub. L. No. 110-432, Div. A, October 16, 2008.	Section 103 (Railroad Safety Risk Reduction) Amended 49 U.S.C. by adding new Section 20156	“(a) IN GENERAL.— (1) PROGRAM REQUIREMENT.—Not later than 4 years after the date of enactment of the Rail Safety Improvement Act of 2008, the Secretary of Transportation, by regulation, shall require each railroad carrier that is a Class I railroad, a railroad carrier that has inadequate safety performance (as determined by the Secretary), or a railroad carrier that provides intercity rail passenger or commuter rail passenger transportation — (A) to develop a railroad safety risk reduction program under subsection (d) that systematically evaluates railroad safety risks on its system and manages those risks in order to reduce the numbers and rates of railroad accidents, incidents, injuries, and fatalities; (B) to submit its program, including any required plans, to the Secretary for review and approval; and (C) to implement the program and plans approved by the Secretary.”	<p>Three rulemakings are being conducted to meet this mandate. The System Safety Plan (SSP) rulemaking will satisfy the mandate for passenger railroads, and the Risk Reduction Plan (RRP) rulemaking will satisfy the mandate for Class I railroads and railroads with inadequate safety records. The RSAC created a Task Statement for Fatigue Management Plans (FMP), and a working group assisted FRA in developing rule text that will form the basis for regulations related to the FMPs required under RSIA Section 103.</p> <p>An NPRM regarding RRP for freight railroads has been designated by OMB as significant and the NPRM was published on February 27, 2015. 80 FR 10950.</p> <p>An NPRM addressing SSP was published on September 7, 2012, with public comments due by November 6, 2012. 77 FR 55372. FRA reopened the comment period until December 7, 2012. 77 FR 70409. On July 29, 2016, FRA posted the SSP final rule on its Web site and sent the final rule to the federal register. http://www.fra.dot.gov/eLib/Details/L18291.</p> <p>In addition, the Fatigue Management Working Group agreed on consensus rule text in June 2013 to recommend for a separate NPRM on FMP. The draft NPRM is in currently under review.</p>	<p>Issue the final rule for the RRP rulemaking.</p> <p>Issue an NPRM and final rule for the FMP rulemaking.</p> <p>Review SSP plans.</p>

Item No.	Short Title, Public Law Citation, and Enactment Date	Section and U.S. Code Citation, If Any	Unmet Statutory Mandate	Actions Taken by FRA	Actions Needed to Be Taken by FRA
6	Hazardous Materials Transportation Uniform Safety Act of 1990, Pub. L. No. 101-615, November 16, 1990.	Section 15 (Safe Rail Transport of Certain Radioactive Materials) Amended Section 116(b) of the Hazardous Materials Transportation Act (then Title 49 U.S.C. App. 1813); provision now codified at 49 U.S.C. Section 5105(c)	“(b) SAFE RAIL TRANSPORT OF CERTAIN RADIOACTIVE MATERIALS - Within 24 months after the date of enactment of this section taking into consideration the findings of the study conducted pursuant to subsection (a), the Secretary shall amend existing regulations as the Secretary deems appropriate to provide for the safe transportation by rail of high-level radioactive waste and spent nuclear fuel by various methods of rail transportation, including by dedicated train.”	<p>FRA’s final report required by Section (a) was delivered to Congress on September 27, 2005. Section (a) of the mandate is complete; however, the entire mandate will not be closed until Section (b) is completed.</p> <p>Since the completion of the required study, the expected increase in rail shipments of spent nuclear fuel and high-level radioactive waste anticipated by this mandate has not occurred and, based on all information available to FRA, the agency has determined that any potential increase in movements by rail will not occur before 2021, at the earliest. Meanwhile, through FRA’s comprehensive rail safety regulatory program, as well as FRA’s research and development program, advances in rail safety are being made that are directly relevant to this mandate (e.g., implementation of PTC technology and the anticipated finalization of risk reduction and system safety regulations). These regulations, together with the routing requirements of the Pipeline and Hazardous Materials Safety Administration’s (PHMSA) hazardous materials regulations promulgated since enactment of this statutory mandate, will impact what future regulatory requirements are necessary to respond to this mandate. Given this continually evolving regulatory and technological framework and the anticipated timeframe for any potential increase in movements by rail, FRA placed this NPRM on hold until progress has been made in identifying a location to which the material will be transported for either temporary or permanent storage. FRA will continue, however, to coordinate with the parties involved in the transportation planning process and will monitor the status of the selection of a location to store this material.</p> <p>As planning among involved parties progresses, FRA will reevaluate the issue with the intent of proceeding with the rulemaking process as appropriate prior to 2021.</p>	Prepare an NPRM and final rule based on results of research and review, as the Secretary deems appropriate.

Exhibit B: Open Rail Safety Recommendations by the NTSB to the FRA³ (as of December 31, 2015)

Item No.	Issue Date	Rec. No.	Open NTSB Recommendation	NTSB Classification and Actions Taken by FRA	Actions Needed to Be Taken by FRA
1	2/4/2015	R-15-05	Immediately notify railroads of the circumstances of this accident and the risks posed by automated inputs that reset alerter cycles. Urge railroads to assess all controlling locomotive alerter systems to (1) identify and document any system inputs that reset the alerter cycle without manual intervention by crewmembers and (2) determine ways to eliminate such resets.	<u>Open – Acceptable Response.</u> FRA prepared a safety advisory to notify the railroads of the circumstances of this accident and the risks posed by automated inputs that reset alerter cycles and urge the railroads to assess all affected controlling locomotive alerter systems. Safety Advisory 2015-06 was published December 1, 2015. 80 FR 75162.	None.
2	2/4/2015	R-15-04	Review your existing regulations and your motive power and equipment compliance manual, and revise them as needed to prohibit automatic systems from resetting the locomotive alerter.	<u>Open – Acceptable Response.</u> While FRA found no need for a regulatory change, FRA plans to provide supplemental training to FRA Motive Power and Equipment (MP&E) inspectors that will cover problems found to date with automatic horn activations. The training will advise inspectors to check a variety of alerter inputs to ensure that automatic actions do not initiate during the alerter timing cycle. FRA will also incorporate this training into the Motive Power and Equipment Compliance Manual during its upcoming revision.	Revise compliance manual.

³ NTSB recommendations are listed in the following order by NTSB classification: Item Numbers 1–33, “Open – Acceptable Response;” Item Number 34, “Open – Acceptable Alternate Response;” Item Numbers 35–58, “Open – Unacceptable Response;” Item Numbers 59–63, “Open – Response Received;” and, Item Number 64, “Open – Await Response.” Within each NTSB classification, the NTSB recommendations are listed in chronological order by the date of issuance of the recommendation with the most recent listed first, and within the same date of issuance, by the number of the recommendation.

Item No.	Issue Date	Rec. No.	Open NTSB Recommendation	NTSB Classification and Actions Taken by FRA	Actions Needed to Be Taken by FRA
3	12/30/2014	R-14-76	Once you have completed the actions specified in Safety Recommendation R-14-75, program your geometry inspection vehicles to detect combinations of conditions that require remedial action.	<u>Open – Acceptable Response.</u> See response to R-14-75.	Issue regulations as necessary.
4	12/30/2014	R-14-75	Revise Title 49 CFR Part 213 to define specific allowable limits for combinations of track conditions, none of which individually amounts to a deviation from FRA regulations that requires remedial action, but, which when combined, require remedial action.	<p><u>Open – Acceptable Response.</u> In March 2013, FRA published a final rule on Vehicle/Track Interaction (VTI) Safety Standards that established new requirements to address unsafe combinations of track alignment and surface conditions. 78 FR 16051. FRA’s track geometry inspection vehicles have all been programmed to detect combinations of the track geometry conditions contained in the VTI final rule.</p> <p>In addition to the final rule, RSAC accepted Task Number 15-02 Track Geometry (Task). The Task requires the Track Safety Working Group to consider current or proposed track geometry requirements and other relevant information in making recommended changes to the full RSAC. The Task specifically requires the Track Safety Working Group to review and evaluate whether certain additional geometry and/or track component defect combinations should be in the regulations. The Track Standards Working Group will present its recommendation to the full RSAC for consideration.</p>	Issue regulations as necessary.

