



U.S. Department
of Transportation

**Federal Railroad
Administration**

Memorandum

Date: February 3, 2004

Reply to Attn of: OP-04-18

Subject: Items of Clarification in Final Rule on Passenger Train Emergency Preparedness;
Title 49, Code of Federal Regulations, Parts 223 and 239

Original Signed By:

From: Edward W. Pritchard
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To: Regional Administrators

This Technical Bulletin is being issued in response to three issues and has been copied to the National Railroad Passenger Corporation, the Association of American Railroads on behalf of its member freight host railroads, and the American Public Transit Association on behalf of its member commuter railroads. The three issues, with accompanying discussions and responses, are as follows:

Issue 1: Does the requirement contained in 49 CFR Section 239.105, that a railroad conduct a debriefing and critique session after each passenger train emergency situation or full-scale simulation, apply in a situation involving the illness of a passenger: (1) when it is determined to be necessary to remove a passenger from a train, (2) in the event the passenger is offered but declines medical attention and removal from the train, and (3) when a passenger is provided on-board assistance, e.g., first aid, but declines the opportunity to be removed and transported to a hospital for further observation?

Discussion: The purpose of the new regulation is to reduce the magnitude and severity of casualties in railroad operations by ensuring that railroads involved in passenger train operations can effectively and efficiently manage passenger train emergencies. Section 239.7, entitled Definitions defines "emergency or emergency situation" as meaning "an unexpected event related to the operation of a passenger train service involving a significant threat to the safety or health of one or more persons requiring immediate action, including. . . (3) A passenger or employee fatality, or a serious illness or injury to one or more passengers. . . ."

Section 239.105, entitled Debriefing and critique, states that: ". . . each railroad operating passenger train service shall conduct a debriefing and critique session after each passenger train emergency situation or full scale simulation to determine the

effectiveness of its emergency preparedness plan, and shall improve or amend its plan, or both, as appropriate, in accordance with the information developed.”

As FRA reviews the implementation of this new final rule, we will learn a great deal about the most appropriate ways to handle passenger train emergency situations. For the most part, the first responder to a passenger in need of assistance will be a member of the train crew, or possibly another passenger. Generally, train crewmembers have little medical training, and a limited number of passengers may have a certain degree of medical knowledge. The responding member of the train crew needs to be alert to make the initial emergency evaluation and then assist in the determination of the acuteness of the emergency and appropriate options. Many of these determinations may be shaped with the assistance of an on-board passenger who is a physician, nurse, or other medically or emergency trained person. As appropriate, an announcement requesting the help of such individuals should be initiated by a member of the train crew.

Experience has shown that significant numbers of passengers, whether or not formally medically trained, are willing to assist crewmembers and fellow passengers during emergency situations. A passenger in distress provides various emergency indicators, e.g, shortness of breath, seizures, or unconsciousness. Each member of a train crew should be aware of the indicators, what they mean, the proper questions to ask, and understand what suitable emergency actions must be taken.

For example, certain situations may require assistance involving the administering of heart medication at the request of a passenger. Other situations may suggest the need to call for on-board medically trained personnel for help. Still other situations may require a call from the train crew to a local emergency responder requesting that paramedics meet the train and provide the next level of response. The American Red Cross (ARC) provides both basic short and more intense courses designed to help people respond to first alert and emergency response situations. The ARC also conducts more comprehensive training to prepare emergency responders for complex emergency situations. In situations of emergency circumstances involving passengers, it is important to know the health-threatening indicators and the appropriate questions to ask.

In situations where a quick decision must be made to call an ambulance/emergency responder, the action must occur in an accurate and timely fashion. The planning to familiarize members of train crews should be a key focus and an integral element of the training needs of crewmembers, as part of the “Employee training and qualification” planning element of the passenger train emergency preparedness program. See 49 CFR Section 239.101 (a) (2).

Railroads need to employ partnership approaches in the development of first alert/response informative signals in order to determine the appropriate actions to take in passenger emergency situations. Prudent railroad actions suggest: providing for reporting of all passenger emergency situations; awareness of passenger distress signals in terms of observation and action determinations; and progress in the crafting of information training. More so than ever before, passengers look to railroads to

provide for their complete safety by initiating safeguarding practices and policies that include passenger emergency situations. A missed opportunity occurs when passenger railroads fail to fully provide for the needs of their customers.

