

RAILROAD SAFETY ADVISORY COMMITTEE (RSAC)

Minutes of Meeting March 18, 2010 Washington, D.C.

The forty-first meeting of the RSAC was convened at 9:30 a.m., in the Lincoln 5 Room of the Marriott Washington Wardman Park Hotel, 2660 Woodley Road, N.W., Washington, D.C. 20008, by the RSAC Chairperson, the Federal Railroad Administration's (FRA) Deputy Associate Administrator for Safety Standards and Program Development, Grady C. Cothen, Jr.

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 March 18, 2010, meeting, fifteen of the fifty-four voting RSAC members were absent: The American Short Line and Regional Railroad Association (2 of 3 seats), The American Train Dispatchers Association (1 seat), The Association of Railway Museums (1 seat), The Association of State Rail Safety Managers (1 seat), The Brotherhood of Locomotive Engineers and Trainmen (1 of 3 seats), The Brotherhood of Maintenance of Way Employees Division (1 of 2 seats), The Chlorine Institute (1 seat), The International Association of Machinists and Aerospace Workers (1 seat), The National Conference of Firemen and Oilers (1 seat), The Railway Supply Institute (1 seat), Safe Travel America (1 seat), The Sheet Metal Workers International Association (1 seat), The Transport Workers Union of America (1 seats), and The Transportation Communications International Union/Brotherhood of Railway Carmen (1 of 3 seats). Five of seven non-voting/advisory RSAC members were absent: The Labor Council for Latin American Advancement, The League of Railway Industry Women, The National Association of Railway Business Women, Secretaria de Comunicaciones y Transporte (Mexico), and Transport Canada. Total meeting attendance, including presenters and support staff, was approximately 80.

Chairperson Cothen 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. No volunteers are designated to perform CPR. The Marriott Washington Wardman Park Hotel has an automated external defibrillator (AED) in the security office.

Chairperson Cothen thanks Paul Sorrow (National President, Brotherhood of Locomotive Engineers and Trainmen), and David Julian (Vice President Safety and Environmental, Norfolk Southern Railroad), for attending today's meeting. He asks for meeting attendees to identify themselves and their organizations. He says he doubts there is a question that can be asked about rail transportation that cannot be answered by someone in this room.

Chairperson Cothen asks FRA Associate Administrator for Railroad Safety/Chief Safety Officer Jo Strang for opening remarks.

Jo Strang (FRA) greets RSAC members and attendees. She says FRA Administrator Joseph Szabo sends his greetings but is unable to attend today's meeting because of an unavoidable schedule conflict. She says the year 2009, was a very good safety year for the railroad industry. She uses a series of Microsoft PowerPoint Presentation slides projected on a meeting room screen for "State of Railroad Safety."

Under the slide, "Train Accidents Per Million Train-Miles," Ms. Strang says during the past decade, the number of reported train accidents in the United States has declined 45.6 percent, from 3,387, in 2004, to 1,842 in 2009, while during the same time the train accident rate dropped 36 percent, from 4.4 train accidents per million train-miles in 2004 to 2.8 train accidents per million train-miles in 2009.

Under the slide, "On-Duty Employee Injuries Per 200,000 Man-Hours," Ms. Strang says between the years 2000 and 2009, the number of reported on-duty employee injuries declined 49.4 percent from 8,447 in 2000 to 4,275 in 2009, while during the same period, the on-duty employee injury rate dropped 41.2 percent, from 3.4 injuries per 200,000 man-hours in 2000 to 2 injuries per 200,000 man-hours in 2009.

Under the slide, "On-Duty Employee Fatalities," Ms. Strang says nothing about our jobs is more frustrating than the continued loss of lives among railroad employees. She says between the year 2000 and 2009 the annual on-duty employee fatalities have ranged from a high of 25 (2004, 2005, and 2008) to a low of 16 (2006 and 2009). She says we can, and must do better in preventing railroad employee fatalities.