Item No.	Issue Date	Rec. No.	Open NTSB Recommendation	NTSB Classification and Actions Taken by FRA	Actions Needed to Be Taken by FRA
5	12/02/2014	R-14-74	Develop a performance standard to ensure that windows (e.g., glazing, gaskets, and any retention hardware) are retained in the window opening structure during an accident and incorporate the standard into 49 CFR Sections 238.221 and 238.421 to require that passenger railcars meet this standard.	<u>Open – Acceptable Response.</u> FRA is developing a research program that will test all safety aspects of window glazing systems. FRA’s current regulations require the windows to remain in place when subjected to air pressure differences from passing trains operating at maximum speeds and from impacts with certain projectiles. However, they have not directly required resistance to accident forces.	Continue research. Issue new regulations as necessary.
6	11/24/2014	R-14-69	When the proposed system safety program regulation is promulgated, develop and implement a robust performance-based audit program to ensure that railroads are maintaining effective system safety programs.	<u>Open – Acceptable Response.</u> See response to Item Number 5 in Appendix A.	Review SSP plans.

Item No.	Issue Date	Rec. No.	Open NTSB Recommendation	NTSB Classification and Actions Taken by FRA	Actions Needed to Be Taken by FRA
7	10/22/2014	R-14-49	Develop an algorithm using grade crossing inventory and accident history data to provide annual crash prediction estimates for private highway-rail grade crossings, similar to your WBAPS tool for public grade crossings, and make the results easily accessible to States, railroads, and the public.	<u>Open – Acceptable Response.</u> FRA published a final rule on January 6, 2015 that includes a requirement that railroads report new data elements to the Inventory for private highway-rail grade crossings. 80 FR 3. Six of the data elements required are used in the algorithm for public highway-rail grade crossings. However, the algorithm for public highway-rail grade crossings uses 13 data elements in the Accident Prediction and Severity formulas. Therefore, FRA will continue to evaluate the feasibility and utility of requiring railroads to supply additional data to the Inventory for private highway-rail grade crossings. Once sufficient data elements can be obtained, FRA will endeavor to develop and make available for use by States, railroads, and the public, an algorithm for accident prediction at private crossings.	Publish algorithm on FRA's Web site.

Item No.	Issue Date	Rec. No.	Open NTSB Recommendation	NTSB Classification and Actions Taken by FRA	Actions Needed to Be Taken by FRA
8	10/22/2014	R-14-47	Include in the Fatality Analysis of Maintenance-of-Way (MOW) Employees and Signalmen (FAMES) Committee's publications data on all roadway worker fatalities, regardless of whether the employee is performing roadway worker tasks as defined by FRA.	<u>Open – Acceptable Response.</u> While FRA is a member of the FAMES Committee, FRA does not direct or set the agenda for FAMES activities. Therefore, FRA recommends that the NTSB redirect this recommendation to the FAMES Committee itself. FAMES is planning to study roadway worker accidents and fatalities other than those involving trains or other on-track equipment striking roadway workers. This study would include incidents involving signal maintainers or other roadway workers not addressed by the requirements of 49 CFR Part 214. In addition, during its study of roadway worker-related accidents, FAMES has reviewed FRA's accident investigations that involved train strikes, but which were not classified as roadway worker protection-related fatalities (e.g., roadway worker driving a vehicle over a highway-rail grade crossing and struck by a train). Data from these nonclassified accidents was entered into the database that provides the source of FAMES' recommendations. However, this data was excluded from the recommendation reports that have been issued to date.	FRA will continue to work collaboratively with unions, industry, and other interested parties, to address recommendations made by the FAMES group.

Item No.	Issue Date	Rec. No.	Open NTSB Recommendation	NTSB Classification and Actions Taken by FRA	Actions Needed to Be Taken by FRA
9	10/22/2014	R-14-44	Assist the Federal Transit Administration (FTA) in establishing roadway worker protection rules, including requirements for job briefings.	<u>Open – Acceptable Response.</u> FRA consistently makes its staff available for assistance to FTA and will continue to do so. Despite the support FRA has provided to FTA, FRA ultimately does not have the regulatory authority to initiate or mandate the implementation of a rulemaking on behalf of FTA. <i>See 49 CFR §§ 601.23, Initiation of rulemaking; 601.29, Additional rulemaking proceedings; and 601.31, Adoption of final rules.</i> While FRA personnel will continue to make themselves available to assist FTA, based upon the scope of FRA’s authority and the actions it has taken to date, FRA considers its actions to have met the intent of the NTSB’s recommendation.	None.

Item No.	Issue Date	Rec. No.	Open NTSB Recommendation	NTSB Classification and Actions Taken by FRA	Actions Needed to Be Taken by FRA
10	8/22/2014	R-14-17	Collaborate with PHMSA and the American Short Line and Regional Railroad Association (ASLRRA) to conduct audits of shortline and regional railroads to ensure that proper route risk assessments that identify safety and security vulnerabilities are being performed and are incorporated into a safety management system program.	<p><u>Open – Acceptable Response.</u> See response to R-14-16. FRA has an established program to audit compliance with 49 CFR § 172.820 by visiting most, if not all, of the Class I railroads, as well as a select number of short line and regional railroads annually. To date, the audits show that carriers are operating in compliance with the regulation. More specifically, among regional and shortline railroads, the audits show that railroads not using the Rail Corridor Risk Management System or the Hazmat Transportation Risk Analytical Model (H-TRAM) use alternative methodologies to analyze the safety and security risks along routes subject to the route analysis requirements.</p> <p>Furthermore, FRA continues to collaborate with ASLRRA to promote the importance of performing a complete and thorough route analysis.</p>	None.

Item No.	Issue Date	Rec. No.	Open NTSB Recommendation	NTSB Classification and Actions Taken by FRA	Actions Needed to Be Taken by FRA
11	8/22/2014	R-14-16	Collaborate with PHMSA and ASLRRRA to develop a risk assessment tool that addresses the known limitations and shortcomings of the Rail Corridor Risk Management Safety software tool.	<u>Open – Acceptable Response.</u> FRA funded the development and beta-testing of the H-TRAM Web-based software tool. This tool was developed for shortline and regional railroads to perform safety and security risk analyses in accordance with 49 CFR § 172.820, <i>Additional planning requirements for transportation by rail</i> . The tool uses railroad operating information and route attributes to assess the 27 key risk factors listed in 49 CFR Part 172, Appendix D, Rail Risk Analysis Factors, with particular emphasis on population density. FRA funded an independent verification and validation of the tool, and findings of this study (primarily “ease of use” issues and process documentation) are being addressed. Currently, 14 railroad companies use H-TRAM. FRA has requested funding to continue supporting this project.	None.

Item No.	Issue Date	Rec. No.	Open NTSB Recommendation	NTSB Classification and Actions Taken by FRA	Actions Needed to Be Taken by FRA
12	1/23/2014	R-14-02	Develop a program to audit response plans for rail carriers of petroleum products to ensure that adequate provisions are in place to respond to and remove a worst-case discharge to the maximum extent practicable and to mitigate or prevent a substantial threat of a worst-case discharge.	<u>Open – Acceptable Response.</u> On August 1, 2014, PHMSA, in consultation with FRA, published an Advance Notice of Proposed Rulemaking (ANPRM), developed by FRA titled Hazardous Materials: Oil Spill Response Plans for High-Hazard Flammable Trains (HM-251B). 79 FR 45079. In this ANPRM, the agencies solicited comments regarding expanding the requirement for comprehensive oil spill response plans to trains carrying large volumes of petroleum crude oil. On July 29, 2016, PHMSA, in consultation with FRA, published an NPRM that proposes to expand the applicability of comprehensive oil spill response plans (OSRPs) so that any railroad that transports a single train carrying 20 or more loaded tank cars of liquid petroleum oil in a continuous block or a single train carrying 35 or more loaded tank cars of liquid petroleum oil throughout the train consist must also have a current comprehensive written OSRP. 81 FR 50067. FRA will develop a program to audit the required response plans once a final rule is developed.	Issue final rule.

