Final
RAILROAD SAFETY ADVISORY COMMITTEE (RSAC)

Minutes of Meeting
September 27, 2012
Washington, D.C.

The forty-seventh meeting of the Railroad Safety Advisory Committee (Committee) was convened at 9:30 a.m., in the Board Room of the National Housing Center of the National Association of Home Builders, 1201 15th Street, N.W., Washington, D.C. 20005, by the RSAC Chairperson, the Federal Railroad Administration's (FRA) Deputy Associate Administrator for Regulatory and Legislative Operations, Robert C. Lauby.

As RSAC members, or their alternates, assembled, attendance was recorded by sign-in log. Sign-in logs for each Committee meeting are part of the permanent RSAC Docket. The records, reports, transcripts, minutes, and other documents that are made available to, or prepared for or by, the Committee are available for public inspection at the U. S. Department of Transportation docket management system Internet Web Site under FRA Docket #2000-7257 (http://www.regulations.gov). Meeting documents are also available on FRA's RSAC Internet Web Site (http://rsac.fra.dot.gov).

For the September 27, 2012, meeting, thirteen of the fifty-six voting RSAC members were absent: The American Association of Private Railroad Car Owners (1 seat); The American Association of State Highway and Transportation Officials (1 seat), The American Petroleum Institute (1 seat), The American Short Line and Regional Railroad Association (1 of 3 seats absent), The Association of State Rail Safety Managers (1 seat), The Brotherhood of Locomotive Engineers and Trainmen (1 of 3 seats absent); The Brotherhood of Maintenance of Way Employes Division (BMWED) (1 of 2 seats absent); The International Association of Machinists and Aerospace Workers (1 seat), The International Brotherhood of Electrical Workers (1 seat), Safe Travel America (1 seat), The Transport Workers Union of America (2 seats), and The Transportation Security Administration (1 seat). Four of seven non-voting/advisory RSAC members were absent: The Federal Transit Administration; The Labor Council for Latin American Advancement, The League of Railway Industry Women, and Secretaria de Communicationes y Transporte (Mexico). Total meeting attendance, including presenters and support staff, was approximately 95.

Chairperson Lauby welcomes RSAC (the Committee) Members and attendees. He asks Larry Woolverton (FRA–Office of Safety) for a meeting room safety briefing.

Larry Woolverton (FRA) identifies the meeting room's fire and emergency exits. He asks for volunteers with cardiopulmonary resuscitation (CPR) qualification to identify

themselves. A large number of attendees acknowledge having completed this training. He says the National Association of Home Builders building has an automated external defibrillator (AED), located outside the rest rooms in the building's atrium lobby.

Chairperson Lauby announces the sudden death of Keneth "Ken" Hebert on Sunday, September 23, 2012, at age 52, resulting from complications of surgery. He says Ken Hebert was a corporate process improvement engineer with Amtrak and had provided valuable expertise to FRA. He says Ken Hebert will be missed.

Chairperson Lauby asks for meeting attendees to identify themselves and the organizations they represent.

Chairperson Lauby asks FRA Administrator Joseph C. Szabo for opening remarks.

Administrator Szabo welcomes meeting attendees. He thanks RSAC members for taking time out from busy schedules to attend today's meeting. He acknowledges the winning process that RSAC uses to provide FRA with advice and recommendations. He says the RSAC process is rooted in collaboration, analysis, and just plain hard work. He says the RSAC process can serve FRA and the railroad community into the future as well as it has in the past.

Administrator Szabo says building upon the railroad industry's strong record for continuous safety improvements is no easy task. And yet, he adds, due in great part to RSAC's strong record of success, America's railroads have never been safer.

Administrator Szabo says the progress we've witnessed is remarkable. But, he says, we need to stay focused on maintaining that progress – on continually reaching higher levels of railroad safety. He says that means taking a hard look at pressing the railroad safety issues facing us today and aggressively moving forward with initiatives like Risk Reduction Programs and System Safety Programs. He says these are initiatives that will fortify the railroad industry – and prepare the industry for the growing role it will play in moving both people and goods.

Administrator Szabo says no economy will ever grow faster than its transportation network can carry it. He adds, today, our network is struggling under the weight of demand – with roughly 50 percent of urban highways engulfed by gridlock; with air travelers enduring more than 100 million hours of delays per year; and with a rising cost of network congestion closing in on $130 billion a year.

Administrator Szabo says by 2050, America will be home to more than 100 million more people – a population increase that will require our freight network to haul an additional four billion tons of freight per year. Meanwhile, he says, rail transportation can be most cost-effective, least oil-reliant, and most environmentally-friendly mode of transportation.

He says that reality is at the core of FRA's new mission statement, which he wants to share with RSAC members as follows:

> ***To enable the safe, reliable, and efficient movement of people and goods for a strong America, now and in the future.***

Administrator Szabo says rail's inevitable need to grow is also central to the formation of the U.S. Department of Transportation's (DOT) Freight Policy Council, which is responsible for implementing the recent transportation bill's call for a National Freight Strategic Plan. He says the DOT Freight Policy Council will take a multimodal approach to strengthening America's freight network. He says even though the transportation bill lacked a "rail" title, the DOT Freight Council brings rail firmly back into the conversation – recognizing it as a vital part of a balanced, multimodal transportation network.

Administrator Szabo says no transportation network can thrive unless it is safe. He says safety must remain the foundation of everything we do. He says earlier this month FRA announced a Notice of Proposed Rulemaking (NPRM) that would require commuter, intercity, and emerging high-speed passenger rail operations to develop and implement System Safety Programs (SSPs) to ensure the safety of their operations, i.e., 77 *Federal Register* (FR) 55372, dated September 7, 2012, Federal Railroad Administration, 49 *Code of Federal Regulations* (CFR) Part 270, System Safety Program [Docket No. FRA-2011-0060, Notice No. 1] RIN 2130-AC31.

Administrator Szabo says next up, the full RSAC can expect a Notice of Proposed Rulemaking that would require freight railroads to establish Risk Reduction Programs (RRPs). He says FRA believes that SSPs and RRPs will drive the future of railroad safety. He says these programs present a tremendous opportunity for the industry to take proactive measures to prevent accidents and incidents; to undertake an honest yet non-punitive assessment of human factors; and overall, to leave no stone unturned.

Administrator Szabo says FRA knows that every operating environment is unique, and that every railroad possesses extensive knowledge of its system. He says by harnessing that knowledge, FRA's traditional enforcement model can be supplemented with more performance-based measures that encourage the railroads themselves to identify and address potential safety gaps. He says this is a critical step forward in promoting continuous improvements in safety. He says at the same time, stakeholder feedback and comments are vital for SSPs and RRPs to be successful.

Administrator Szabo says the Rail Safety Improvement Act of 2008 mandates that both System Safety Programs and Risk Reduction Programs incorporate Fatigue Management Plans. He says this is an area in which we must make meaningful improvements. He says maintaining the status quo will not be sufficient in meeting the obligations of the Act. He says the full RSAC will hear a working group update on Fatigue Management Plans later this afternoon.

Administration Szabo says we also need to remain vigilant in our efforts to combat Electronic Device Distraction (EDD), a subject you'll be updated on after this morning's break. He says the message against EDD is simple:

ONE TEXT OR CALL COULD WRECK IT ALL.

Administrator Szabo says working together, we must foster a culture in the railroad industry that reinforces the need to eradicate the risk caused by using electronic devices in the workplace. He says this applies to everyone working in the railroad environment – whether it's in the cab, in a yard or shop, on the wayside, or in the control room. He says it applies equally to managers and supervisors in every craft.

Administrator Szabo says at today's meeting, the full RSAC will also hear a presentation on a track structure issue–rail headwear–and be asked vote on a proposed task statement. He says rail headwear has been addressed in the past – most notably, as a fundamental driver of internal rail defects. However, he adds, recent accidents dictate that we need to take another look at rail headwear to better understand if excessively worn rail head increases risks to unacceptable levels. He says addressing rail headwear is particularly important today, as a record level of federal rail investments present new opportunities to upgrade our freight rail infrastructure, and to move forward with projects that will deliver high-speed and higher-performing intercity passenger rail.

Administrator Szabo says today, with the support of 34 states, 154 rail-development projects are underway, creating a higher-performing passenger rail system. He says FRA has taken steps to make sure that – when we say high-performance – we are referring as much to effectiveness, reliability, and accessibility as we are to speed.

Administrator Szabo says in July 2012, at the UIC World Congress on High-Speed Rail – the first to be held in the United States – FRA signed a Memorandum of Understanding with the European Railway Agency (ERA) to share knowledge of, and experience related to, high-speed and freight rail safety practices and technology. He says the full RSAC will hear more about that today from ERA representatives Richard Lockett and Pio Guido.

[Union Internationale des Chemins de fer, or International Union of Railways, is an international rail transport industry body].

Administrator Szabo says thanks to a collaborative effort among the FRA, states, Amtrak, and host freight railroads, we have successfully negotiated on-time performance standards for passenger rail services.

Administrator Szabo says as America's rail network continues to grow and evolve, so must our efforts to continually strengthen railroad safety – day by day, month by month,

year by year. He again thanks RSAC members for attending today's meeting and for their personal commitment to railroad safety.

Chairperson Lauby asks Jo Strang, FRA–Associate Administrator for Safety, Chief Safety Officer for opening remarks.

Jo Strang (FRA) welcomes RSAC members. She introduces Bonnie Murphy as the new FRA, Office of Safety's Deputy Associate Administrator for Safety Compliance and Program Implementation.

Chairperson Lauby introduces new RSAC members, Brad Black and George Payne, representing the Railway Passenger Car Alliance. Chairperson Lauby says the Charter for the Railroad Safety Advisory Committee has been renewed for an additional two years, effective May 17, 2012. [See 77 *Federal Register* (FR) 28421, dated May 14, 2012, Federal Railroad Administration [Docket No. FRA-2000-7257: Notice No. 70] Railroad Safety Advisory Committee; Charter Renewal.] He says as part of the renewal process a new RSAC Member has been added, i.e., The Railroad Passenger Car Alliance (RPCA). He says RPCA was founded in 1982, as a resource to owners and operators of privately owned railroad passenger equipment for promoting the preservation and operation of historic railroad equipment, addressing the issues facing equipment owners, and working with the nation's railroads and Amtrak to facilitate the operation and movement of member's passenger cars.

Chairperson Lauby introduces European Railway Agency (ERA) representatives Richard Lockett and Pio Guido, who will be making a presentation at today's meeting.

Chairperson Lauby asks Ron Hynes (FRA, Office of Safety, Director Office of Safety Compliance and Assurance) for a report on Critical Incident Working Group activities.

Ron Hynes (FRA) uses a series of Microsoft PowerPoint Presentation slides, projected onto a screen for "Critical Incident Working Group Update to the 47th Railroad Safety Advisory Committee Meeting." Photocopies of the Microsoft PowerPoint Presentation were distributed to meeting attendees. All meeting handouts will be entered into the RSAC Docket and FRA's RSAC Internet Web Site and are not excerpted in their entirety in the RSAC Minutes.

Under slide 2, Mr. Hynes says RSAC Task No.: 09-02, Critical Incident Programs has the following Purpose: "To provide advice regarding development of implementing regulations for Critical Incident Stress Plans as required by the Rail Safety Improvement Act of 2008.