Response: In passenger train emergency situations, as a minimum, it is important that railroads provide a debriefing report about emergency situations and actions taken, thereby enabling a subsequent review by railroad staffs and FRA. This report should be done consistent with the requirements set forth in 49 CFR Section 239.105 (c). When done in this manner, this action fulfills the debriefing and critique requirement of the regulations in the requisite situations. Further, the follow-through review of these situations enhances the opportunities for making continued improvements in passenger train emergency preparedness.

However, in more critical emergencies, the debriefing and critique requirement can only be fully satisfied by the preparation of a debriefing and critique report that the railroad prepares after all the necessary parties participate in an appropriate follow-up critique session to review actions taken after this serious emergency or full-scale simulation. Railroads need to know these crucial details in order to ensure the promotion of continued improvement in the planning process.

Suggested Debriefing Reports:

Example A.

In response to a request from his supervisor for a debriefing report about an emergency situation that took place on Train 234 West the week before, a conductor writes (in a report dated October 12, 1998) that:

At about 1:00 p.m. on October 5, 1998, Mr. Smith, a passenger on Train 234 West, informed an adjacent passenger that he believed he was showing signs of a heart attack. This incident occurred near milepost 13. The adjacent passenger then contacted me to convey this information about a possible medical emergency. I asked Mr. Smith if he wanted me to announce his plight to the engineer and then request assistance from a medically-trained passenger (if one was on board) or arrange for him to be removed from the train for treatment. He informed me that his doctor had prescribed medication for such circumstances, and asked if I would get one from his pocket and administer it to him. I responded to his request. After he took the medication, he appeared to become relaxed. I offered to have an emergency response team meet the train to take him to the hospital, but he declined the offer.

NOTE: FRA noted in the final rule that the intended purpose of a debriefing and critique session is to review with railroad personnel the reports of evaluators, to present comments or observations from other persons, and to assess the need for any remedial action, either to correct deficiencies or to generally improve the effectiveness of the emergency operations and procedures. However, FRA primarily expects a railroad to conduct a **formal** evaluation process as part of the debriefing and critique session only when the emergency situation or full-scale simulation is sufficiently unique in character or of educational value to the

railroad, so as to warrant the energy and time commitment. Accordingly, since in Example A the nature of the passenger's illness and the emergency response by the conductor is fairly routine in nature, FRA would not expect an elaborate session. Since the conductor routinely prepares a written synopsis for his supervisor of the passenger's medical event [and provided that the requirements of 49 CFR Section 239.105(d) are fully met], an in-person meeting or debriefing and critique session would merely be duplicative of the conductor's report. Moreover, because the nature of the passenger's emergency was rather routine, it is doubtful that an elaborate session would provide any better insight for the railroad on how to improve or amend its emergency preparedness plan than does the short report.

Example B.

In response to a request from his supervisor for a debriefing report about an emergency situation that took place on Train 234 West the week before, a conductor writes (in a report dated October 12, 1998) that:

At about 1:00 p.m. on October 5, 1998, Mr. Smith, a passenger on Train 234 West, appeared to be sleeping while I was collecting tickets. However, after nudging him, it became clear to me that he had lost consciousness. I immediately initiated an emergency call to the engineer and then searched for an on-board physician, nurse, or medically-trained person to assist in Mr. Smith's treatment and evaluation. Fortunately, both a physician and nurse responded. Cardio-pulmonary resuscitation treatment was administered and the passenger quickly responded. The physician recommended that the passenger be taken off the train and sent to the nearest hospital for observation. The train dispatcher (who had been contacted by the engineer at approximately 1:03 p.m.) made a call for an emergency response team to meet the train at the next station. Five minutes later, an emergency response team met the train as requested, removed the passenger, was given information about the medical situation, and proceeded to take the passenger to the hospital.

NOTE: In Example B, since Mr. Smith's loss of consciousness constituted an unexpected event relating to the operation of passenger train service, and involved a significant threat to his health that required immediate action, his medical crisis constituted an "emergency situation" for purposes of 49 CFR Section 239.105(a). See 49 CFR Section 239.7. Moreover, Mr. Smith's illness did not fall under one of the exceptions to the debriefing and critique session requirement set forth at 49 CFR Section 239.105(b). Accordingly, the railroad must conduct a debriefing and critique session, which in this particular scenario, was accomplished by means of the conductor's report to his supervisor. The issue of whether or not the hospital actually chose to admit Mr. Smith as a patient is irrelevant.

The question has arisen as to whether or not a debriefing and critique session is required if a passenger is injured or becomes ill while on a train, is removed by emergency responders and taken to a hospital, but is treated and released in the emergency room.