Item No.	Issue Date	Rec. No.	Open NTSB Recommendation	NTSB Classification and Actions Taken by FRA	Actions Needed to Be Taken by FRA
13	12/19/2013	R-13-38	Work with the Federal Highway Administration (FHWA) to (1) include guidance in the Manual on Uniform Traffic Control Devices (MUTCD) for the installation of advance warning devices, such as movement-activated blank-out signs, that specifically use the word “train” to indicate the preemption of highway traffic signals by an approaching train, and (2) amend the MUTCD to indicate that preemption confirmation lights, while not intended to provide guidance to the general public, would be useful in providing advance information on train movements to law enforcement and emergency responders.	<u>Open – Acceptable Response.</u> FRA provided assistance to the FHWA MUTCD team on the development of the MUTCD. Additionally, staff from FRA’s Office of Railroad Safety participated as members with FHWA at the National Committee on Uniform Traffic Control Devices’ 2015 summer meeting. FRA continues to support FHWA on this topic and any others that contribute to improved safety. However, FRA does not have regulatory authority to approve or publish the MUTCD. That responsibility lies solely with FHWA. <i>See</i> 23 CFR § 655.603. FHWA expects this update to the MUTCD will be published in 2017.	None.
14	8/14/2013	R-13-19	When you have made the determination in Safety Recommendation R-13-18, require railroads to use a reliable, valid, and comparable field test procedure for assessing the color discrimination capabilities of employees in safety-sensitive positions.	<u>Open – Acceptable Response.</u> <i>See</i> response to R-13-18. FRA’s determination will be incorporated into policy.	Publish final interpretation.

Item No.	Issue Date	Rec. No.	Open NTSB Recommendation	NTSB Classification and Actions Taken by FRA	Actions Needed to Be Taken by FRA
15	8/14/2013	R-13-18	Determine what constitutes a reliable, valid, and comparable field test procedure for assessing the color discrimination capabilities of employees in safety-sensitive positions.	<u>Open – Acceptable Response.</u> FRA has collected and analyzed information that allowed it to establish its interpretation of what constitutes a valid, reliable, and comparable field test procedure for assessing the color discrimination capabilities of locomotive engineers and conductors. FRA published an interim interpretation with a request for comments on November 24, 2015. 80 FR 73122. FRA is currently reviewing all of the comments that it received.	Publish final interpretation.
16	1/28/2013	R-12-42	Work with FHWA to develop a model grade-crossing action plan that can be used as a resource document by all States. At a minimum, such a document should incorporate information from DOT publications, industry studies, and the American Association of State Highway and Transportation Officials, as well as the best practices and lessons-learned at the conclusion of the 5-year grade-crossing action plans developed in response to 49 CFR § 234.11, <i>State highway–rail grade crossing action plans</i> .	<u>Open – Acceptable Response.</u> FRA created a “strawman” outline for the model State Action Plan (SAP) and shared it with FHWA. FHWA and FRA approved the action plan’s outline and interviewed various States to learn more about their efforts related to their SAPs. Subsequently, FRA met with FHWA to provide support on the best strategy to further develop and disseminate the model SAP. FHWA expects the Model State Action Plan and Practices document to be available in 2016.	Assist FHWA as necessary to publish final SAP.

Item No.	Issue Date	Rec. No.	Open NTSB Recommendation	NTSB Classification and Actions Taken by FRA	Actions Needed to Be Taken by FRA
17	1/28/2013	R-12-40	Once the side impact crashworthiness standards are developed in Safety Recommendation R-12-39, revise 49 CFR § 238.217, <i>Side structure</i> , to require that new passenger railcars be built to these standards.	<u>Open – Acceptable Response.</u> See response to R-12-39.	Complete research. Revise regulations as necessary.
18	1/28/2013	R-12-39	Develop side impact crashworthiness standards (including performance validation) for passenger railcars that provide a measurable improvement compared to the current regulation for minimizing encroachment to and loss of railcar occupant survival space.	<u>Open – Acceptable Response.</u> FRA is actively studying side impact crashworthiness. In 2012, FRA’s RSAC Engineering Task Force considered the safety concerns of side impacts and, based on existing rail equipment designs, proposed maintaining the existing standard. FRA believes that more data is needed to better understand how side impact collisions affect existing designs. FRA is currently directing the Volpe National Transportation Systems Center (Volpe) to conduct simulations of passenger cars undergoing significant side impacts with increasing side strengths to determine the adequacy of the current designs and the predictable safety implications of increasing the side strength. Volpe’s finding may provide a basis for new regulations specifically addressing side impact crashworthiness.	Conduct research as necessary.

Item No.	Issue Date	Rec. No.	Open NTSB Recommendation	NTSB Classification and Actions Taken by FRA	Actions Needed to Be Taken by FRA
19	5/10/2012	R-12-21	Revise 49 CFR Part 229 to ensure the protection of the occupants of isolated locomotive operating cabs in the event of a collision. Make the revision applicable to all locomotives, including the existing fleet and those newly constructed, rebuilt, refurbished, and overhauled, unless the cab will never be occupied.	<u>Open – Acceptable Response.</u> FRA analyzed its current safety data, evaluated its existing safety requirements, assessed its research efforts on inhibiting colliding equipment override, and evaluated industry’s recent revisions to their safety standards, all in light of the NTSB’s specific safety concern. FRA concluded that revisions that have already been made to industry safety standards appropriately address the safety concerns expressed by NTSB. FRA is not planning to request that the RSAC consider additions to current locomotive crashworthiness regulations for isolated modular cab attachment strength.	None.
20	5/10/2012	R-12-19	Require the implementation of methods that can identify fatigue and mitigate performance decrements associated with fatigue in on-duty train crews that are identified or developed in response to Safety Recommendation R-12-18.	<u>Open – Acceptable Response.</u> See FRA’s response to R-12-17. FRA, with assistance from an RSAC working group, is developing guidance for implementing Fatigue Management Systems.	Issue regulations as necessary.
21	5/10/2012	R-12-18	Conduct research on new and existing methods that can identify fatigue and mitigate performance decrements associated with fatigue in on-duty train crews.	<u>Open – Acceptable Response.</u> See FRA’s response to R-12-17. Under the statutory requirements of the RSIA, a railroad developing an RRP must conduct a risk analysis that includes fatigue-related risks and a FMP.	Issue regulations as necessary.

Item No.	Issue Date	Rec. No.	Open NTSB Recommendation	NTSB Classification and Actions Taken by FRA	Actions Needed to Be Taken by FRA
22	5/10/2012	R-12-17	Establish an ongoing program to monitor, evaluate, report on, and continuously improve fatigue management systems implemented by operating railroads to identify, mitigate, and continuously reduce fatigue-related risks for personnel performing safety-critical tasks, with particular emphasis on biomathematical models of fatigue.	<u>Open – Acceptable Response.</u> The RSIA mandates that FRA issue regulations requiring each covered railroad to include a FMP in its RRP that meets certain statutory requirements. In particular, the regulations must require covered railroads to review and revise their FMPs at least once every two years. RSIA also requires FRA to review RRP plans to ensure the railroad are complying with their plans. FRA is working on a third regulation to meet the fatigue management provisions in the RSIA.	Issue regulations as necessary. Continue research.