[Note: RSAC Task No.: 09-02 was accepted by the full RSAC on September 10, 2009, and revised on May 20, 2011.]

Under slides 3-4, Mr. Hynes lists the following status for each item description under RSAC Task No.: 09-02: (1) Define "critical incident"–complete; (2) Review data, literature, and standards of practice concerning critical incident programs to determine appropriate action to be offered when a railroad employee is involved in a critical incident–complete; (3) Review any evaluation studies available for existing railroad critical incident programs– complete; (4) Describe program elements appropriate in the rail environment–complete; and (5) Assist in the preparation of a Notice of Proposed Rulemaking (NPRM)– complete.

Under slide 5, Mr. Hynes says the following: (1) This task was accepted by the RSAC in September, 2009, and was initially assigned to the Medical Standards Working Group; and (1) A Critical Incident Working Group (CIWG) was established and the original task statement was amended to reassign the task to this newly established CIWG in April 2011.

Under slides 6-8, "WG Activities and Progress," Mr. Hynes says the following: (1) The first CIWG meeting was held on June 24, 2011, allowing time for delivery of a "Draft FRA Grant Report" that was anticipated to contain essential background information directly relevant to the task including a review of existing definitions, literature, practices, and a recommended critical incident definition and program elements;
(2) Subsequent meetings were held on September 8-9, 2011, October 11-12, 2011, and December 13, 2011; (3) A smaller committee was formed to address the issues and offer alternate regulatory text; and (4) Draft rule text was submitted and reviewed; and (5) Consensus has been reached on a definition for "Critical Incident" and a draft regulation/NPRM text was prepared and approved by the CIWG members by electronic ballot on August 20, 2012.

Ron Hynes (FRA) asks for questions.

Chairperson Lauby says draft rule text that will be used in a Notice of Proposed Rulemaking (NPRM) requiring (a) Class I railroads, including the National Railroad Passenger Corporation (Amtrak); (b) Intercity passenger railroads; and (c) Commuter railroads to submit a Critical Incident Plan to FRA for approval was circulated to the Critical Incident Working Group members for approval by electronic ballot. He requests an explanation for two points of departure from the draft rule text.

[Note: A Meeting Document, "Draft Text for Critical Incident Working Group Vote: 8-1-2012," was distributed to meeting attendees. All meeting handouts will be entered into the RSAC Docket and FRA's RSAC Internet Web Site and are not excerpted in their entirety in the RSAC meeting Minutes.]

Rick Inclima (Brotherhood of Maintenance of Way Employes Division (BMWED) cites proposed language on Page 2 of the "Draft Text for Critical Incident Working Group Vote: 8-1-2012, i.e., 49 *Code of Federal Regulations* (CFR) § XXX.5(c) Coverage of a

critical incident plan, i.e., “(c) Railroad employees who maintain the right-of-way or structures; and...” He requests that existing language from 49 CFR § 209.303(b)(1) be added to Part XXX.5(c) such that Part XXX.5(c) reads as follows: “(c) Railroad employees who **inspect, install, repair, or** maintain the right-of-way or structures; and ...”
[Note: 49 CFR § 209.303(b)(1) reads as follows: “(b)(1) Inspect, install, repair, or maintain track or roadbed.”]

Rick Inclima (BMWED) cites proposed language for the NPRM on Critical Incident Plans, 49 CFR § XXX.5(d) Coverage of a critical incident plan, i.e., “(c) Railroad employees who inspect, repair, or maintain locomotives, passenger cars, or freight cars.” He says this language also comes directly from and is nearly identical to 49 CFR § 209.303(b)(2), i.e., “(b)(2) Inspect, repair, or maintain locomotives, passenger cars, and freight cars.”

Rick Inclima (BMWED) requests unanimous consent to insert the words, “...inspect, install, repair, or...” into proposed language for Part XXX.5(c), i.e., “(c) Railroad employees who **inspect, install, repair, or** maintain the right-of-way or structures; and ...”

Chairperson Lauby asks for a discussion.

Bob Vanderclute (Association of American Railroads (AAR)) requests that management have a chance to consider this request in caucus, before FRA requests the full RSAC to approve the draft NPRM language for Critical Incident Plans. In addition, he adds, the proposed NPRM could be released by FRA and then interested parties could comment on this topic during the NPRM comment period.

Rick Inclima (BMWED) says he believes the requested language change will conform the proposed NPRM to existing CFR language and current CFR definitions.

Chairperson Lauby says he does not view this request as a major issue, as the language cited is already in the CFR. He asks the railroad industry to caucus during a break in the meeting and then the requested vote on the draft NPRM for Critical Incident Plans could be pushed-back until later in the meeting.

Bob Vanderclute (AAR) cites another issue on Page 4 of the “Draft Text for Critical Incident Working Group Vote: 8-1-2012, i.e., 49 CFR § XXX.9(b)(1) Submission of critical incident plan for approval by the Federal Railroad Administration. He says management requests the removal of the phrase, “...and general chairperson...” from § XXX.9(b)(1) as follows: “(b)(1) Simultaneously with its filing with FRA, serve either by hard copy or electronically, a copy of the submission filed pursuant to paragraph (a) of this section or a material modification filed pursuant to paragraph (e) of this section on the international/national president [**and general chairperson**] of any non-profit

employee labor organization representing a class or craft of the railroad's employees subject to this part;..."

James Stem (Sheet Metal, Air, Rail, and Transportation Workers (SMART)/United Transportation Union) says he has served on the Critical Incident Working Group (CIWG). He says the CIWG reached unanimous consensus on the language that included the phrase, "...and general chairperson..." He says Michael (Mike) Rush (AAR) was the industry representative agreeing to this language. He says the deletion of the phrase "...and general chairperson..." amounts to eliminating 12 electronic mail (email) addresses. He requests that the NPRM language for Critical Incident Plans to which the CIWG agreed remain in the rule text.

Michael (Mike) Rush (AAR) says the industry caucus wants to limit the distribution of a railroad's Critical Incident Plan to the international/national president of any non-profit employee labor organization representing a class or craft of the railroad's employees subject to this part. He says there is too much risk of carrier non-compliance with this rule if a single general chairman is accidently omitted from the distribution list. He says he too, was present at CIWG meetings in which this language was discussed and, he says, the management caucus support during the discussion for language in Part XXX.9(b)(1) was depended on the elimination of the phrase, "...and general chairperson..." He says the industry vote by electronic ballot on the Critical Incident Plans NPRM reflects that its approval of the entire critical incident proposal is conditioned on a favorable outcome of industry's request to remove the phrase "**and general chairperson**" from the proposed rule text. He says he recommends that FRA designate language for Part XXX.9(b)(1) as a non-consensus item and move on to other items on the meeting agenda.

Chairperson Lauby says FRA will table the discussion and vote on the NPRM language for Critical Incident Plans for now. He says FRA will ask the full RSAC to reconsider approving NPRM language for Critical Incident Plans later in today's meeting.

Chairperson Lauby asks for additions and corrections to the Minutes for the 46th meeting of Railroad Safety Advisory Committee, held on April 26, 2012. He says FRA has received corrections from Kelly Haley (Brotherhood of Railroad Signalmen).

Ross Capon (National Association of Railroad Passengers) says he has corrections but will transmit them to John F. Sneed (FRA–meeting event recorder) by electronic mail.

Chairperson Lauby asks for a motion to accept the Minutes for the 46th meeting of Railroad Safety Advisory Committee, held on April 26, 2012, as corrected.

Bob VanderClute (AAR) motions to accept the Minutes for the 46th meeting of the Railroad Safety Advisory Committee, held on April 26, 2012, as corrected.

Carl Tingle (Transportation Communications International Union/Brotherhood of Railway Carmen (TCIU/BRC)) seconds the motion.

> BY VOICE VOTE, THE FULL RSAC ACCEPTS THE MINUTES FOR THE 46TH MEETING OF THE RAILROAD SAFETY ADVISORY COMMITTEE, HELD ON APRIL 26, 2012, AS CORRECTED.

Chairperson Lauby asks Carlo Patrick (FRA–Office of Safety) for a presentation on a request to establish a new RSAC Working Group to examine rail failure issues.

Carlo Patrick (FRA) uses a series of Microsoft PowerPoint Presentation slides, projected onto a screen for "Railroad Safety Advisory Committee Meeting Rail Wear." Photocopies of the Microsoft PowerPoint Presentation were distributed to meeting attendees. All meeting handouts will be entered into the RSAC Docket and FRA's RSAC Internet Web Site and are not excerpted in their entirety in the RSAC Minutes.

Under slides 2-3, Mr. Patrick displays photographs and lists two recent examples of train accidents suspected of having rail headwear issues as a contributing factor to the train derailments: (1) On July 11, 2012, a freight train derailed and two cars of ethanol breeched, resulting in a fire and evacuation of residents and businesses within a one mile radius of the accident location; and (2) On August 21, 2012, a loaded coal train derailed and eight cars overturned releasing their contents and fatally injured two people.

Under slide 4, "Preliminary Investigation Results [of the July and August train accidents], Mr. Patrick lists the following: (1) The July derailment rail showed a 9/16-inch vertical head loss; (2) The August derailment rail showed a 9/16-inch gage side curve wear; (3) Both rail segments involved in the July and August train accidents had significant gage corner rolling contact fatigue (RCF); (4) Both rail segments involved in the July and August train accidents failed as a result of detail fracture defect development; and (5) Both the July and August train accidents are being investigated by the National Transportation Safety Board.

Under slide 5, "FRA Initiative RSAC Rail Failure Working Group Task No.: 12-01," Mr. Patrick reads the "Purpose" of proposed RSAC Task No.: 12-01 Rail Failure Working Group as follows: "To consider specific improvements to the Track Safety Standards (TSS) or other responsive actions designed to monitor rail life and reduce the adverse risks of rail head wear.

Under slide 6, "Description: Review and Understand," Mr. Patrick reads the "Description" items under proposed RSAC Task No.: 12-01 as follows: (1) Railroad engineering instructions concerning rail performance management; (2) The factors that influence rail life; (3) The impact of train dynamics on rail; (4) The effects of head wear

on rail strength and structure integrity; and (5) The effects of rolling contact fatigue on rail and how it can impact rail defect development.

Under slides 7-11, “Issues Requiring Specific Report,” Mr. Patrick reads the “Issues requiring specific report” and action items under proposed RSAC Task No.: 12-01 as follows: (1) Determine whether current industry rail head wear management systems are adequate or should be standardized: (a) Review current industry rail wear maintenance processes (grinding, lubrication); (b) Review how rail replacement programs are determined (age of steel, wear, accumulated tonnage); (2) Identify an approach to establish the state of understanding of issues related to rail performance utilizing known experts in the field of rail research. Determine methods to improve the effectiveness and efficiency of rail performance management and rail life extension, and provide recommendations as necessary: (a) Discuss rail wear measurement data and how the data is utilized in rail management (rail life prediction, allowable wear limits); and (b) Identify future FRA research initiatives (technology); (3) Specifically, determine whether, and if so how, rail life and performance management can be improved to reduce the rate of worn-rail failures and related derailments: (a) Determine effectiveness of current processes and best practice (industry rail maintenance programs); (4) Determine whether new approaches to rail head wear limits should be developed and/or formally standardized: (a) Review industry standards for wear limits (class of track, American Railway Engineering and Maintenance-of-Way Association (AREMA); and (5) Evaluate whether methods for non-destructive rail inspections can be improved in terms of inspection effectiveness and efficiency: (a) Review current industry rail inspection technologies (ultrasonics, induction); and (b) Identify and discuss evolving technologies and future development (guided waves, electromagnetic acoustic transducer (EMAT)).