Under the slide, "Highway-Rail Grade Crossings: Collisions, Fatalities and Exposures," Ms Strang shows a combination line and bar chart for the period 1976 to 2008, showing the downward trend of highway-rail grade crossing collisions and fatalities as measured against "exposure," i.e., train miles times highway volume. She says we all understand

that with more robust economic activity, exposure will again turn upward. She says we must remain vigilant and continue to support strategies that will keep collisions and fatalities at highway-rail grade crossings as low as possible.

Jo Strang (FRA) thanks RSAC members for attending today's meeting. She hopes for an informative and productive meeting.

Chairperson Cothen asks Thomas McFarlin (FRA–Office of Safety) for a report on Positive Train Control activities.

Thomas McFarlin (FRA) uses a series of Microsoft PowerPoint Presentation slides, projected onto a screen for "Positive Train Control, Where Are We Now–Next Steps." Photocopies of the Microsoft PowerPoint Presentation were distributed to meeting attendees. In addition, all meeting handouts will be entered into the RSAC Docket and the RSAC Internet Web Site, and are not excerpted in their entirety in the RSAC Minutes.

Under the slide, "Overview," Mr. McFarlin outlines the following topics he will address: (1) Background; (2) Why PTC; (3) The final rule; (4) Additional comment period; (5) Significant milestones; (6) Handling of current systems; and (7) FRA efforts.

Under the slides, "Background," Mr. McFarlin says the following: (1) Over the years about 3-4 percent of route miles of railroad main lines equipped with cab signals and automatic train stop or automatic train control which provides some protection for single point human failure; (2) Since about 1971, the National Transportation Safety Board (NTSB) has been demanding better technology; (3) Since 1985, the railroad industry has been promising it; (4) Through great effort and assistance of the RSAC PTC working group, FRA published on March 7, 2005, the performance-based Subpart H of 49 *Code of Federal Regulations* (CFR) Part 236 addressing processor-based signal and train control systems; (5) A proposed system must be shown to be at least as safe as the previous condition; (6) Railroads have been implementing PTC under Subpart H, but slowly; and (7) Major train accidents preventable by PTC continued to occur.

Under the slides, "Why PTC," Mr. McFarlin shows post accident photographs of the January 5, 2006, PTC-preventable accident at Graniteville, South Carolina, and the September 12, 2008 PTC-preventable accident at Chatsworth, California.

Under the slides, "The Final Rule," Mr. McFarlin highlights the following: (1) Rail Safety Improvement Act of 2008 signed into law on October 16, 2008, mandating widespread PTC implementation; (2) Again through great effort and assistance of the RSAC PTC working group, FRA published the NPRM on July 21, 2009, consisting primarily of new Subpart I addressing the mandate for PTC; (3) The working group then addressed comments received and worked off most issues; (4) The final rule was published on January 15, 2010, and is effective on March 16, 2010; and (5) Primary topics of the rule

include: (a) Required PTC functionality; (b) Required levels of safety; (c) Line segments requiring PTC including potential exceptions; (d) Procedural requirements—necessary submissions for approval, content and timelines; (e) System use and unequipped operations; and (f) Manuals and training criteria.

Under the slide, “Additional Comment Period,” Mr. McFarlin says the final rule included a narrow scope of comments accepted until February 16, 2010, as follows:

(a) Regarding further clarity of appropriate criteria associated with potentially excluding lines from required PTC implementation; (b) Regarding considerations related to the extent of poison inhalation hazard (PIH) *de minimis* exceptions; and (c) Regarding further consideration of the 2008 baseline year and handling of adjustments due to traffic pattern changes following PTC Implementation Plan (PTCIP) submission and prior to the December 31, 2015, implementation deadline.

Under the slide, “Comments Received,” Mr. McFarlin says comments to the final rule on PTC were received from the following: (1) The Association of American Railroads (AAR) regarding the three issues identified in the request for comments; (2) The Metropolitan Transit Authority (MTA, which includes Long Island Rail Road, and Metro-North Railroad) regarding issues beyond those for which comments were requested and which will be considered as a petition for reconsideration; (3) The NTSB regarding the three issues identified in the request for comments; and (4) Additional comments were received that were largely outside the scope of request including: (a) The AAR submitted a formal petition for reconsideration regarding the requirement of a display being visible and accessible to each crew member in a locomotive cab; and (b) Petitions for reconsideration from: (i) The Chlorine Institute; and (ii) Siemens.