Item No.	Issue Date	Rec. No.	Open NTSB Recommendation	NTSB Classification and Actions Taken by FRA	Actions Needed to Be Taken by FRA
23	3/2/2012	R-12-03	Require that safety management systems and the associated key principles (including top-down ownership and policies, analysis of operational incidents and accidents, hazard identification and risk management, prevention and mitigation programs, and continuous evaluation and improvement programs) be incorporated into railroads' RRP required by the RSIA.	<p><u>Open – Acceptable Response.</u> Under Section 103 of the RSIA, FRA is developing three regulations, including one that will require certain passenger railroads to develop and implement SSPs, and one that will require certain freight railroads to develop and implement RRP. Under RSIA, these regulations must require Class I freight railroads, intercity passenger, commuter railroads, and railroads with inadequate safety performance, as determined by the Secretary of Transportation, to establish programs that systematically evaluate railroad safety hazards on their systems and manage the associated risks to reduce the numbers and rates of railroad accidents, incidents, injuries and fatalities. RSIA also mandates that the regulations include requirements to conduct risk-based hazard analyses, engage in risk management, and provide certification signed by the chief railroad official responsible for safety.</p> <p>OMB designated an NPRM regarding RRP for freight railroads as significant and the NPRM was published on February 27, 2015. 80 FR 10950. FRA is preparing the final rule based on the comments received.</p> <p>An NPRM addressing SSP was published on September 7, 2012, with public comments due by November 6, 2012. 77 FR 55372. FRA reopened the comment period until December 7, 2012. 77 FR 70409. On July 29, 2016, FRA posted the SSP final rule on its Web site and submitted the final rule to the Federal Register. .</p>	<p>Issue final rules.</p> <p>Review SSP plans.</p>

Item No.	Issue Date	Rec. No.	Open NTSB Recommendation	NTSB Classification and Actions Taken by FRA	Actions Needed to Be Taken by FRA
24	2/23/2010	R-10-02	Require that railroads regularly review and use in-cab audio and image recordings (with appropriate limitations on public release), in conjunction with other performance data, to verify that train crew actions are in accordance with rules and procedures that are essential to safety.	<u>Open – Acceptable Response.</u> See response to R-10-01.	Issue regulation.
25	2/23/2010	R-10-01	Require the installation, in all controlling locomotive cabs and cab car operating compartments, of crash- and fire-protected inward- and outward-facing audio and image recorders capable of providing recordings to verify that train crew actions are in accordance with rules and procedures that are essential to safety as well as train operating conditions. The devices should have a minimum 12-hour continuous recording capability with recordings that are easily accessible for review, with appropriate limitations on public release, for the investigation of accidents or for use by management in carrying out efficiency testing and systemwide performance monitoring programs.	<u>Open – Acceptable Response.</u> FRA completed a draft NPRM addressing the recommendation and OMB has designated the rule as significant. Also, section 11411 of the recent FAST Act (codified at 49 U.S.C. 20168) requires that by December 4, 2017, FRA issue a regulation requiring railroads to install inward- and outward-facing image recording devices on the controlling locomotive of passenger trains, and that such recording device data that is stored on a controlling locomotive have crash and fire protections. This rulemaking is intended to fulfill both this FAST Act mandate and R-10-02.	Issue regulation.

Item No.	Issue Date	Rec. No.	Open NTSB Recommendation	NTSB Classification and Actions Taken by FRA	Actions Needed to Be Taken by FRA
26	4/02/2009	R-09-02	Study the different signal systems for trains, identify ways to communicate more uniformly the meaning of signal aspects across all railroad territories, and require the railroads to implement as many uniform signal meanings as possible.	<u>Open – Acceptable Response.</u> See FRA’s response to R-09-01. ⁴	None.

⁴ In a letter dated May 18, 2016, the NTSB reclassified R-09-01 and R-09-02 from Open-Acceptable Response to Open-Unacceptable Response.

Item No.	Issue Date	Rec. No.	Open NTSB Recommendation	NTSB Classification and Actions Taken by FRA	Actions Needed to Be Taken by FRA
27	4/02/2009	R-09-01	Establish uniform signal aspects that railroads must use to authorize a train to enter an occupied block, and prohibit the use of these aspects for any other signal indication.	<p><u>Open – Acceptable Response.</u> FRA has regulations addressing necessary and uniform basic signal aspects and their associated indications. These requirements include a description of the signal display that railroads must use to indicate stop, restricted speed, and proceed at authorized speed.</p> <p>FRA studies signal systems for trains through inspections and audits conducted on various properties to determine where conditions exist that present the potential for ambiguity and misinterpretation of the intended signal indication. FRA also urged each railroad to review its program of qualification for engineers and conductors to ensure they identify any such ambiguities or misinterpretations and specifically evaluate engineers and conductors during skills testing.</p> <p>In addition, with RSIA’s mandated implementation of PTC, the functionality of the PTC onboard display units will ensure the meaning of all signal displays encountered are shown to the crew in a way that will eliminate any discrepancy or misunderstanding of the operating limitations of the signal displayed and its intended information. After the required railroads implement PTC, FRA may survey the remainder of non-PTC-equipped railroads to determine the extent to which conditions continue to exist that present the potential for ambiguity and misinterpretation of the intended signal indication. FRA could then use the results of this survey to determine whether issuing a safety advisory would be appropriate.</p>	None. FRA sent response to the NTSB on March 11, 2015, and is awaiting the NTSB’s response.

Item No.	Issue Date	Rec. No.	Open NTSB Recommendation	NTSB Classification and Actions Taken by FRA	Actions Needed to Be Taken by FRA
28	5/22/2008	R-08-12	Assist PHMSA in its evaluation of the risks posed to train crews by unit trains transporting hazardous materials, determination of the optimum separation requirements between occupied locomotives and hazardous materials cars, and any resulting revision to 49 CFR § 174.85.	<u>Open – Acceptable Response.</u> FRA continues to work with PHMSA through the RSAC process to complete and publish an NPRM to amend 49 CFR Part 174. One aspect of 49 CFR Part 174 that FRA and PHMSA are carefully deliberating is the regulation requiring separation of railcars containing hazardous material from locomotives and occupied cabooses, particularly as the regulation applies to unit trains loaded with hazardous material. FRA and PHMSA are analyzing the effectiveness of the existing regulation in providing train-crew safety and the feasibility of possible regulatory alternatives.	Work with PHMSA to issue regulation.

Item No.	Issue Date	Rec. No.	Open NTSB Recommendation	NTSB Classification and Actions Taken by FRA	Actions Needed to Be Taken by FRA
29	4/25/2007	R-07-02	Assist PHMSA in developing regulations to require that railroads immediately provide to emergency responders accurate, real-time information regarding the identity and location of all hazardous materials on a train.	<u>Open – Acceptable Response.</u> FRA continues to work actively with PHMSA through the RSAC process to complete and publish an NPRM to amend 49 CFR Part 174, which applies to persons who accept and transport hazardous material by rail. As FRA noted in previous correspondence to the NTSB, the proposed rule is based on FRA’s retrospective review of 49 CFR Part 174 under Executive Order 13563, Improving Regulation and Regulatory Review, to identify regulations that may be outmoded, ineffective, insufficient, or excessively burdensome. As part of this rulemaking initiative, FRA and PHMSA are considering enhancements to the existing requirement to document the placement of railcars transporting hazardous material in a train by leveraging existing automatic equipment identification (AEI) reader technology and railroad communication protocols to ensure accurate real-time information is available to the train crew, dispatching office, and emergency response personnel. We anticipate that, once implemented, this rule will address not only R-07-02 issued to FRA and the companion R-07-03 issued to PHMSA, but also the Congressional mandate of Section 7302 of the FAST Act.	Work with PHMSA to modify, streamline, expand, or repeal regulations as necessary. Participate in PHMSA’s multimodal pilot tests of electronic communications.