Carlo Patrick (FRA) asks for questions.

Gerhard Thelen (AAR) cites slide 4 in the FRA Presentation, “Railroad Safety Advisory Committee Meeting Rail Wear.” He says the rail gage side cure wear for the August 21, 2012, train derailment was less than 9/16-inch.

Carlo Patrick (FRA) says slide 4 was based on preliminary information of this accident.

Chairperson Lauby asks RSAC members to look at RSAC Task No.: 12-01 Rail Failure Working Group. He asks for a motion to accept RSAC Task No.: 12-01 Rail Failure Working Group, as presented.

John Babler (SMART) motions to accept RSAC Task No.: 12-01 Rail Failure Working Group, as presented.

Richard Johnson (Transportation Communications International Union/Brotherhood of Railway Carmen (TCIU/BRC) seconds the motion.

BY VOICE VOTE, THE FULL RSAC ACCEPTS RSAC TASK NO.: 12-01, RAIL FAILURE WORKING GROUP, AS PRESENTED.

Chairperson Lauby thanks the full RSAC for accepting RSAC Task No.: 12-01, Rail Failure Working Group, as presented. He requests that organizations wishing to participate on the Rail Failure Working Group submit nominations for the working group to Larry Woolverton (FRA–Office of Safety).

Chairperson Lauby announces the morning break.

M O R N I N G B R E A K 10:25 A.M. - 11:45 A.M.

Chairperson Lauby reconvenes the meeting. He introduces Fred Motley (FRA–Office of Safety) as FRA's new high-speed rail specialist for projects such as the California High-Speed Rail Project and Express West. He says Fred Motley comes to FRA from the John A. Volpe National Transportation Systems Center.

Chairperson Lauby asks Miriam Kloeppel (FRA, Office of Safety) for a report on Electronic Device Distraction Working Group activities.

Miriam Kloeppel (FRA) uses a series of Microsoft PowerPoint Presentation slides, projected onto a screen for "Electronic Device Distraction Working Group Update to the 47th Railroad Safety Advisory Committee Meeting." Photocopies of the Microsoft PowerPoint Presentation were distributed to meeting attendees. All meeting handouts will be entered into the RSAC Docket and FRA's RSAC Internet Web Site and are not excerpted in their entirety in the RSAC Minutes.

Under slide 2, "Background," Ms. Kloeppel says RSAC Task No.: 11-01, Preventing Railroad Employee Distractions Caused by Personal Electronic Devices, was accepted by the full RSAC on May 20, 2011. She says the purpose of RSAC Task No.: 11-01 is to prescribe mitigation strategies, programs and processes for governing the use of personal electronic devices which could cause distractions to railroad employees engaged in safety critical activities.

Under slide 3, "Wrap-up," Ms. Kloeppel lists the following activities that are underway as a result of recommendations by the Critical Incident Working Group: (1) Public Service Announcement (PSA) by FRA Administrator Szabo: (a) Draft video script of PSA shared with the Critical Incident Working Group on August 14, 2012; and (b) FRA Administrator Szabo is moving forward with recording the PSA; (2) Evaluation including survey: (a) FRA planning focus groups; and (b) FRA developing survey instrument for review by the U.S. Office of Management and Budget; and (3) Peer-to-peer Coaching Programs–FRA awarded grant to the Railway Research Foundation to work on a peer-to-peer coaching program.

Miriam Kloeppel (FRA) asks for questions.

[Note: The following video script for FRA Administrator Szabo was distributed to meeting attendees. In addition, all meeting handouts will be entered into the RSAC Docket and FRA's RSAC Internet Web Site.

"Hi. I'm Joe Szabo, Administrator of the Federal Railroad Administration–and a fifth-generation railroader who has spent nearly 20 years as a conductor on freight and passenger trains.
During those years, I learned how important it is to never lose focus on the job.

In just one second, you can miss a signal, not see an approaching train, or fail to hear a vital radio transmission.

Just one text or call...could wreck it all.

A momentary distraction can very easily cost you your life!

These days, practically everyone owns and regularly uses personal electronic devices like smart phones, MP3 players, and tablets.

And now, there's growing evidence of their use throughout the workplace.

But as personal electronic devices become a bigger part of our lives, that means you will face even more potential opportunities to become distracted by them on the job.

And when railroaders are distracted, people can die. It doesn't matter if you work in a locomotive cab, on the ground in a yard, shop; along the right of way; or at a dispatch desk.

Remember, for example, how a few years ago 26 people died at Chatsworth, California, as a result of an accident involving a distracted engineer.

And even though new rules and regulations have come into play since then, it is clear that distraction still puts everyone at risk on the railroad.

More recently, a track supervisor on a Class I railroad dies because he was sending a text–and injuries and fatalities like this continue to happen time after time.

So, I'm asking all railroads in all crafts to join us in eliminating the unnecessary and improper use of electronic devices on the job.

It doesn't matter where you work–whether it's in the cab, in the yard or shop, on the wayside, or in the control room...

Just one text or call...could wreck it all.

Because no matter how well trained, qualified, or experienced you are, ***anyone*** can fall victim to distraction–and all of you play crucial roles in keeping our railroads safe.

With your full support, we can fully ingrain safe behaviors into our railroad culture.

So power down and put away your personal electronic devices before you go to work–and remind your co-workers to do the same.

Railroad operating rules and Federal regulations require you to do so–as does common sense.

Remember, ***Just one text or call...could wreck it all.***"]

Jo Strang (FRA) says originally, an October 9, 2012, date had been scheduled for the roll-out of the Electronic Device Distraction Public Service Announcement (PSA) by FRA Administrator Jo Szabo. However, she says that date has been postponed until the roll-out of the PSA can include attendance by the U.S. Secretary of Transportation Ray LaHood.

Chairperson Lauby asks European Railway Agency (ERA) representatives Richard Lockett and Pio Guido to share knowledge of, and experience related to, high-speed and freight rail safety practices and technology.

Richard Lockett (ERA) and Pio Guido (ERA) use a series of Microsoft PowerPoint Presentation slides, projected onto a screen for "Managing a Shared Railway System to Deliver Safety and Interoperability–The European Experience." Photocopies of the Microsoft PowerPoint Presentation were distributed to meeting attendees. All meeting handouts will be entered into the RSAC Docket and FRA's RSAC Internet Web Site and are not excerpted in their entirety in the RSAC Minutes.

Under slide 2, "Contents," Mr. Lockett lists the topics that will be covered by today's presentation as follows: (1) History; (2) European Standardization; (3) The Agency; (4) ERTMS [European Rail Traffic Management System]; and (5) Key lessons.

Under slide 3, "Rail–Success and Standardization," Mr. Lockett says expansion and interconnection of rail systems demand more precise standards for track gauge. He cites the following different competing engineering solutions for track gauge: (1) Brunel [Isambard Kingdom Brunel an engineer for the Great Western Railway Company (a

British railway company)] = 7-feet; (2) Whistler [George Washington Whistler while working for the development of the Moscow to St. Pertersburg Line] = 5-feet; and (3) Stephenson [George Stephenson, an engineer for the Liverpool and Manchester Railway] = 4-feet 8½-inches

[NOTE: Standard gauge at 4-feet 8½-inches is used on approximately 60 percent of the world's railway systems.]

Under slide 4, "Early Government Intervention," Mr. Lockett says kings, presidents and parliaments have taken a keen interest in technical rules for railway companies as indicated by the following: (1) 1846 United Kingdom Railway Regulation Act; (2) 1862 U.S. Railway Pacific Act; (3) 1845 Spain (6 Castilian feet); and (4) 1878 Italy.

Under slide 5, "But Not Everywhere," Mr. Lockett quotes Mark Twain, who visited Australia in 1895 and observed the unnecessary expense, delay and annoyance that was imposed on everybody concerned and benefitted no one from the country have double gauge track.

Under slide 7, "National Railways in Europe," Mr. Locket says the following: (1) International agreements among rail companies guaranteed interoperability, but limited to coaches and wagons: (a) 1882 Bern: International Conference on the technical unity of the railways; (b) CIM, CIV; (c) 1922 UIC [Union Internationale des Chemins de fer–International Union of Railways]; and (d) RIV and RIC; and (2) After World War II, national configurations with big integrated railways: monopoly situation, self-regulated at technical level; national technical "rivalry" developed, leading to (a) Different electrification voltages; (b) French TGV [Train à Grande Vitesse, meaning high-speed train] is articulated and German ICE [Intercity Express] is not articulated; and (c) German ICE has distributed power and French TGV has 2X power cars.

Under slide 8, "European Rail Regulation," Mr. Locket says the Commission's first White Paper on the future development of the common transport policy was published in December 1992. He says of revitalization of rail transport, the objective is market opening for operation and supply as follows: (1) Separation of infrastructure/train operating companies; (2) Mechanisms for capacity allocation; and (3) Competition in freight and later in passenger service. He says there needs to be a European-wide interoperable standard system. He says there is a European Union Directive on interoperability (1996 high-speed; 2001 conventional).

Under slides 9-11, Mr. Lockett outlines the impediments to achieving interoperability on railways in Europe as follows: (1) Five types of electrification systems; (2) 21 signaling systems; (3) Five track gauges; (4) Five classes of axles load; (5) Six line gauges; and (6) National operational rules.

Under slides 13-14, “European Hierarchy,” and “The Triangle of Transparency (From Monarchy to Democracy),” Mr. Lockett shows illustrations to show that there is a great deal of transparency in standardization decisions in the European community.

Under slide 15, “What to Standardize,” Mr. Lockett lists the following: (1) At shared interfaces–everything necessary to meet the essential requirements, i.e., safety, health, availability, reliability, environmental protection, and especially technical compatibility (there is a need to intervene, otherwise technical compatibility does not happen); and (2) Elsewhere (a) That which is necessary to ensure mutual recognition of vehicle authorization and safety management systems; and (b) Where market opening for common components adds value.

Under slide 16, “What Not to Standardize,” Mr. Lockett says for everything else, beware: (1) Too much standardization, e.g., couplings, design technical solutions, inhibits innovation and market entry; and (2) Interchangeability of vehicles and components: (a) is not necessary for interoperability; and (b) can often be achieved voluntarily.

Under slide 18, “The European Railway Agency - ERA,” Mr. Lockett states that ERA is (1) an Agency of the European Union; (2) Based in Valenciennes/Lille - France; (3) Has a staff of 150; and (4) Has the following Tasks: (a) Drafting Technical Specifications for Interoperability (TSIs); (b) Drafting Common Safety Methods; (c) Collecting and publishing national rules and their equivalence; (d) Registers; (e) Reports and Opinions of Railway Technical and Safety Issues; and (f) Training and Dissemination of legal framework and standards.