Under the slides, “Significant Milestones,” Mr. McFarlin lists the following: (1) The Rail Safety Improvement Act of 2008 (RSIA), which requires PTC, was signed into law on October 16, 2008; (2) A Notice of Proposed Rulemaking for PTC Systems was published on July 21, 2009; (2) A Final Rule on PTC Systems was published on January 15, 2010; (3) Additional comments on issue resolutions was due by February 16, 2010; (4) Petitions for Reconsideration were due by March 16, 2010; (5) The Final Rule effective date is March 16, 2010; (6) Carrier PTCIP (PTC Implementation Plan) due to FRA by April 16, 2010, preceded or accompanied by a PTC Development Plan (PTCDP), Notice of Product Intent (NPI), or type approval (a number assigned to a particular PTC system indicating FRA agreement that the PTC system could fulfill the requirements of this rule); (7) FRA to notify within 90 days of approval, provisional approval, or disapproval accompanied by explanation of plan deficiencies; (8) Railroad has 30 days to submit corrected plan; (9) If PTCIP submitted with an NPI, provisional approval may be granted, with an updated PTCIP accompanied by either a full PTCDP or type approval and submitted within 270 days; (10) Submission of PTC Safety Plan (PTCSP) for system certification required prior to revenue use of mandated PTC; (11) FRA to acknowledge receipt of a PTCDP or PTCSP within 30 days; (12) FRA target to approve or disapprove a PTCDP within 60 days, or provide a status response;

(13) FRA target to approve or disapprove a PTCSP within 180 days, or provide a status response; (14) PTC system build-out (onboard and wayside) per approved PTCIP timetables; (15) Risk Reduction Plans to be filed (with further PTC lines identified)—to be determined—in the 2012-2013 range; (16) Progress report due from FRA to the Congress on December 31, 2012; (17) Initial mandated PTC implementation to be complete by December 31, 2015; and (18) Certain permitted Class II or Class III railroad unequipped trains in PTC territory to be equipped by December 31, 2020.

Under the slide, “Handling of Past and Current Systems,” Mr. McFarlin says the following: (1) FRA continuing to work with railroads related to grandfathering for systems in service through a short form certification process including: (a) Advanced Civil Speed Enforcement System (ACSES) I, II; (b) Incremental Train Control System (ITCS); (c) BNSF Railway Company’s Electronic Train Management System (ETMS) I; and (d) Others approved under 49 *Code of Federal Regulations* (CFR) Part 236 Subpart H; (2) Credits for showings made under subpart H until effective date of the new rule; and (3) Option remains to proceed under subpart H where PTC is not mandated.

Under the slide, “FRA Efforts,” Mr. McFarlin says the following: (1) A staff has been steadily working with various entities on reviewing draft submissions, for appropriate content, and addressing associated questions; and to the best of our abilities will continue to do so; (2) FRA is enhancing and expanding PTC-related staff; and (3) FRA has every intention of meeting expectations toward successful facilitation of accomplishing the mandate for PTC.

Thomas McFarlin (FRA) asks for questions.

Chairperson Cothen says next Wednesday afternoon (March 24, 2010), there is an online conference with the PTC Working Group. He says there is an additional filing by the BNSF Railway Company for its Electronic Train Management System (ETMS). He says FRA is looking at this petition. He says FRA expects PTC Implementation Plans to be filed by railroads in a timely manner. He says the AAR has filed a protected filing in the District of Columbia Circuit Court. He says FRA is responding as rapidly as it can. He says FRA does not see this as a delay in the requirement for carriers to file PTC Implementation Plans, as required. He says Amtrak will likely request approve of its Advanced Civil Speed Enforcement System (ACSES) on the Northeast corridor. He says FRA encourages the parties to proceed toward the statutory mandates.

Gerhard Thelen (AAR) says it took FRA a little longer to get the standard out. He asks if FRA is planning to ask for an extension beyond December 31, 2015? He says things are behind by about nine months.