Item No.	Issue Date	Rec. No.	Open NTSB Recommendation	NTSB Classification and Actions Taken by FRA	Actions Needed to Be Taken by FRA
30	12/12/2005	R-05-17	Determine the most effective methods of providing emergency escape breathing apparatuses for all crewmembers on freight trains carrying hazardous materials that would pose an inhalation hazard in the event of unintentional release and require railroads to provide these breathing apparatuses to their crewmembers along with appropriate training.	<u>Open – Acceptable Response.</u> See response to Item Number 1 in Exhibit A.	Issue guidance.
31	3/15/2004	R-04-07	Develop and implement Tank Car Design-Specific Fracture Toughness Standards, such as a minimum average Charpy value, for steels and other materials of construction for pressure tank cars used for the transportation of the DOT's Class 2 hazardous materials, including those in "low temperature" service. The performance criteria must apply to the material orientation with the minimum impact resistance and take into account the entire range of operating temperatures of the tank car.	<u>Open – Acceptable Response.</u> FRA and PHMSA will add provisions, through the RSAC process, to PHMSA's regulations incorporating by reference the 2014 edition of the Association of American Railroads (AAR) Specification for Tank Cars M-1002 and identifying the "low-temperature" commodities.	Work with PHMSA to issue regulation. Continue research and publish a report detailing the tests and results.

Item No.	Issue Date	Rec. No.	Open NTSB Recommendation	NTSB Classification and Actions Taken by FRA	Actions Needed to Be Taken by FRA
32	9/24/2001	R-01-17	Modify 49 CFR § 219.201(b), as necessary, to ensure that the exemption from mandatory post-accident drug and alcohol testing for those involved in highway-rail grade crossing accidents does not apply to any railroad signal, maintenance, and other employees whose actions at or near a grade crossing involved in an accident may have contributed to the occurrence or severity of the accident.	<u>Open – Acceptable Response.</u> See response to Item Number 2 in Appendix A.	None.
33	3/12/2001	R-01-02	Evaluate, with the assistance of Research and Special Programs Administration, the AAR, and the Railway Progress Institute, the deterioration of pressure relief devices through normal service and then develop inspection criteria to ensure that the pressure relief devices remain functional between regular inspection intervals. FRA will incorporate these inspection criteria into DOT's Hazardous Materials Regulations.	<u>Open – Acceptable Response.</u> FRA evaluated the effects of environmental conditions on the determination of the start-to-discharge pressure of pressure relief valves. The first and second phases of testing were completed in October 2013 and July 2014, respectively. The test data was reviewed with industry representatives to determine the effects of environmental factors on the mechanical performance of pressure relief devices Additionally, on June 25, 2012, (HM-216B) 49 CFR Part 180 was revised to require a service equipment owner to establish inspection and test frequencies appropriate to ensure that the design level of reliability and safety of the equipment is met (service equipment includes pressure relief devices). The intervals must be based upon analysis of previous test and inspection results for that service equipment and lading combination.	None.

Item No.	Issue Date	Rec. No.	Open NTSB Recommendation	NTSB Classification and Actions Taken by FRA	Actions Needed to Be Taken by FRA
34	8/22/2014	R-14-15	<p>Promulgate a regulation for permitting a train to pass a red signal aspect protecting a moveable bridge that is similar to the criteria for allowing a train to cross a broken rail as contained in 49 CFR § 213.7(d) to ensure that the bridge has been inspected by a qualified employee before a train is authorized to proceed across the bridge.</p>	<p><u>Open – Acceptable Alternate Response.</u> FRA issued Safety Advisory 2013-01, Passing Stop Signals Protecting Movable Bridges, to bring to the attention of movable bridge owners the importance of using adequate span locking and exercising caution when allowing a train to pass a stop signal protecting a movable bridge. This safety advisory emphasizes the importance of providing adequate training to those individuals authorized to determine if a movable bridge is properly aligned and locked.</p> <p>Furthermore, on November 7, 2014, FRA published a final rule establishing minimum training standards for all safety-related railroad employees, as required by the RSIA. 79 FR 66460. The purpose of this new final training standards rule is to ensure that any person employed by a railroad or a contractor of a railroad as a safety-related railroad employee is trained and qualified to comply with any relevant Federal railroad safety laws, regulations, and orders, as well as any relevant railroad rules and procedures promulgated to implement those Federal railroad safety laws, regulations, and orders. Under this final rule, railroads must submit their training plans to FRA for review. The earliest implementation date for the rule is January 1, 2018.</p>	<p>Complete evaluation of all training programs and qualifications for categories of safety-related railroad employees.</p>

Item No.	Issue Date	Rec. No.	Open NTSB Recommendation	NTSB Classification and Actions Taken by FRA	Actions Needed to Be Taken by FRA
35	10/22/2014	R-14-48	Require equivalent levels of reporting for both public and private highway-rail grade crossings.	<p><u>Open – Unacceptable Response.</u> On January 6, 2015, FRA published a final rule. 80 FR 745. The amendments in the final rule, mandated by RSIA Section 204, require railroads to submit information about previously unreported and new highway-rail and pathway crossings to the U.S. DOT National Highway-Rail Crossing Inventory and to periodically update existing crossing data. In conjunction with the final rule, FRA also revised the Inventory Form (the FRA form used for submitting data to the Inventory), along with a revised Guide for completing the Inventory Form. The Guide directs railroads to submit data to the Inventory for private highway-rail grade crossings that railroads have not traditionally provided. Some of the additional data includes, for example, current daily train counts for various types of train movements, maximum timetable speed over the crossing, typical speed range over the crossing, the number and types of track(s) through the crossing, type of train detection for automatic warning devices, track signals, event recorder and health monitoring.</p> <p>FRA has not identified any further safety benefit from collecting more data than what is currently required.</p>	None.

Item No.	Issue Date	Rec. No.	Open NTSB Recommendation	NTSB Classification and Actions Taken by FRA	Actions Needed to Be Taken by FRA
36	10/22/2014	R-14-36	Require initial and recurring training for roadway workers in hazard recognition and mitigation. Such training should include recognition and mitigation of the hazards of tasks being performed by coworkers.	<p><u>Open – Unacceptable Response.</u> FRA Railroad Workplace Safety regulations, 49 CFR Part 214, already require that roadway workers receive recurring annual training associated with the risks associated with being struck by trains or on-track equipment. Section 214.345(e) specifically requires that roadway workers be annually trained on “the hazards associated with working on or near railroad tracks, including review of on-track safety rules and procedures.” In addition, FRA has recently published a final rule containing extensive training and qualification requirements for all safety-related railroad employees. 79 FR 66460. This rulemaking included minimum training standard for roadway workers as defined by existing 49 CFR § 214.7, and contains an extensive refresher qualification requirement for roadway workers.</p> <p>FRA believes that these existing training requirements, if complied with, provide for the safety of roadway workers. In areas of occupational safety unrelated to railroad operations, the Occupational Safety and Health Administration’s (OSHA) regulations governing training and safety requirements are generally applicable.</p> <p>Nonetheless, FRA intends to issue a safety advisory to remind railroads to comply with current federal regulations pertaining to hazard recognition and mitigation through job safety briefings.</p>	Issue safety advisory.

Item No.	Issue Date	Rec. No.	Open NTSB Recommendation	NTSB Classification and Actions Taken by FRA	Actions Needed to Be Taken by FRA
37	10/22/2014	R-14-35	Work with the OSHA to establish clear guidelines for use by railroads and railroad workers detailing when and where OSHA standards are to be applied.	<u>Open – Unacceptable Response.</u> FRA has confirmed with the AAR and several shortlines that OSHA, as well as FRA, standards are incorporated into most railroad’s rules.	None.
38	10/22/2014	R-14-34	Revise your national inspection program to include specific emphasis on roadway worker activities, including emphasizing hazard recognition and mitigation in job briefings.	<u>Open – Unacceptable Response.</u> FRA is evaluating methods to incorporate emphasis on hazard recognition and mitigation and will include potential changes into its national inspection program.	FRA will provide Federal and State track inspectors with hazard recognition training during inspectors’ FRA recurrency training classes.

Item No.	Issue Date	Rec. No.	Open NTSB Recommendation	NTSB Classification and Actions Taken by FRA	Actions Needed to Be Taken by FRA
39	10/22/2014	R-14-33	Revise the portions of 49 CFR Part 214 for comprehensive job briefings for roadway workers to include the best practices in the OSHA standards contained in 29 CFR Parts 1910 and 1926.	<p><u>Open – Unacceptable Response.</u> FRA believes its efforts are best directed at ensuring compliance with its comprehensive existing regulatory requirements, as opposed to duplicating the already existing requirements of other agencies with different areas of expertise. FRA recognizes OSHA, like FRA, has a robust set of regulations to protect roadway workers.</p> <p>FRA is preparing a safety advisory highlighting the significance of job briefings.</p>	Issue a safety advisory reminding railroads of the need to ensure that their workers identify any hazardous risks at job locations and mitigate them. FRA will also continue to instruct its inspectors to look for potential hazards and bring them to the railroad's attention.