Under slide 19, “ERA - Working Method,” Mr. Lockett says ERA is “The place where all the actors meet.” He says there are 50 working parties involving approximately 1500 experts representing (1) National Safety Authorities; (2) UNIFE [Union des Industries Ferroviaires Européennes – the Association of the European Rail Industry] (manufacturers - car builders); (3) CER [Community of European Railway and Infrastructure Companies] (train operators and infrastructure managers); (4) EIM (independent infrastructure managers); (5) EPPTOLA (leasing companies); (6) UITP [L’Union Internationale des Transports Publics] (public transport association - metros, etc.); (7) Wagon Lessors; (8) Combined Transport Association; and (9) Unions.

Under slide 20, “Process for TSIs [Technical Specifications for Interoperability] and CSMs [Common Safety Method],” Mr. Lockett shows a flow chart depicting how a mandate from the European Commission is processed to become a European Union law.

Richard Lockett (ERA) asks Pio Guido (ERA) to continue the European Rail Traffic Management System (ERTMS) portion of ERA’s Microsoft PowerPoint Presentation for

“Managing a Shared Railway System to Deliver Safety and Interoperability–The European Experience.”

Under slide 22, “Design Before Standardization,” Mr. Guido describes the following challenges for signaling: (1) Not just to inventory and take stock of the existing systems, but rather to specify a new system, design it, test it and make it standard for every network; (2) Designed to deliver interoperability including performance, i.e., every network will support the operations of a “standard” vehicle without any checks; (3) Maximum speed up to 500 km/h; and (4) Detailed specification to enable competitive open supply market.

Under slide 23, “A Large Industrial Program,” Mr. Guido outlines the following: (1) 1996 pilot projects in France, Germany and Italy; (2) 1998 technical specifications responsibility to consortium of suppliers –UNISIG: Alstom, Ansaldo, Bombardier, Invensys, Siemens, and Thales; (3) April 2000, Madrid–European Commission endorsement of the ETCS [European Train Control System] specifications; and (4) April 2006–ERA takes role as “system authority,” but is it 20 years too late.

Under slide 24, “ERTMS–European Determination,” Mr. Guido says ERTMS is a major European industrial project, started and supported by the European Commission: (1) EU Political support–nomination of the European Coordinator for ERTMS; (2) EU Financial support: (a) Hundred million euros for initial development; (b) 500 million euros reserved in 2007-13; and (c) Up to 50 percent; rolling stock costs eligible; and (3) EU Legal Framework: (1) High-speed railway system–mandatory in case of new construction, renewal or upgrade; and (2) Conventional railway system–route specific obligations in the European Deployment Plan.

Under slide 25, “ERTMS Deployment in Europe,” Mr. Guido shows a bar chart depicting the unevenness of ERTMS track deployment in Europe by kilometers of track by country.

Under slides 26-27, “ERTMS Success (1),” and “ERTMS Success (2),” Mr. Guido describes the following ERTMS operations: (1) Spain–High-Speed Network: (a) 600 miles in service at 186 mph; and (b) Open market–interoperability between five onboard suppliers and five track side suppliers; (2) Switzerland: (a) High density mixed traffic railway 140 mph; (b) More reliable than line side signals; and (c) Two onboard suppliers, three track side suppliers; (3) Italy–High-Speed: (a) 500 miles level 2, no signals, 186 mph; (b) Two onboard, two track side suppliers; and (c) Two train operators in competition; and (4) Belgium/Netherlands–first cross border operation.

Under slide 28, “Success Still to be Realized,” Mr. Guido says there is interoperability between projects: (1) Between all countries; and (2) Within some countries.

Under slide 29, “The Global Picture,” Mr. Guido shows a pie charts depicting ERTMS track side contracts in percentage of total kilometers of track by the following regions: Europe, Latin America, Oceania/Australia, Asia, and Africa and Middle East.

Under slide 30, “ERTMS–Challenges,” Mr. Guido says ERTMS is not a product; ERTMS is not a solution–ERTMS is a process. He says ERTMS is the decision to embrace a single European approach to design, install and maintain the signaling system in order to open the market and deliver safety and interoperability. He says ERTMS is less power, less autonomy for individual infrastructure managers and Train Operators.

Under slide 31, “ERTMS Context,” Mr. Guido describes ERTMS as of today as follows: (1) Unified technology–parameter-ized for different signaling principles; (2) Standardized functions–employed in different operational contexts; and (3) Defined safety requirements for subsystem–part of overall safety assessment.

Under slide 32, “Change Control Management,” Mr. Guido says Change Control is not day-to-day technical routine. He says enabling technology allows exploitation of new business opportunities, operational improvements and better efficiency. He says evolution must not become a constraint or a barrier, but interoperability investments must be protected.

Under slide 34, “Challenges and Opportunities,” Mr. Guido says ETCS Level 2: shifts the balance from trackside to onboard, e.g., no signals, less cabling along tracks. He says there is LCC [life-cycle cost] savings for the infrastructure managers. However, he adds, with more software onboard, the LCC must be managed proactively by train operators.

Under slide 35, “Challenges and Opportunities,” Mr. Guido says the following: (1) Historically all ATP/ATC Systems have been developed, installed and optimized by integrated railways for their own interests; (2) Separation of roles and accounting between infrastructure Managers and Train Operators; (3) ERTMS generates substantial net benefits for the whole railway system, but how to apportion to cost/benefit between infrastructure manager and train operator is a challenge; (5) Need to ensure full technical compatibility between different network installations in different projects–central government role; and (6) There is the need for stable transparent deployment planning, to allow coordination of migration strategies and investments between projects;

Under slide 36, “Reality of Business Case for Train Operators,” Mr. Guido says (1) In some cases the operators face the prospect of having to fund the costs of installing a new onboard train protection system (ERTMS) without actually being able to remove existing systems and thus meeting also higher operating costs and reduced competitiveness; (2) Depending on the migration strategy (replacement or overlay) there may be no immediate savings on infrastructure CCS costs to be passed back to

operators as reduced access charges; and (3) Therefore, to “kick start” the roll out, the European Commission co-funds onboard ERTMS fitment of applicants.

Under slide 37, “Remaining Issues,” Mr. Guido lists the following: (1) Component specifications and interfaces are based on cost/benefit; (2) Defined acceptance steps; (3) Engineering best practices; (4) Harmonization of operating rules; (5) Level 3 (no trackside train detection); and (6) Traffic management layer.

Under slide 38, “Key Lessons,” Mr. Guido says the following: (1) The “Twain effect” must be prevented by central intervention: (a) Defining the system; (b) Enforcing compliant installation; and (c) Managing evolution; (2) Better to do this before the projects are implemented–not 20 years after; and (3) At shared interfaces (vehicle-network) Standards must be exhaustive and mandatory.

Pio Guido (ERA) asks for questions.

Gerhard Thelen (AAR) asks, “What does it cost for a Level 2 ERTMS”

Pio Guido (ERA) asks, “Do you mean the cost of development?”
Gerhard Thelen (AAR) replies, “Yes.”

Pio Guido (ERA) says he does not know the costs of development for ERTMS. He says the ERA has published specifications which have attracted suppliers who are interested in developing systems.

With no further questions of Richard Lockett (ERA) or Pio Guido (ERA), Chairperson Lauby announces the lunch break and meeting caucuses.

L U N C H B R E A K A N D M E E T I N G C A U C U S E S
11:30 A.M. - 12:50 P.M.

Chairperson Lauby (FRA) reconvenes the meeting. He says this afternoon, the full RSAC will hear updates on activities of the Engineering Task Force, the General Passenger Safety Task Force, the Risk Reduction Working Group, the Fatigue Management Plans Working Group and updates on other FRA Regulatory Issues.

Chairperson Lauby says during the morning session, Rick Inclima (BMWED) asks for a change in draft rule text for Critical Incident Plans to conform the rule text with language used elsewhere in FRA’s rules. He says he believes this request is non-controversial. In addition, Chairperson Lauby says the railroad industry caucus would like the phrase, “...and general chairperson...” removed from the draft Critical Incident Plans rule text and the labor caucus would like this language to remain. He says he does not believe there will be consensus on this issue today. He asks for a discussion on this issue.

Mike Rush (AAR) requests that “brackets” be placed around the phrase **[and general chairperson]**. He says management’s approval of the entire critical incident proposal is conditioned on a favorable outcome of industry’s request to remove the phrase “**and general chairperson**” from the proposed rule text. He says the management caucus has no problem with Rick Inclima’s request to clarify language on Page 2 of the draft rule text.

Kelley Haley (Brotherhood of Railroad Signalmen (BRS)) says labor believes the phrase “...and general chairman...” should remain. He says railroads already have the email addresses for general chairmen and this requirement should not be a burden to railroad management.

Vince Verna (Brotherhood of Locomotive Engineers and Trainmen (BLET)) says he believes the Critical Incident Working Group already approved the language as presented.

Chairperson Lauby says this is not a Critical Incident Working Group vote. He says this is a vote before the full Railroad Safety Advisory Committee.
Mike Rush (AAR) reiterates that at the Critical Incident Working Group level, management’s support for moving the draft NPRM language forward was conditioned on the removal of the phrase “...and general chairperson...”

Chairperson Lauby says there is a point of disagreement on this issue.

Vince Verna (BLET) requests a labor caucus.

Chairperson Lauby asks, “How much time do you need.”

Vince Verna (BLET) responds, “About 5 minutes.”

Lawrence Mann (SMART) asks, “If there is an opposition to language at the full RSAC level, what happens.”

Chairperson Lauby says for the NPRM, FRA will provide a discussion on the particular point of departure, in this case, removal or retention of the phrase “...and general chairperson...” He says FRA will request that respondents to the NPRM address this topic. He says FRA will then attempt to resolve this issue based on comments received before the Final Rule is issued.

Chairperson Lauby announces a labor caucus.

L A B O R C A U C U S 1:00 P.M. - 1:20 P.M.

Chairperson Lauby (FRA) reconvenes the meeting. He asks for a report on labor caucus activities.

Vince Verna (BLET) says the labor caucus accepts the request to place brackets around the phrase [...and general chairperson...] and have FRA seek additional comments on this issue after issuing the NPRM. However, he adds, there were two different ballots on the draft language for Critical Incident Plans there were mailed back to FRA. He says the labor caucus understood its responsibility to either mark the electronic ballot "Yes," or "No," with regards to accepting the draft language for Critical Incident Plans, as presented. He says there has always been an understanding in RSAC Working Groups that when draft language is forwarded to FRA's Office of Chief Counsel, the final product must pass FRA's Office of Chief Counsel's scrutiny and could (usually, will,) change. However, he adds, he believes the proper course of action for a party that disagrees with the Office of Chief Counsel version of the Working Group language, is to vote "No" on the electronic ballot and then have FRA refer the topic back to the Working Group for resolution. He says in the current case of the draft NPRM language for Critical Incident Plans, one of the parties voted "Yes," if the phrase "...and general chairperson..." is removed, otherwise the vote is "No." He explains that one reason why labor requests that general chairpersons by notified by electronic mail at the same time that international/national presidents of labor unions are notified, is that many international/national presidents of labor unions do not have email addresses and will receive a copy of the Critical Incident Plan by hard copy. He says this makes the timely distribution of the Critical Incident Plan to general chairpersons difficult.