Apparently, most railroads only arrange for emergency assistance for an injured or ill passenger, but do not later contact the hospital to determine whether the person's illness or injury required admission to the hospital. In accordance with 49 CFR Section 239.105, the question of whether an individual was treated in the emergency room or in fact admitted as a patient is only relevant when a crewmember or passenger is transported to a hospital after a collision between passenger railroad rolling stock and a pedestrian, trespasser, or a motor vehicle or other highway conveyance at a highway-rail grade crossing. If the transportation to a hospital occurs for any other reason, regardless of whether the crewmember or railroad passenger is treated and released in the emergency room, then a debriefing and critique session must be conducted. However, the need for emergency room information becomes irrelevant.

If an individual is sent to the hospital in accordance with the exception to the debriefing and critique requirement set forth in 49 CFR Section 239.105(b), and the railroad cannot determine whether or not admission to the hospital occurred, there are two available options. The first option is to assume that a hospital admission occurred and to conduct a debriefing and critique session regardless of whether it would be actually required under the regulations. The second option is to make a good faith determination at the time that the passenger is removed from the train as to whether hospitalization was likely and to either perform or omit the debriefing and critique session based upon the information that was available at that time. Accordingly, if at the time of removal from a train an injured passenger appeared to need only stitches, but in fact was later hospitalized for internal injuries, a railroad would not be in violation of 49 CFR Section 239.105 for failing to conduct a debriefing and critique session. However, if based upon the nature of a passenger's injuries after the highway-rail grade crossing, e.g., the passenger suffers a severed limb, FRA would expect the railroad to conduct a debriefing and critique session even if it had not verified the passenger's admission to a hospital.

Issue 2: In the case of joint operations, which railroad has the responsibility to conduct the debriefing and critique session required under the provisions of 49 CFR Section 239.105?

Discussion: There are two distinct issues raised by this question. In the case of an **intercity passenger train**, where it is operated over the territory of a host railroad(s), the host railroad(s) involved in the joint operations participates in the development of the emergency preparedness plan. Presumably, in the portion of the emergency preparedness plan developed by the **intercity passenger railroad** to satisfy the requirements of 49 CFR Section 239.101(a)(3) concerning joint operations, the items of responsibility will be clearly stated. As noted in that subsection, all of the railroads involved in hosting, providing, or operating a passenger train service operation can provide for an assignment of responsibility for compliance among those railroads, but the assigning railroad shall not be relieved of compliance responsibility. Accordingly,

in the case of intercity passenger operations, the **intercity passenger railroad** has the ultimate responsibility to conduct the debriefing and critique session.

In the case of a **commuter railroad**, where one or two contract operators are involved (and perhaps a host railroad as well), again it becomes necessary for each entity to participate in the development of the one emergency preparedness plan submitted by the **commuter railroad**.

In this way, whether in joint operations or supported through a contract operator scenario, all of the participants become responsible partners, and their roles and responsibilities need to be designated. However, ultimate responsibility for compliance rests with the **commuter railroad**. When appropriate, FRA will intervene to assist any entity that is having difficulty crafting a joint emergency preparedness plan, and help facilitate a solution.

Response: Simply put, each passenger railroad required to submit an emergency preparedness plan is expected to work with the other railroads involved in a joint operation to address matters of responsibility in connection with responsibility for conducting/preparing a debriefing and critique.

Issue 3: Since the regulation requires that all doors which the railroad intends to be used for emergency egress be clearly marked (and it logically follows that they likewise have to function as intended), then locking of an emergency door exit would be viewed as a violation of the regulation. See 49 CFR Section 239.107(a)(1).

Discussion: Several passenger railroads have a practice of locking the interior car end doors on the front and rear cars of trains for several important safety reasons. First, to prevent access to the control compartment of MU equipment and cab cars on push-pull equipment. Second, to prevent passengers from inadvertently walking out the end door onto the track structure, particularly when the train is in motion. A third reason is for security purposes, so that fugitives cannot escape out the end doors, thereby eluding police and further endangering the safe operation of trains.

Response: FRA agrees with the above safety rationale, and interior car end doors may continue to be locked, provided that appropriate signage indicates that the particular door will not be available for emergency egress if it is the first or last car of the train. For example, "Emergency Exit Except When at End of Train." In addition, other interior car end doors may be locked to restrict access to another part of the train, such as other cars which are not needed for a particular trip, provided that they do not restrict egress out of a car that is occupied.