Item No.	Issue Date	Rec. No.	Open NTSB Recommendation	NTSB Classification and Actions Taken by FRA	Actions Needed to Be Taken by FRA
40	5/19/2014	R-14-11	Revise the Track Safety Standards specified in 49 CFR § 213.233(b)(3), removing the exemption for high-density commuter railroads and requiring all railroads to comply with these requirements: (1) to traverse each main track by vehicle or inspect each main track on foot at least once every 2 weeks, and (2) to traverse and inspect each siding, either by vehicle or on foot, at least once every month.	<u>Open – Unacceptable Response.</u> The RSAC has organized the Track Safety Working Group to consider specific improvements to Track Safety Standards in 49 CFR Part 213, Subpart F or other responsive actions designed to enhance rail safety by improving track inspection methods, frequency, and documentation. As required by the FAST Act, FRA is also evaluating whether to revise the Track Safety Standards to adopt this recommendation, which specifically concerns track inspection methods.	Issue regulations as necessary.
41	8/14/2013	R-13-23	Publish the PTC implementation update reports submitted by all railroads subject to the PTC provisions of the RSIA and make the reports available on your Web site within 30 days of report receipt.	<u>Open – Unacceptable Response.</u> As required by the Positive Train Control Enforcement and Implementation Act of 2015, FRA will conduct reviews at least annually to ensure that each railroad is complying with its revised implementation plan and FRA is now publishing each railroad’s annual PTC progress report on its Web site. ⁵	Continue to publish required reports each year.
42	8/14/2013	R-13-22	Require all information captured by any required recorder to also be recorded in another location remote from the lead locomotive(s), to minimize the likelihood of the information being unrecoverable as a result of an accident.	<u>Open – Unacceptable Response.</u> FRA has considered this recommendation and determined that implementation is currently neither technologically nor economically feasible.	None.

⁵ On May 17, 2016, during an NTSB board meeting, the NTSB classified R-13-23 as “Closed – Acceptable Alternate Response.”

Item No.	Issue Date	Rec. No.	Open NTSB Recommendation	NTSB Classification and Actions Taken by FRA	Actions Needed to Be Taken by FRA
43	8/14/2013	R-13-21	Develop medical certification regulations for employees in safety-sensitive positions that include, at a minimum: (1) a complete medical history that includes specific screening for sleep disorders, a review of current medications, and a thorough physical examination; (2) standardization of testing protocols across the industry; and (3) centralized oversight of certification decisions for employees who fail initial testing. Also, consider requiring that medical examinations be performed by those with specific training and certification in evaluating medication use and health issues related to occupational safety on railroads. [This recommendation supersedes Safety Recommendations R-02-24 through -26.]	<u>Open – Unacceptable Response.</u> See response to R-12-16. FRA is addressing railroad employees' medical fitness for duty issues sequentially based on the NTSB accident investigations of railroad accidents.	Issue regulations as necessary.
44	8/14/2013	R-13-20	Require more frequent medical certification exams for employees in safety-sensitive positions who have chronic conditions with the potential to deteriorate sufficiently to impair safe job performance.	<u>Open – Unacceptable Response.</u> See response to R-12-16. FRA is addressing railroad employees' medical fitness for duty issues sequentially based on the NTSB accident investigations of railroad accidents.	Issue regulations as necessary.

Item No.	Issue Date	Rec. No.	Open NTSB Recommendation	NTSB Classification and Actions Taken by FRA	Actions Needed to Be Taken by FRA
45	3/8/2013	R-13-07	Require railroads to implement initial and recurrent crew resource management (CRM) training for train crews.	<u>Open – Unacceptable Response.</u> FRA believes crew resource management training requirements will be best addressed by the SSP and RRP rulemakings.	Continue to encourage railroads to voluntarily develop CRM training programs. Issue RRP final rule.

Item No.	Issue Date	Rec. No.	Open NTSB Recommendation	NTSB Classification and Actions Taken by FRA	Actions Needed to Be Taken by FRA
46	3/08/2013	R-13-05	Identify, and require railroads to use in locomotive cabs, technology based solutions that detect the presence of signal-emitting portable electronic devices and that inform railroad management about the detected devices in real time.	<p><u>Open – Unacceptable Response.</u> See response to R-10-01. FRA tasked RSAC with establishing the Recording Devices Working Group to consider the effects of railroads using recording devices to monitor all behavior in the locomotive cab, including crewmembers using signal-emitting portable electronic devices. This working group is currently evaluating the potential use of audio and/or video recordings of the crew in the locomotive cab.</p> <p>FRA ended the Recording Devices Working Group in May 2015 (without consensus on any topic) and announced it would draft an NPRM on locomotive recording devices, to include a proposal on inward-facing locomotive cameras. The NPRM and accompanying RIA have been completed and are currently in the Exec. Branch review process. The rulemaking is also intended to fulfill Section 11411 of the FAST ACT (Fixing America’s Surface Transportation Act, Pub. L. 114-94, 129 Stat. 1686 (Dec. 4, 2015)(codified at 49 U.S.C. § 20168), which mandated FRA promulgate regulations by Dec. 4, 2017) requiring each railroad carrier that provides regularly scheduled intercity rail passenger or commuter rail passenger transportation to the public to install inward- and outward-facing image recording devices in all controlling locomotives of passenger trains.</p>	<p>Continue working with the RSAC Recording Devices Working Group to develop Recommendations and issue regulation</p> <p>FRA sent a response to the NTSB on February 12, 2015, and is awaiting the NTSB’s response.</p>

Item No.	Issue Date	Rec. No.	Open NTSB Recommendation	NTSB Classification and Actions Taken by FRA	Actions Needed to Be Taken by FRA
47	1/28/2013	R-12-41	Require that passenger railcar doors be designed to prevent fire and smoke from traveling between railcars.	<u>Open – Unacceptable Response.</u> Both sliding and swinging doors interact closely with the surrounding carbody structure, at the hinge, track, jamb, pocket, and/or latch. Even minor distortion of that structure due to the forces of collision or derailment, or simply a change in the orientation of the door due to a car being significantly displaced from its upright position, could cause the door to fail to operate as intended. Thus, during an emergency, additional time and effort would be needed to operate the door, delaying egress and access through those doors. Adding weight or tighter seals to make the doors smoke and fire resistant would create a similar distortion and could cost lives in such an emergency. Also, it is not clear how the proposed fire and smoke resistant doors would affect the removable panels contained in existing emergency exit doors. If the panels were also modified to be self-closing to prevent the intrusion of fire and smoke, it would further delay passenger egress and emergency responder access during an emergency. The NTSB recommendation overlooks the need for a design balancing these competing safety objectives. FRA has no reported injuries from fire or smoke damage. FRA cannot cost justify the expense of installing fire doors on passenger cars without a safety justification.	None. FRA sent a supplemental response to the NTSB on February 12, 2015, and is awaiting the NTSB's response.

Item No.	Issue Date	Rec. No.	Open NTSB Recommendation	NTSB Classification and Actions Taken by FRA	Actions Needed to Be Taken by FRA
48	5/24/2012	R-12-27	Require railroads to install, along main lines in nonsignaled territory not equipped with PTC, appropriate technology that warns approaching trains of incorrectly lined main track switches with enough time to permit stopping.	<p><u>Open – Unacceptable Response.</u> The RSAC Dark Territory Working Group has considered safety technologies, including power-assisted switch machines and switch point monitoring systems as a primary topic. The Dark Territory Working Group met four times to develop recommendations for standards, guidance, regulations, or orders governing the development, use, and implementation of rail safety technologies in nonsignaled territory. As a result of these meetings, the Dark Territory Working Group developed a draft document recommending the creation of individual railroad plans for the maintenance, inspection, and testing of certain safety devices, including power-assisted switch machines and switch point monitoring systems, currently in use in nonsignaled territory.</p> <p>See response to Item Number 3 in Appendix A.</p>	Determine whether RSAC Dark Territory Working Group needs to reconvene after completion of the RRP and SSP rulemakings. FRA sent a supplemental response to the NTSB on March 11, 2015, and is awaiting the NTSB's response.