Chairperson Lauby says a problem with an electronic ballot that has comments is that the comments are not being communicated back to the all members of the Working Group. He says it is FRA's fault that the full RSAC is having this discussion at all. He says FRA will put the disclaimer of non-consensus and a discussion of this topic into the NPRM and move the NPRM forward to publication in the *Federal Register*.

Ken Briers (National Association of Railroad Passengers (NARP)) asks, "Were the electronic ballots sent to the AAR members modified by the AAR members."

Chairperson Lauby says the electronic ballots from AAR members were submitted with an exception.

Mike Rush (AAR) says what was in the package when the draft language left the Critical Incident Working Group and went the FRA's Office of Chief Counsel is not the language that was in the electronic ballot.

Vince Verna (BLET) asks, "What does RSAC do when two separate electronic ballots are returned–one with exceptions and one with a straight "yes" or "no." He says he thought the electronic ballot was static.

Mike Rush (AAR) says we were all voting on the same language. He says the AAR said its support for any of the rule was dependent of the language "...and general chairperson..." coming out. He requests that the RSAC meeting leave this topic and continue with the rest of the meeting agenda.

Vince Verna (BLET) says the AAR has their position and it is different from labor's position. He says the opportunity for comment should not come during the electronic ballot. He says the opportunity for comment should come as a comment to the NPRM during the comment period. He says there should not be conditional electronic ballots.

Ken Briers (NARP) says if a party does not agree with the language, the response on the electronic ballot should be "No."

Chairperson Lauby says FRA will take this issue off the table. He says FRA will issue this rule as an NPRM of the agency. He says FRA has benefitted from the knowledge and expertise of RSAC members and consultants participating in the Critical Incident Working Group efforts.

Larry Mann (SMART) suggests that FRA should not allow any addenda to electronic ballots.
Chairperson Lauby says he will take that comment to heart.

Chairperson Lauby asks Devin Rouse (FRA–Office of Safety) for a report on Engineering Task Force activities.

Devin Rouse (FRA) uses a series of Microsoft PowerPoint Presentation slides, projected onto a screen for "Engineering Task Force Update to the 47th Railroad Safety Advisory Committee Meeting." Photocopies of the Microsoft PowerPoint Presentation were distributed to meeting attendees. All meeting handouts will be entered into the RSAC Docket and FRA's RSAC Internet Web Site and are not excerpted in their entirety in the RSAC Minutes.

Under slide 2, "Outline," Mr. Rouse lists the topics that will be covered: (1) Background; (2) Timeline of previous tasks; (3) Vision and current objectives; (4) Update on current tasks (1st NPRM); (5) Task Group Updates; (6) Meeting schedule; and (7) Long term plans (2nd NPRM).

Under slide 3, "Background," Mr. Rouse says the following: (1) The Engineering Task Force (ETF) was established by the Passenger Safety Working Group (PSWG) on August 12, 2009–to develop technical criteria and procedures for the crashworthiness of alternatively-designed Tier I equipment; and (2) The ETF was re-tasked by the PSWG on July 28, 2010, to: (a) Address any type of equipment; and (b) Address any safety features of the equipment.

Under slide 4, “ETF Timeline,” Mr. Rouse shows a diagram depicting the timeline containing key ETF milestones, culminating in the release of the first of what may be three Notice of Proposed Rulemakings (NPRMs) in 2013.

Under slide 5, “Vision and Current Objectives,” Mr. Rouse says the vision of the ETF is to create an interoperable, three Tier passenger equipment regulatory environment consisting of the following: (1) Tier I–conventional and alternative crashworthiness passenger vehicles for speeds up to 125 miles per hour (mph); (2) Tier II–160 mph maximum authorized speed on existing right-of-way, i.e., the Northeast Corridor; and (3) Tier III–interoperable with all tiers of passenger rail equipment up to 125 mph, and maximum authorized speed on dedicated right-of-way up to 220 mph.

Under slide 6, “Vision and Current Objectives,” Mr. Rouse says the current objectives of the ETF are to (1) Publish the first NPRM in July 2013 for: (a) Tier I alternative crashworthiness equipment; and (b) Tier III equipment consensus items, to date; (2) Develop companion document describing the “process” for demonstrating compliance; (3) Continue to address outstanding high speed (Tier III) issues; and (4) Define scope and develop consensus on issues for 2nd planned NPRM.

Under slide 7, “ETF Implementation Plan,” Mr. Rouse says the following topics will be included: (1) For NPRM 1: (a) Incorporate alternative crashworthiness standards for Tier I; (b) Define Tier III crashworthiness standards; (c) Align Tier II maximum allowable speed with new Vehicle Track Interaction (VTI) Rule (160 mph); and (d) Codify remaining previous Tier III consensus items; and (2) For NPRM 2: (a) Tier III Braking Systems; (b) Tier III VTI; (c) Adopt crashworthiness and occupant protection alternatives for Tier II; (d) Address Emergency Preparedness requirements for Tier III operations (49 CFR Part 239); and (e) Adopt inspection, testing, maintenance and monitoring requirements for all equipment tiers and operations.

Under slide 8, “Status of Current Tasks,” Mr. Rouse says the following: (1) The first NPRM is under development: (a) Draft regulatory language is being finalized; and (b) A Regulatory Impact Analysis (RIA) is in development; (2) Three Task Groups have been formed to evaluate issues in more detail; and (3) Consensus discussions for a second NPRM have begun.

Under slide 9, “Task Group Updates,” Mr. Rouse describes the activities of three Task Groups that were established by the Engineering Task Force to examine and report back on the following topics: (1) Tier III equipment brake systems: (a) Consensus reached on 8 of 9 recommendations; and (b) Working with labor to address outstanding issues; (2) Vehicle Track Interaction (VTI)–developing an analysis to compare track standards worldwide, to determine the need for regulatory boundaries; and

(3) Engineering, Structures and Integrity: (a) Removed “procedure” language from ETF draft rule text; and (b) Developing a complementary document to clarify and standardize how compliance is demonstrated.

Under slides 10-11, “ETF Schedule,” Mr. Rouse lists the following ETF meetings: (1) Meeting #1–October 20-21, 2010, in Cambridge, Massachusetts: discussion of scenarios, structural crashworthiness, occupant protection, and glazing; (2) Meeting #2–January 11-12, 2011, in Orlando, Florida: consensus on scope of scenarios, structural crashworthiness, occupant protection, and glazing; (3) Meeting #3–February 14-15, 2011, in Washington, DC: consensus on some structural crashworthiness requirements; (4) Meeting #4–March 30-31, 2011, in Washington, DC: consensus on most structural crashworthiness requirements; (5) Meeting #5–June 16-17, 2011, in Cambridge, Massachusetts: consensus on most crashworthiness, occupant protection, and glazing requirements; (6) Meeting #6–October 607, 2011, in New Orleans: consensus on crashworthiness, occupant protection, glazing, fire safety and emergency preparedness requirements, formed VTI Task Group and Brakes Task Group; (7) Meeting #7–June 27-28, 2012, in Manhattan Beach, California: consensus on most Tier III brake system requirements, outlined regulatory “plan;” (8) Meeting #8–September 25-26, 2012, in Washington, DC: reviewed changes to draft regulatory language, presented draft regulatory impact analysis; and (9) Meeting #9–tentative: December 4-6, 2012, in Washington, DC.

Under slide 12, “Next Phase (long term),” Mr. Rouse outlines the following: (1) Refine alternative crashworthiness requirements for “single car” application; (2) Investigate the need to address emergency preparedness issues specific to Tier III equipment; (3) Adopt crashworthiness and occupant protection alternatives for Tier II equipment; and (4) Investigate the possibility of expanding the inspection, testing and maintenance (ITM) approach to all Tiers.

Devin Rouse (FRA) asks for questions.

Louis Cerny (AAR) asks if there is pressure on FRA from carbody manufacturers to change existing requirements for track safety standards.

Devin Rouse (FRA) replies, “No.” He says there may be limitations on where equipment will be permitted to go, rather than to change existing track safety standards.

Rick Inclima (BMWED) says he has participated in several Vehicle Track Interaction working groups/task forces. He says he says he has received calls from the Volpe National Transportation Systems Center on running high-speed equipment on United States’ track structure. However, he adds, he says he does not see any maintenance-of-way labor employees participating in the ETF VTI Task Group. He asks, “Do we need BMWED expertise on the VTI Task Group.”

Chairperson Lauby says the VTI Task Group is not looking at VTI track issues per se. He says the issue being examined by the VTI Task Group is a low-speed derailment phenomenon caused by a very stiff truck attachment for high-speed equipment currently in use. He says high-speed rail equipment such as France's TGV or Japan's Shinkansen are like Ferrari automobiles, i.e., they are designed for high speed. He says this equipment may derail at low speeds. He says the ETF is trying to determine from carbuilders what the limits of their equipment are for operating on the type of track that enters existing train stations. He says FRA is not trying to change its Track Safety Standards. He says FRA is trying to determine what the limits of the equipment are. He says once the limits are known, potential service, such as the California High-Speed Rail Project can specify in contracts how the track structure needs to be maintained in order to safely operate this equipment. He says there is labor representation on the full Engineering Task Force.

Rick Inclima (BMWED) says he understands now that FRA is not looking to change any Track Safety Standards.

Chairperson Lauby says FRA is just trying to determine at what speed the high-speed rail can operate on mixed traffic corridors.

Chairperson Lauby asks Daniel Knote (FRA–Office of Safety) for an update on General Passenger Safety (GPS) Task Force activities.

Daniel Knote (FRA) uses a series of Microsoft PowerPoint Presentation slides, projected onto a screen for "System Safety Rule Making Update to the 47th Railroad Safety Advisory Committee Meeting." Photocopies of the Microsoft PowerPoint Presentation were distributed to meeting attendees. All meeting handouts will be entered into the RSAC Docket and FRA's RSAC Internet Web Site and are not excerpted in their entirety in the RSAC Minutes.

Under slide 2, "System Safety Rule Making," Mr. Knote says the following: (1) The full RSAC unanimously approved draft System Safety Program rule text by electronic ballot on May 22, 2012; (2) The NPRM was published in the *Federal Register* (FR) on September 7, 2012 (77 FR 55372, FRA 49 CFR Part 270 System Safety Program [Docket No. FRA-2011-0060, Notice No. 1] RIN 2130-AC31); (3) Written comments related to Docket No. FRA-2011-0060 may be submitted online at www.regulations.gov; (4) Follow the Website's online instructions for submitting comments; (5) Comments must be received by November 6, 2012; and (7) The Target date for the Final Rule is the first quarter of 2013.

Daniel Knote (FRA) asks for questions.

Chairperson Lauby asks Miriam Kloeppel (FRA–Office of Safety) for an update on Risk Reduction Working Group activities.

Miriam Kloeppel (FRA) uses a series of Microsoft PowerPoint Presentation slides, projected onto a screen for "Risk Reduction Program Working Group Update to the 47th Railroad Safety Advisory Committee Meeting." Photocopies of the Microsoft PowerPoint Presentation were distributed to meeting attendees. All meeting handouts will be entered into the RSAC Docket and FRA's RSAC Internet Web Site and are not excerpted in their entirety in the RSAC Minutes.