Item No.	Issue Date	Rec. No.	Open NTSB Recommendation	NTSB Classification and Actions Taken by FRA	Actions Needed to Be Taken by FRA
49	5/10/2012	R-12-22	Revise 49 CFR Part 229 to require crashworthiness performance validation for all new locomotive designs under conditions expected in a collision.	<u>Open – Unacceptable Response.</u> It is FRA’s position that it is neither technologically nor economically feasible to create a complete catalog of “conditions expected in a collision,” and FRA disagrees with using such an approach to develop safety regulations. Certain conditions that can be expected based on experience are rare and are not a good basis for establishing broadly applicable performance standards. Locomotive crashworthiness scenarios include collisions with expected types of railroad equipment, such as freight cars and locomotives. If regulations are reactively developed to cover extremely unusual accident scenarios, the resulting requirements will not properly address most accidents and will be only marginally effective and cost inefficient. FRA also notes that existing crashworthiness regulations do not prohibit or discourage performance-based methods of compliance.	None. FRA sent a supplemental response to the NTSB on February 12, 2015, and is awaiting the NTSB’s response.

Item No.	Issue Date	Rec. No.	Open NTSB Recommendation	NTSB Classification and Actions Taken by FRA	Actions Needed to Be Taken by FRA
50	5/10/2012	R-12-20	Require the use of PTC technologies that will detect the rear of trains and prevent rear-end collisions.	<u>Open – Unacceptable Response.</u> The economic analysis of the PTC final rule discussed the merits of requiring PTC technologies to detect the rear of trains and prevent rear-end collisions at restricted speed. While PTC as required under the final rule will prevent high speed rear-end collisions, trying to prevent low speed rear-end collisions would significantly add to the already adverse cost-benefit ratio of required PTC.	After completing initial implementation of PTC, determine whether additional regulations are necessary. FRA sent a supplemental response to the NTSB on March 11, 2015, and is awaiting the NTSB's response.

Item No.	Issue Date	Rec. No.	Open NTSB Recommendation	NTSB Classification and Actions Taken by FRA	Actions Needed to Be Taken by FRA
51	5/10/2012	R-12-16	Require railroads to medically screen employees in safety-sensitive positions for sleep apnea and other sleep disorders.	<u>Open – Unacceptable Response.</u> FRA is addressing railroad employees' medical fitness for duty issues sequentially based on the NTSB accident investigations of railroad accidents. For example, on March 10, 2016, FRA, with the Federal Motor Carrier Safety Administration (FMCSA), published an ANPRM regarding obstructive sleep apnea (OSA). In this ANPRM, FRA and FMCSA request data and information concerning the prevalence of moderate-to-severe OSA among individuals occupying safety-sensitive positions in highway and rail transportation, and on its potential consequences for the safety of rail and highway transportation. FMCSA and FRA also requested information on potential costs and benefits from regulatory actions that address the safety risks associated with motor carrier and rail transportation workers in safety sensitive positions who have OSA. Once FRA has fully considered how to address OSA, it will next consider strategies to address other medical conditions that are also contributing causes to accidents.	Issue regulations as necessary.

Item No.	Issue Date	Rec. No.	Open NTSB Recommendation	NTSB Classification and Actions Taken by FRA	Actions Needed to Be Taken by FRA
52	4/02/2009	R-09-03	Require that emergency exits on new and remanufactured locomotive cabs provide for rapid egress by cab occupants and rapid entry by emergency responders.	<p><u>Open – Unacceptable Response.</u> FRA’s review of reported data for the last 15 years revealed one injury attributed to “opening” or “getting out” of a locomotive cab after an accident. Thus, it would be an imprudent use of FRA resources to establish additional regulatory requirements to address a potential safety hazard that resulted in only one injury in the last 15 years.</p> <p>Moreover, the implementation of AAR Standard S-580, applicable to all new or rebuilt locomotives, increased the strength of the cab’s structure, which greatly increased the survivable volume for occupants. The greater survivable volume increases the likelihood that the exits will be accessible and thereby improves egress by cab occupants and entry by emergency responders. In addition, FRA believes that the NTSB has not fully considered the positive effects of the emergency responder training that FRA developed and distributed after this safety recommendation was originally made.</p> <p>Finally, further action in this area may conflict with FRA implementation of its responses to other related NTSB recommendations. For example, implementation of PTC requires railroads to install additional antennas on the cab roof, which limits the space available for potential escape/rescue hatches that could provide for rapid access and egress.</p>	<p>None.</p> <p>FRA sent a supplemental response to the NTSB on February 12, 2015, and is awaiting the NTSB’s response.</p>

Item No.	Issue Date	Rec. No.	Open NTSB Recommendation	NTSB Classification and Actions Taken by FRA	Actions Needed to Be Taken by FRA
53	4/10/2008	R-08-07	NTSB asks the FRA to revise the definition of “covered employee” under 49 CFR Part 219 for purposes of Congressionally mandated alcohol and controlled substances testing programs to encompass all employees and agents performing safety-sensitive functions, as described in 49 CFR §§ 209.301 and 209.303.	<p><u>Open – Unacceptable Response.</u> See response to R-01-17.</p> <p>Section 412 of the RSIA authorized FRA to expand its drug and alcohol testing program only to cover those employees who perform MOW activities. On June 10, 2016, FRA published a final rule expanding the definition of MOW activities to cover the maintenance and communications functions listed in 49 CFR § 209.303 that employees perform on or around a railroad’s track or roadbed, thus adding approximately 32,000 MOW employees and contractors to the scope of 49 CFR Part 219. 81 FR 37893. FRA’s PAT testing data does not support the expansion of 49 CFR Part 219’s scope beyond that of individuals who perform MOW activities. FRA will revisit the issue of coverage for individuals who perform other § 209.303 functions if their rate of positive post-mortem PAT test results should rise in the future.</p>	FRA continues to explore opportunities to enhance the effectiveness of its alcohol and drug program.

Item No.	Issue Date	Rec. No.	Open NTSB Recommendation	NTSB Classification and Actions Taken by FRA	Actions Needed to Be Taken by FRA
54	4/10/2008	R-08-06	Require redundant signal protection, such as shunting, for MOW work crews who depend on the train dispatcher to provide signal protection.	<p><u>Open – Unacceptable Response.</u> On June 10, 2016, FRA published a final rule amending 49 CFR Part 214. 81 FR 37840, 37859. The final rule addressed multiple roadway worker protection issues, and included a provision requiring railroads to adopt redundant signal protections for roadway work groups that rely on dispatchers to establish controlled track working limits.</p> <p>As explained in the final rule, redundant signal protections are intended to protect against train movements into established working limits before a roadway work group has released its authority. Redundant signal protections, which could include shunting procedures, are risk mitigation measures or safety redundancies to ensure the proper establishment and maintenance of signal protections for controlled track working limits that are in effect.</p> <p>Specifically, the final rule requires Class I or II and passenger railroads that establish on-track safety using controlled track working limits (§§ 214.321–214.323) in signalized territories to evaluate their particular operations and identify what type of redundant signal protection(s) is appropriate. This evaluation must be completed by July 1, 2017. After railroads conduct the required evaluation, railroads must adopt and comply with an appropriate method of redundant signal protections in their on-track safety program by January 1, 2018. FRA may object to a railroad’s method of providing redundant signal protections under the review procedures specified in § 214.307, or may take other appropriate enforcement action if a railroad neglects to evaluate, adopt, and comply with appropriate redundant protection procedures.</p>	None.

Item No.	Issue Date	Rec. No.	Open NTSB Recommendation	NTSB Classification and Actions Taken by FRA	Actions Needed to Be Taken by FRA
55	6/07/2006	R-06-07	Require railroads to implement for all power-assisted switch machines, regardless of location, a formal commissioning procedure and a formal maintenance program that includes records of inspections, tests, maintenance, and repairs.	<u>Open – Unacceptable Response.</u> See response to R-12-27.	<p>Determine whether the RSAC Dark Territory Working Group needs to reconvene after completing the RRP and SSP rulemakings.</p> <p>FRA sent a supplemental response to the NTSB on March 11, 2015, and is awaiting the NTSB's response.</p>

Item No.	Issue Date	Rec. No.	Open NTSB Recommendation	NTSB Classification and Actions Taken by FRA	Actions Needed to Be Taken by FRA
56	1/13/2000	R-00-04	Establish, in coordination with DOT, FMCSA, FTA, and the U.S. Coast Guard, comprehensive toxicological testing requirements for an appropriate sample of fatal highway, railroad, transit, and marine accidents to ensure the identification of the role played by common prescription and over-the-counter (OTC) medications. FRA will review and analyze the results of such testing at intervals not to exceed every 5 years.	<u>Open – Unacceptable Response.</u> On June 10, 2016, FRA published a final rule expanding the scope of its drug and alcohol program to cover employees who perform MOW activities. 81 FR 37893. FRA is also pursuing a research project specifically investigating the role of prescription and OTC drugs in fatal accidents.	Begin research project investigating the role of prescription and OTC drugs in fatal accidents.
57	1/13/2000	R-00-03	Establish and implement an educational program targeting train operating crewmembers that, at a minimum, ensures that all crewmembers are aware of the source of information described in Safety Recommendation R-00-02 regarding the hazards of using specific medications when performing their duties.	<u>Open – Unacceptable Response.</u> See response to R-00-02.	Develop training module and publicize its availability.

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58	1/13/2000	R-00-02	Develop, then periodically publish, an easy-to-understand source of information for train operating crewmembers on the hazards of using specific medications when performing their duties.	<u>Open – Unacceptable Response.</u> FRA is developing an optional training module on the hazards of using specific medications. This module will be made available for free on FRA’s Web site to enable the rail industry to use as-is or to provide a model for its own training on this subject. Once it is completed, FRA will publicize the availability of the training module to FRA’s railroad contacts, regional offices, inspectors, and other interested parties. FRA will also ask DOT’s Office of Drug and Alcohol Policy and Compliance to announce the new module to its distribution network and to make the module available on its Web site. In addition, FRA will conduct outreach at its own training sessions, at industry conferences such as the Railroad Roundtable, and at labor and trade association meetings.	Develop training module and publicize its availability.
59	9/29/2015	R-15-37	Once disqualifying medical conditions and medications have been identified, develop specific criteria (such as standards for medical test results) that may allow employees who have been disqualified but have been determined by a subsequent, individualized assessment to pose no increased danger to rail safety to obtain a medical certification.	<u>Open – Response Received.</u> See response to R-12-16. Due to the ever changing universe of medical conditions that could prohibit employees from adequately conducting safety sensitive duties, FRA will have the railroads evaluate each employee in a safety sensitive position to ensure that they have been adequately treated for a medical condition to safely perform their job.	Issue regulations as necessary.

Item No.	Issue Date	Rec. No.	Open NTSB Recommendation	NTSB Classification and Actions Taken by FRA	Actions Needed to Be Taken by FRA
60	9/29/2015	R-15-35	Enhance your medical standards by identifying a list of medical conditions that disqualify employees for safety-sensitive positions because of the conditions' potential for negatively affecting rail safety.	<u>Open – Response Received.</u> See response to R-12-16. FRA is addressing railroad employees' medical fitness for duty issues sequentially based on the NTSB accident investigations of railroad accidents.	Issue regulations as necessary.
61	7/8/2015	R-15-26	Prohibit the use of a white light as a marking device on the rear of a train.	<u>Open – Response Received.</u> FRA concluded that FRA's current regulations regarding end-of-train markings provide appropriate, comprehensive safety for train crews. The regulations at 49 CFR § 221.14(c)(3) allow the rear headlight of a locomotive to be illuminated on dim to serve as the required marker when the locomotive is operated singly or at the rear of a train. In fact, because of its elevated location, the headlight can sometimes be seen at a greater distance than a standard marker typically attached to a coupler. While rear-end markers provide warning to train crews of the presence of another train on the same track ahead of their train, they are in addition to a long-standing, robust network of operational controls designed to provide safe separation between individual train movements on the same track.	None. FRA sent a response to the NTSB on February 5, 2016, and is awaiting the NTSB's response.

Item No.	Issue Date	Rec. No.	Open NTSB Recommendation	NTSB Classification and Actions Taken by FRA	Actions Needed to Be Taken by FRA
62	2/2/2015	R-15-02	Revise 49 CFR Part 238 to incorporate a certificate of construction, similar to the one found at 49 CFR § 179.5, and require that the certificate be furnished prior to the in-service date of the railcar.	<p><u>Open – Response Received.</u> FRA believes that the current compliance process provides an appropriate process.</p> <p>The certification program established under 49 CFR Part 179, <i>Specifications for Tank Cars</i>, does not involve an independent technical authority or a government regulatory program. Rather, the certification program is incorporated by reference and relies upon a railroad industry association program. Per 49 CFR § 179.5, <i>Certificate of construction</i>, the party assembling the completed car (i.e., the manufacturer) is allowed to supply the AAR with Form AAR 4-2, showing compliance. At this time, there is no such railroad industry association program relating to passenger rail equipment. Moreover, a certification program, such as the one referenced, would need to be robust enough to address all design variations. Thus, the compliance process is more appropriate. A certification program of this magnitude would require a level of staffing and funding that are currently outside FRA’s resources.</p>	<p>None.</p> <p>FRA sent a response to the NTSB on October 15, 2015, and is awaiting the NTSB’s response.</p>

Item No.	Issue Date	Rec. No.	Open NTSB Recommendation	NTSB Classification and Actions Taken by FRA	Actions Needed to Be Taken by FRA
63	2/2/2015	R-15-01	Revise 49 CFR § 238.213 to require the existing forward-end cornerpost strength requirements for the back-end cornerposts of passenger railcars.	<p><u>Open -- Response Received.</u> Based upon the limited number of accidents involving the ends of cars in the middle of a train, there is not enough statistical evidence to warrant the extension of the F-end (forward) strength requirements. Requiring all ends of all passenger cars to be designed to meet the F-end requirements for passenger-carrying locomotives is not cost efficient based upon the risk level for passenger cars in the middle of a train. FRA considered the function and placement of each car in a consist, and the types of operational conditions prevalent throughout, when developing the cornerpost requirements. Train accidents involving a substantial load impacting the middle of a train, as in the Metro-North Railroad accident from which the recommendation arose, make up a very small percentage of accidents, and requiring passenger railroads to enhance every passenger car currently in operation consistent with this recommendation would be a tremendous cost to the industry. The design variations for the F-end require more material, higher engineering costs, and higher production cost per car.</p> <p>FRA continues to use RSAC to identify and analyze potential safety issues, such a cornerpost strength conditions, and, consequently, the need for further rulemaking. At this time, RSAC is not considering any changes to the strength requirements for passenger car cornerposts.</p>	<p>None.</p> <p>FRA sent a response to the NTSB on October 15, 2015, and is awaiting the NTSB's response.</p>

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64	9/29/2015	R-15-36	Enhance your medical standards by identifying a list of medications whose use disqualifies employees for safety-sensitive positions because of the medications' potential for negatively affecting rail safety.	<u>Open – Awaiting Response</u> . FRA believes a list of these medications is best maintained by the Food and Drug Administration.	None. FRA sent a response to the NTSB on November 3, 2015, and is awaiting the NTSB's response.