Under slide 2, "Background," Ms. Kloeppel says the full RSAC accepted RSAC Task No.: 11-04 Risk Reduction Program on December 8, 2011. She says the Purpose of RSAC Task No.: 11-04 is to develop requirements for certain railroads to develop a Risk Reduction Program as mandated by the Rail Safety Improvement Act (RSIA) of 2008.

Under slide 3, "Timeframe Allotted," Ms. Kloeppel says statutory deadline for the Final Rule on Risk Reduction Programs is October 2012. She says there has been an extension with the Risk Reduction Programs NPRM being issued in August 2012.

Under slide 4, "First Meeting Highlights," Ms. Kloeppel outlines the following highlights of the first RR WG meeting: (1) Reviewed task statement; (2) Reviewed comments from the Advanced Notice of Proposed Rulemaking (ANPRM); (3) Reviewed required elements as outlined in the RSIA of 2008; (4) Reviewed current programs consistent with Risk Reduction Program (both labor and management perspectives); and (5) Developed initial framework on how the RR WG should proceed.

Under slide 5, "Second Meeting Highlights," Ms. Kloeppel outlines the following highlights of the second RR WG meeting, which was held April 10-11, 2012 in Washington, DC: (1) Reviewed the revised framework on how the RR WG should proceed; (2) Initiated the discussion of the "scope" of the rule to which railroads must comply; (3) Held extensive discussions on the protection of data/information used in Risk Reduction Plans, per Section 109 of the RSIA of 2008; and (4) Held extensive discussions on required consultations with affected employees on Risk Reduction Plans under Section 103(g) of the RSIA of 2008.

Under slide 6, "Third Meeting Highlights," Ms. Kloeppel outlines the following discussion items from the third RR WG meeting which was held May 16-17, 2012, in Washington, DC: (1) Scope of rule (definition of inadequate safety performance); (2) Scope of communication/outreach; (3) Protection of data/information (Section 109 of RSIA of 2008); (4) Consultation with affected employees (Section 103(g) of RSIA of 2008); and (5) Timelines.

Under slide 7, "Fourth Meeting Highlights," Ms. Kloeppel outlines the following discussion items from the fourth RR WG meeting which was held June 13, 2012, in Washington, DC: (1) Definition of "inadequate safety performance;" (2) Compliance duration/cycle for railroads with inadequate safety records; (3) Protection of

date/information (Section 109 of RSIA of 2008); and (4) Consultation with affected employees (Section 103(g) of RSIA of 2008).

Under slide 8, “GoToMeetings™ and Webinars,” Ms. Kloeppel lists the following: (1) Working Group GoToMeetings™ for general discussions were held on: (a) February 13, 2012; and (b) May 29, 2012; and (2) Working Group Webinars to discuss the definition of inadequate safety performance were held on: (a) May 29, 2012; (b) June 1, 2012; (c) June 25, 2012; and (d) July 18, 2012.

[Note: Draft language for Appendix B to Part 271–Determination of Railroads with Inadequate Safety Performance, was distributed to Meeting Attendees and will be entered into the RSAC Docket and FRA’s RSAC Internet Web Site.]

Under slide 9, “Items requiring specific report,” Ms. Kloeppel lists the following issue requiring specific report from RSAC Task No.: 11-04 and its resolution: Determine the required elements of an acceptable Risk Reduction Program: A Risk Reduction Plan (RRP) must include the following: (1) Risk-based Hazard Management Program; (2) Safety Evaluation Program; (3) Safety Outreach Program; (4) Technology Implementation Program; and (5) Fatigue Management Program.

Under slide 10, “Items requiring specific report,” Ms. Kloeppel lists the following issue requiring specific report from RSAC Task No.: 11-04 and its resolution: Determine minimum requirements for Risk Reduction Program Plan: (1) RRP policy statement; (2) RRP purpose and scope statement; (3) RRP goals statement; (4) Description of the railroad’s system; (5) Description of the process the railroad will use to consult with directly affected employees on amendments to the RRP plan; (6) RRP Implementation Plan; (7) Statement describing the railroad’s risk-based hazard analysis process; risk-based hazard management process; and risk-based hazard management program implementation plan; (8) Statement describing the railroad’s safety evaluation process; (9) Statement describing the railroad’s safety outreach; (10) Technology Implementation Plan and the results of the technology analysis; and (11) Fatigue Management Plan.

Under slide 11, “Items requiring specific report,” Ms. Kloeppel lists the following issue requiring specific report from RSAC Task No.: 11-04 and its resolution: Determine the approach to risk-based hazard analysis, (i.e. hazard identification, risk analysis and assessment, and risk mitigation.): (1) Examine accident/incident and other data–identify hazards; (2) Assess risk associated with identified hazards; (3) Prioritize risks for elimination or control; (4) Design and implement risk controls; (5) Track mitigations through to resolution; and (6) Report to leadership on status of program.

Under slide 12, “Items requiring specific report,” Ms. Kloeppel lists the following issue requiring specific report from RSAC Task No.: 11-04 and its resolution: Establish time frames of program submission, FRA review, railroad re-submission, etc.: (1) Railroad

submits initial plan 1 year after effective date of the rule; (2) FRA reviews within 180 days; (3) If there are deficiencies, railroad has 30 days to revise and resubmit; (4) Railroad submits amendments not later than 60 days before proposed effective date of amendment; (5) If FRA has not responded within 45 days, railroad may implement amendment subject to FRA decision; and (6) If amendment is not approved by FRA, railroad has 30 days to correct deficiencies in plan amendment.

Under slide 13, "Items requiring specific report," Ms. Kloeppel lists the following issue requiring specific report from RSAC Task No.: 11-04 and its resolution: Select criteria to identify railroads that have an inadequate safety performance: (1) Phase I–quantitative analysis: (a) Fatalities; (b) FRA-reportable injury/illness rate; (c) FRA-reportable accident/incident rate; and (d) FRA violation rate; and (2) Phase II–qualitative analysis, final decision by the FRA Associate Administrator for Safety.

Under slide 14, "Items requiring specific report," Ms. Kloeppel lists the following issue requiring specific report from RSAC Task No.: 11-04 and its resolution: Identify the compliance duration/cycle for railroads with inadequate safety records: (1) Any railroad required to comply with this rule because of inadequate safety performance may after five years following FRA's approval of the program plan petition the FRA for the right to end their compliance with Part 271; and (2) FRA will review.

Under slide 15, "Items requiring specific report," Ms. Kloeppel lists the following issue requiring specific report from RSAC Task No.: 11-04 and its resolution: How should Risk Reduction Program Plans address Technology Implementation Plan: (1) Railroad must conduct technology analysis: (a) Safety impact, feasibility, costs and benefits of current, new, or novel technologies to mitigate risks; and (b) Include processor-based technologies, positive train control systems, electronically-controlled pneumatic brakes, rail integrity inspection systems, rail integrity warning systems, switch position monitors and indicators, trespasser prevention technology, and highway-rail grade crossing warning and protection technology; and (2) Railroad must develop a Technology Implementation Plan.

Under slides 16-17, "Items requiring specific report," Ms. Kloeppel lists the following issue requiring specific report from RSAC Task No.: 11-04 and its resolution: Final determination regarding which risk-based hazard data should be protected from discovery: (a) Any information (including plans, reports, documents, surveys, schedules, lists, or data) compiled or collected solely for the purpose of developing, implementing, or evaluating a Risk Reduction Program under this part, including a railroad carrier's analysis of its safety risks...and its statement of the mitigation measures with which it would address those risks... shall not be subject to discovery, admitted into evidence, or considered for other purposes in a Federal or State court proceeding for damages involving property damage, personal injury, or wrongful death; (b) This section does not affect the discovery, admissibility, or consideration for other purposes of information (including plans, reports, documents, surveys, schedules, lists, or data) compiled or

collected for a purpose other than that specifically identified in paragraph (a) of this section that either (1) existed prior to [insert effective date of the rule]; (2) existed prior to [insert effective date of the rule] and that continues to be compiled or collected; or (3) is compiled or collected [insert effective date of the rule]. Such information shall continue to be discoverable and admissible into evidence if it was discoverable and admissible prior to the existence of this section; and (c) State discovery rules and sunshine laws which could be used to require the disclosure of information protected by paragraph (a) of this section are preempted.

Under slide 18, "Items requiring specific report," Ms. Kloeppel lists the following issue requiring specific report from RSAC Task No.: 11-04 and its resolution: What processes should be in place in the event a Risk Reduction Program Plan is not approved: (1) FRA reviews within 180 days; (2) FRA shall notify affected railroad of the specific points in which the plan is deficient; and (3) Affected railroad shall amend the proposed plan to correct all deficiencies and provide FRA with a corrected copy of the Risk Reduction Program Plan not later than 30 days following receipt of FRA's written notice that the proposed Risk Reduction Program Plan was not approved.

Under slides 19-20, "Items requiring specific report," Ms. Kloeppel lists the following issue requiring specific report from RSAC Task No.: 11-04 and its resolution: What processes will be used to periodically audit Risk Reduction Programs after they have been approved: (1) Railroads conduct annual internal assessment of program: (a) Extent to which program is fully implemented; (b) Extent of compliance with implemented elements of approved plan; and (c) Extent to which goals have been achieved; (2) Railroads submit report to FRA with findings and improvement plans; (3) FRA will conduct periodic audit of a railroad's compliance with its own plan; (4) FRA will provide written notice of audit findings; and (5) Railroad will develop improvement plan for FRA approval.

Under slides 21-22, "Consultation with Labor," Ms. Kloeppel says the following: (1) Each railroad required to establish a risk reduction program under this part shall in good faith consult with and use its best efforts to reach agreement with all of its directly affected employees on the contents of the risk reduction program; (2) For purposes of this part, the term "directly affected employees" includes any non-profit employee labor organization representing a class or craft of directly affected employees of the railroad. A railroad that consults with such a non-profit labor organization is considered to have consulted with the directly affected employees represented by that organization; (3) Railroad must submit a consultation statement with its RRP Plan; (4) Railroad must identify any portion of an RRP that would affect provisions of a Collective Bargaining Agreement; (5) Service list with names, contact information for labor representations consulted; (6) Employees may file statements with FRA if an agreement is not reached; and (7) Railroads must also consult with labor on substantive amendments to RRP Plans.

Under slide 23, “NPRM Status,” Ms. Kloeppel says the following: (1) The RRP Working Group ended with a general understanding and tentative agreement on topics that will be included in an NPRM; (2) Time constraints did not allow a formal vote, or full consensus process; (3) A draft NPRM for RRP Plans has been approved by the FRA Administrator; and (4) The NPRM is currently being reviewed by U.S. Department of Transportation’s Office of the Secretary of Transportation.

Under slide 24, “Next Steps,” Ms. Kloeppel says the following: (1) The RRP Regulation is currently considered a significant rulemaking by the U.S. Office of Management and Budget (OMB); (2) FRA has presented a justification to OMB to revise the RRP Regulation designation to non-significant; and (3) Following publication, FRA will reconvene the RR Working Group after the comment period, to discuss specific comments the agency has received regarding the RRP Regulation.

Miriam Kloeppel (FRA) asks for questions.

Kelly Haley (BRS) cites slide 13–select criteria to identify railroads that have an inadequate safety performance. He asks, “How do railroad employees know they are in Phase I–quantitative analysis, or Phase II–qualitative analysis.”

Miriam Kloeppel (FRA) says railroads will notify employees that they have a right to respond.

Rick Inclima (BMWED) says he did not hear mention of “Appendix A,” i.e., a guidance document on what “good faith” is. He asks if “Appendix A” will find its way into System Safety Plans. He asks about enforcement, i.e., Section 103(h) of the RSIA of 2008.

Miriam Kloeppel (FRA) says Appendix A is still a part of the regulation.

Chairperson Lauby says 103(h) provisions of the RSIA of 2008 are still under discussion within FRA. He says Rick Inclima will have to wait until the release of the NPRM to see how FRA’s Office of Chief Counsel will integrate this provision into the rule text.

Rick Inclima (BMWED) asks if Appendix A is in the System Safety Program Plan NPRM, i.e., 77 FR 55372, published September 7, 2012.

Chairperson Lauby requests Daniel Knote (FRA) to respond.

Daniel Knote (FRA) says Appendix A to Part 270 (System Safety Program Plans) is the schedule of Civil Penalties. He says a placeholder for Appendix A exists in the NPRM, but will be finalized when the Final Rule is published. He says Appendix B to Part 270 is the Federal Railroad Administration Guidance on the System Safety Program Consultation Process and is part of the NPRM.

Larry Mann (SMART) asks about discovery and admissibility. He asks if FRA has prepared a discussion of what is currently admissible and currently discoverable.

Chairperson Lauby says the right people from FRA's Office of Chief Counsel are not present at today's meeting to discuss that topic. He asks if Larry Mann has looked at the System Safety Program Plan NPRM, i.e., 77 FR 55372, published September 7, 2012, which may be constructed similarly to the proposed Risk Reduction Program Plan rule.

Larry Mann (SMART) replies, "I have not."

Chairperson Lauby announces an afternoon break.

A F T E R N O O N B R E A K 2:35 P.M. - 2:45 P.M.

Chairperson Lauby (FRA) reconvenes the meeting. He asks Amanda Emo (FRA–Office of Safety) for an update on Fatigue Management Plans Working Group activities.

Amanda Emo (FRA) uses a series of Microsoft PowerPoint Presentation slides, projected onto a screen for "Fatigue Working Group Update to the 47th Railroad Safety Advisory Committee Meeting." Photocopies of the Microsoft PowerPoint Presentation were distributed to meeting attendees. All meeting handouts will be entered into the RSAC Docket and FRA's RSAC Internet Web Site and are not excerpted in their entirety in the RSAC Minutes.

Under slide 2, "Background," Dr. Emo says the following: (1) The Fatigue Management Plans (FMP) Working Group (WG) was established on December 8, 2011, by the Railroad Safety Advisory Committee's acceptance of RSAC Task No.: 11-03 Fatigue Management Plans; and (2) The purpose of RSAC Task No.: 11-03 is to provide advice regarding development of implementing regulations for Fatigue Management Plans and their deployment under the Rail Safety Improvement Act (RSIA) of 2008.

Under slide 3, "Task Statement Description," Dr. Emo says RSAC Task No.: 11-03 contains the following description: (1) Review the mandates and objectives of the RSIA of 2008 related to the development of Fatigue Management Plans; (2) Determine how medical conditions that affect alertness and fatigue will be incorporated; (3) Review available data on existing alertness strategies; (4) Consider the role of innovative scheduling practices; and (5) Review the existing data on fatigue countermeasures.

Under slide 4, "Task Statement Issues Requiring Specific Report," Dr. Emo says RSAC Task No.: 11-03 lists the following issues requiring specific report: (1) How will compliance program efficacy be evaluated and monitored; (2) How will training and education requirements be determined; (3) What processes should be in place in the

event a Fatigue Management Plan is not approved; and (4) What processes will be used to periodically audit Fatigue Management Plans after they have been approved.

Under slides 5, “Meetings,” Dr. Emo lists dates for the following Fatigue Management Plans Working Group Meetings: (1) March 27, 2012; (2) June 12, 2012; (3) July 10, 2012; and August 28, 2012.

Under slide 6, “June 12, 2012 Meeting Highlights,” Dr. Emo lists the following highlights for the June 12, 2012, Fatigue Management Plans Working Group meeting: (1) Review Canadian approach to fatigue management; (2) Task Force Reports; (3) Approval of the Fatigue Education and Training Task Force scope and deliverables; and (4) Draft Fatigue Risk Management “white paper” is presented to the FMP WG.

Under slide 7, “July 12, 2012 Meeting Highlights,” Dr. Emo lists the following highlights for the July 12, 2012, Fatigue Management Plans Working Group meeting: (1) “Fatigue 101" presentations: (a) Fatigue modeling; (b) Managing fatigue; and (c) Fatigue status on U.S. railroads; and (2) Task Force Reports–FMP WG requests more information from the Scheduling Task Force.

Under slide 8, “August 28, 2012 Meeting Highlights,” Dr. Emo lists the following highlights for the August 28, 2012, Fatigue Management Plans Working Group meeting: (1) Review comments to FRMS [Fatigue Risk Management System] “white paper”–this will be an FRA document, not an RSAC FMP WG document; (2) Task force reports–Scheduling Task Force activities are suspended while the FMP WG works on related issues; and (3) Training and Education Task Force deliverable: Training topics are presented to the FMP WG.

Under slide 9, “Training and Education Task Statement,” Dr. Emo says the Training and Education Task Force will investigate the following: (1) Employee education and training on the physiological and human factors that affect fatigue; (2) Medical and scientific research-based fatigue mitigation strategies; (3) Opportunities for identification, diagnosis, and treatment of any medical condition that may affect alertness or fatigue, including sleep disorders; (4) Methods to minimize accidents and incidents during circadian low periods; and (5) Alertness strategies.

Under slide 10, “Training and Education Task Force Highlights,” Dr. Emo lists the following highlights for the Fatigue Education and Training Task Force:
(1) GoToMeetings™/teleconferences were held 4/3/12, 6/8/12, and 8/9/12; (2) Scope:
(a) Determine resources available; and (b) Dissemination strategies; (3) Deliverables:
guidance documents and tool kits: (a) “Fatigue 101" training (given 7/10/12);
(b) Training topics paper (draft delivered 8/28/12); (c) Summary of existing railroad resources (including dissemination strategies); (d) Summary of existing outside resources (including dissemination strategies); (e) Fatigue mitigation tool kit; and
(4) Focus: safety-related employee education.

Under slide 11, “Scheduling Task Statement,” Dr. Emo says the Scheduling Task Force will investigate the following: (1) Innovative scheduling practices; (2) On-duty call practices; (3) Work an rest cycles; (4) Increased consecutive days off; (5) Other aspects of employee scheduling that would reduce employee fatigue and cumulative sleep loss; (6) The increase of the number of consecutive hours of off-duty rest; and (7) Avoidance of abrupt changes in rest cycles for employees.

Under slide 12, “Scheduling TF Highlights,” Dr. Emo lists the following highlights for the Scheduling Task Force: (1) GoToMeetings™/teleconferences were held 4/30/12, 7/3/12, and 8/9/12; (2) Developed proposed list of deliverables; (3) Developed draft table of contents–presented to FMP WG on 7/10/12 and 8/28/12; and (4) Further Scheduling Task Force activities are suspended while the full FMP WG addresses major issues of concern.

Under slide 13, “Infrastructure and Environment Task Statement,” Dr. Emo says the Infrastructure an Environment Task Force will investigate the following: (1) Effects on employee fatigue of an employee’s short term or sustained response to emergency situations; (2) Opportunities to obtain restful sleep at lodging facilities; and (3) Effects of environmental conditions (e.g., temperature, vibrations, etc.) on employee fatigue.

Under slides 14-15, “Infrastructure and Environment TF Highlights,” Dr. Emo lists the following highlights for the Infrastructure and Environment Concerns Task Force: (1) GoToMeetings™/teleconferences were held 5/3/12, 5/21/12, 6/8/12,and 8/20/12; (2) Effects on employee fatigue of responses to emergency situations: (a) Labor has submitted a proposed set of issues to be addressed by Fatigue Management Plans (Meeting Document IEC-12-05-21-02); and (b) FRA distributed draft revised language on 8/24/12–an “open” item; (3) Conditions associated with lodging facilities selected by carriers for employee rest: (a) Labor submitted a proposal for their desired conditions (Meeting Document IEC-12-05-21-03); (b) FRA clarified that the agency does not intend to regulate commercial lodging facilities; (c) FRA proposed and modified language to be used as guidance for dispute resolution in plans; (d) FRA proposed paring specific items to “critical must haves” agreeable to labor and carriers; (e) BMWED listed “most important” factors (carriers response: “right direction for IEC TF to consider”)–an “open action item;” and (4) The effects of vibration and temperature extremes on fatigue: (a) Three areas of concern expressed: (i) In sleeping facilities (focus on temperature control); (ii) In the operating environment; and (iii) In the working environment; (b) Over 60 scientific research references have been reviewed thus far; (i) Army contacts were not productive; (c) No consistent or predictive science has been found to date to relate the effects of vibration and temperature extremes on fatigue; and (d) Continue to refine and reach consensus.

Under slide 16, “Upcoming Activities,” Dr. Emo lists the following: (1) Infrastructure and Environment Task Force will have a face-to-face meeting on October 30-31, 2012; (2)

The Training and Education Task Force will have a GoToMeeting™/teleconference on October 15, 2012; and (3) The next Fatigue Management Plans Working Group meeting will be November 1-2, 2012, in Washington, DC.

Amanda Emo (FRA) asks for questions.

With no questions of Dr. Emo, Chairperson Lauby says he will give an update on FRA Regulatory Activity. He uses a series of Microsoft PowerPoint Presentation slides, projected onto a screen for "FRA Regulatory Activity Update to the 47th Railroad Safety Advisory Committee Meeting." Photocopies of the Microsoft PowerPoint Presentation were distributed to meeting attendees. All meeting handouts will be entered into the RSAC Docket and FRA's RSAC Internet Web Site and are not excerpted in their entirety in the RSAC Minutes.

Under slide 2, "FRA Regulatory Activity Update," Chairperson Lauby answers the question "What does it mean when a regulatory action is determined to be significant." He says under Executive Order 12866, the Office of Information and Regulatory Affairs, a part of the U.S. Office of Management and Budget, is responsible for determining which agency regulatory actions are "significant" and, in turn, subject to interagency review. Significant regulatory actions are defined in Executive Order 12866 as those that: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive order.

Under slide 3, "Significant Rulemakings," Chairperson Lauby lists the following:
(1) High-Speed Rail Corridor Development and Capital Investment Grants to support intercity passenger rail service–NPRM on schedule for release in April 2013; and
(2) Buy America Program Requirements (HSIPR): (a) Rulemaking has been upgraded to "significant;" and (b) NPRM on schedule for release in February 2013.

Under slide 4, "Significant Rulemakings," Chairperson Lauby lists the following:
(3) Railroad Safety Risk Reduction Programs: (a) Advanced Notice of Proposed Rulemaking (ANPRM) published on December 8, 2010–a requirement of the RSIA;
(b) Target date for NPRM scheduled is December 2012 (an FRA regulatory priority); and (c) Requesting downgrade to non-significant rulemaking; (4) Training Standards for Railroad Employees: (a) NPRM published February 7, 2012 (77 FR 6412);
(b) Comments to NPRM were due to FRA by April 9, 2012; and (c) Target date for Final Rule is March 2013 (an FRA regulatory priority); and (5) Critical Incident Stress Plan–target date for NPRM is February 2013.

Under slide 5, “Significant Rulemakings,” Chairperson Lauby lists the following: (6) Controlled Substance Testing/Maintenance Employees–target date for NPRM is February 2013; (7) Positive Train Control Amendments (Residual Risk Analysis): (a) NPRM published August 24, 2011 (76 FR 52918); and (b) Final Rule published May 14, 2012 (77 FR 25928); and (8) Positive Train Control (Grade Crossing and Signal)–target date for NPRM is October 1, 2012.

Under slide 6, “Significant Rulemakings,” Chairperson Lauby lists the following: (9) Vehicle/Track Interaction, High-Speed, High-Cant: (a) NPRM published May 10, 2010; and (b) Target date for Final Rule is October 2012; (10) Railroad System Safety Program: (a) Downgraded to non-significant August 14, 2012; (b) NPRM published September 7, 2012 (77 FR 55272); and (c) Comments due by November 6, 2012; and (11) Emergency Escape Breathing Apparatus: (a) NPRM published October 5, 2010 (75 FR 61386); and (b) Target date for Final Rule is July 2013.

Under slide 7, “Non-Significant Rulemakings,” Chairperson Lauby lists the following: (1) Drug Panel Post-Accident Toxicological Testing–NPRM target date is late January 2013; (2) Roadway Worker Protection Miscellaneous Revisions–NPRM published on August 20, 2012 (77 FR 50324); and (3) Grade Crossing–Telephone Services (formerly, Emergency Notification Systems): (a) NPRM published March 4, 2011 (76 FR 11992); and (b) Final Rule published June 12, 2012 (77 FR 35164).

Under slide 8, “Non-Significant Rulemakings,” Chairperson Lauby lists the following: (4) Passenger Train Emergency Systems Amendments: (a) NPRM published January 3, 2012 (77 FR 154); and (b) Target date for Final Rule is February 2013; and (5) Locomotive Safety Standards Amendments: (a) NPRM published on January 12, 2011 (76 FR 2200); (b) Final Rule published April 9, 2012 (77 FR 21312); and (c) Final Rule correction notice (docket number error) published April 18, 2012 (77 FR 23159).

Under slide 9, “Non-Significant Rulemakings,” Chairperson Lauby lists the following: (6) Development and Use of Rail Safety Technology in Dark Territory– NPRM target publication date November 2012; (7) National Highway-Rail Crossing Inventory–target for NPRM is late September/Early October 2012; and (8) Passenger Train Door Operation and Door Safety–target date for NPRM is late October/early November 2012.

Under slide 10, “Non-Significant Rulemakings,” Chairperson Lauby lists the following: (9) Track Safety Standards: Rails, Records, Inspection–target date for NPRM is late September/Early October 2012; (10) Revisions to Passenger Train Emergency Preparation: (a) NPRM published June 27, 2012 (77 FR 38248); and (b)Target date for Final Rule is May 2013; and (11) Conductor Certification–Response to Petitions: (a) This rulemaking responded to petitions for reconsideration of the Final Rule published November 9, 2011 (76 FR 69867); and (b) Response to petitions for reconsideration was published on February 8, 2012 (77 FR 6482).

Under slide 11, “Non-Significant Rulemakings,” Chairperson Lauby lists the following: (12) Railroad Workplace Safety; Adjacent-Track On-Track Safety for Roadway Workers–Response to Petitions: (a) This rulemaking will respond to petitions for reconsideration of the final rule published on November 30, 2011 (76 FR 74586); (b) August 31, 2012, Provides notice of delay in response to petitions due to complex issues raised (77 FR 53164); (c) March 8, 2012, Delays effective date and requests comments (77 FR 13978); and (d) Target date for Final Rule is October 2012.

Under slide 12, “FY 2012 Rulemakings,” Chairperson Lauby lists its regulatory activity for FY 2012 as follows: (1) Positive Train Control (PTC) Final Rule–May 14, 2012 (77 FR 28285); (2) Training Standards NPRM–February 7, 2012 (77 FR 6412); (3) Conductor Certification: (a) Final Rule–November 9, 2011 (76 FR 69867); and (b) Final Rule, Response to Petitions for Reconsideration–February 8, 2012 (77 FR 6482); (4) Camp Cars Final Rule–October 31, 2011 (76 FR 67073); (5) Emergency Notification Systems Final Rule–June 12, 2012 (77 FR 35164); (6) Locomotive Safety Standards Final Rule, Correction: (a) April 18, 2012 (77 FR 23159); and (b) Final Rule April 9, 2012 (77 FR 21312).

Under slide 13, “FY 2012 Rulemakings,” Chairperson Lauby lists its regulatory activity for FY 2012 as follows: (7) Passenger Train Emergency Systems II NPRM–January 3, 2012 (77 FR 154); (8) Passenger Train Employees Hours of Service: (a) Statement of Agency Policy and Interpretation–May 1, 2012 (77 FR 25610); (b) Statement of Agency Policy and Interpretation–February 29, 2012 (77 FR 12408); and (c) Response to Petitions for Reconsideration–February 6, 2012 (denied); (9) Post-Accident Drug Testing for Non-Controlled Substances NPRM–May 17, 2012 (77 FR 29307); and (10) Passenger Train Emergency Preparedness NPRM–June 27, 2012 (77 FR 38248).

Under slide 14, “FY 2012 Rulemakings,” Chairperson Lauby lists its regulatory activity for FY 2012 as follows: (11) Roadway Worker Protection, Miscellaneous Amendments NPRM–August 20, 2012 (77 FR 50324); (12) Railroad Workplace Safety–Adjacent Track On-Track Safety for Roadway Workers: (a) Final Rule, Delay of effective date–March 8, 2012 (77 FR 13978); and (b) Final Rule–November 30, 2011 (76 FR 74586); (13) System Safety Programs NPRM–September 7, 2012 (77 FR 55372); and (14) Inflation Adjustment of the Aggravated Maximum Civil Monetary Penalty for Violation of Federal Railroad Safety Laws, Regulations, Orders: (a) Final Rule, Correction–May 7, 2012 (77 FR 26703); and (b) Final Rule–April 24, 2012 (77 FR 24415).

Under slide 15, “FY 2012 Rulemakings,” Chairperson Lauby lists its regulatory activity for FY 2012 as follows: (15) Adjustment of Monetary Threshold for Reporting Rail Equipment Accidents/Incidents for Calendar Year 2012: Final Rule–November 28, 2011 (76 FR 72850); (16) Special Permit Marking Removal: Removal of obsolete special permit markings–January 27, 2012 (77 FR 4271); and (17) Alcohol and Drug Testing:

Determination of Minimum Random Testing Rates for 2012, Notice of Determination– December 27, 2011 (76 FR 80782).

Chairperson Lauby asks for questions.

Rick Inclima (BMWED) asks about the target date for Critical Incident Plans of 2013. He asks, “How does the discussion this morning concerning the phrase “...and general chairperson...” affect the target date.”

Chairperson Lauby says if FRA has consensus from the full RSAC on a proposed NPRM, it is easier to get that NPRM through the required clearances at the Office of the Secretary of Transportation and the U. S. Office of Management and Budget. He says a hurdle occurs to receiving required clearances without RSAC consensus.

Rick Inclima (BMWED) explains that when he received the RSAC electronic ballot voting package for Critical Incident Plans, he recognized that the “notification” issue for “general chairperson” was not resolved. He requests that the full RSAC acknowledge that the rest of the Critical Incident Plans NPRM is non-controversial. He says it is a disservice to not issue this rule with the exception of one issue.

Rick Inclima (BMWED) motions for the full RSAC to accept language for the critical Incident Plans NPRM with the requested correction on Page 2, and the non-consensus language on Page 4 in “brackets,” as discussed.

John Babler (SMART) seconds the motion.

Mike Rush (AAR) says he does not know on what he is being requested to vote. He reiterates that he wants the record to reflect that whatever action is taken on the Critical Incident Plans NPRM, that the management caucus support for the entire critical incident proposal is conditioned on a favorable outcome of industry’s request to remove the phrase “**and general chairperson**” from Page 4 of the proposed rule text.

Rick Inclima (BMWED) says his motion is for the full RSAC to acknowledge that notification of general chairpersons is an unresolved issue and that the full RSAC agrees on the rest of the document. He says if the full RSAC does not do something, FRA will make the decision anyway. He says he wants it pointed out in the NPRM, by brackets and an explanation, that retention or deletion of the phrase, “...and general chairperson...” is not resolved.

Mike Rush (AAR) reiterates that the management caucus support for the entire critical incident proposal is conditioned on a favorable outcome of industry’s request to remove the phrase “**and general chairperson**” from Page 4 of the proposed rule text.

Chairperson Lauby says there is a motion to accept language for the Critical Incident Plans NPRM, as clarified on Page 2, and as conditioned on Page 4, i.e., FRA will "bracket" the phrase, "...and general chairperson..." explain that there is non-consensus on this language and request comments from interested parties on how to resolve this issue. He asks for RSAC approval of the motion.

> BY VOICE VOTE, THE FULL RSAC ACCEPTS LANGUAGE FOR THE CRITICAL INCIDENT PLANS NOTICE OF PROPOSED RULEMAKING, AS CLARIFIED ON PAGE 2, AND AS CONDITIONED ON PAGE 4, I.E., FRA WILL "BRACKET" THE PHRASE, "...AND GENERAL CHAIRPERSON...", EXPLAIN THAT THERE IS NON-CONSENSUS ON THIS LANGUAGE AND REQUEST COMMENTS FROM INTERESTED PARTIES ON HOW TO RESOLVE THIS ISSUE.

Chairperson Lauby asks for suggestions for dates for the next full RSAC meeting.

There is a brief discussion about future meeting dates after which FRA announces that it will arrange the next full RSAC meeting, RSAC 48, on January 17, 2013, in Washington, DC.

Chairperson Lauby asks for new business.

Chairperson Lauby thanks RSAC members for attending today's meeting. He asks for a motion to adjourn the meeting.

John Babler (SMART) motions to adjourn the meeting.

Carl Tingle (TCIU/BRC) seconds the motion.

Chairperson Lauby adjourns the meeting at 3:50 pm.

M E E T I N G A D J O U R N E D 3:50 P.M.

These minutes are not a verbatim transcript of the proceedings. Also, Microsoft PowerPoint overhead view graphs and handout materials distributed during presentations by RSAC Working Group Members, FRA employees, and consultants, generally become part of the official record of these proceedings and are not excerpted in their entirety in the minutes.

Respectively submitted by John F. Sneed, Event Recorder.