Chairperson Cothen says somehow the staffs of the Congressional Committees have figured this out. He says the Congressional Committees are fully apprised. He says when FRA makes its report to the Congress on this topic, that will be the appropriate

time to let Congress know about problems in meeting the target dates. He believes it is fair to say if carriers make progress toward the implementation goal, FRA will have your "back." He is certain that FRA staff will make the appropriate conversations if PTC targets are going to be missed. He says there are \$50 millions in funds available to assist with this process. He says FRA will issue a "Funds Available Notice," noting that these funds will be dispenses on the basis of merit.

Jo Strang (FRA) reiterates that as long as carriers are making progress, FRA will seek assistance with the compliance date issue.

Chairperson Cothen asks Michael Logue (FRA—Office of Safety, Deputy Associate Administrator for Safety Compliance and Program Implementation) to introduce a proposed RSAC Task on Training. He says this requirement flows from 49 *United States Code* (U.S.C.) § 20162, as enacted by section 401 of Division A, Public Law No. 110-432, i.e., The Rail Safety Improvement Act of 2008 (RSIA).

Michael Logue (FRA) uses a series of Microsoft PowerPoint Presentation slides, projected onto a screen for "Rail Safety Improvement Act of 2008 (RSIA), Section 401, Minimum Training Standards and Plans." Photocopies of the Microsoft PowerPoint Presentation were distributed to meeting attendees. In addition, all meeting handouts will be entered into the RSAC Docket and the RSAC Internet Web Site, and are not excerpted in their entirety in the RSAC Minutes.

Under the slide, "Summary," Mr. Logue says by or before October 16, 2009 (a year after the RSIA's enactment), the Secretary of the U.S. Department of Transportation shall establish: (1) Minimum training standards; (2) A requirement for the regulated community to submit plans to the Secretary; and (3) Minimum training curriculum and criteria.

Under the slides, "§ 20162 Minimum training standards and plans," Mr. Logue says In General.—The Secretary of Transportation shall, not later than 1 year after the date of enactment of the Rail Safety Improvement Act of 2008, establish: '(1) minimum training standards for each class and craft of safety-related railroad employee (as defined in section 20102) and equivalent railroad carrier contractor and subcontractor employees, which shall require railroad carriers, contractors, and subcontractors to qualify or otherwise document the proficiency of such employees in each such class and craft regarding their knowledge of, and ability to comply with, Federal railroad safety laws and regulations and railroad carrier rules and procedures promulgated to implement those Federal railroad safety laws and regulations; (2) a requirement that railroad carriers, contractors, and subcontractors develop and submit training and qualification plans to the Secretary for approval, including training programs and information deemed necessary by the Secretary to ensure that all safety-related railroad employees receive appropriate training in a timely manner; and (3) a minimum training curriculum, and ongoing training criteria, testing, and skills evaluation measures to ensure that safety-

related railroad employees, and contractor and subcontractor employees, charged with the inspection of track or railroad equipment are qualified to assess railroad compliance with Federal standards to identify defective conditions and initiate immediate remedial action to correct critical safety defects that are known to contribute to derailments, accidents, incidents, or injuries, and, in implementing the requirements of this paragraph, take into consideration existing training programs of railroad carriers. Under the slide, "Approval," Mr. Logue says (b) The Secretary shall review and approve the plans required under subsection (a)(2) utilizing an approval process required for programs to certify the qualification of Locomotive engineers pursuant to part 240 of title 49, Code of Federal Regulations.

Under the slide, "Exemption," Mr. Logue says (c) The Secretary may exempt railroad carriers and railroad carrier contractors and subcontractors from submitting training plans for which the Secretary has issued training regulations before the date of enactment of the Rail Safety Improvement Act of 2008.

Under the slide, "Conforming Amendment," Mr. Logue says (b) The chapter analysis for chapter 201, as amended by section 210 of this division, is amended by inserting after the item relating to section 20161 the following: '20162. Minimum training standards and plans.

Under the slides, "49 U.S.C. 20102 is amended (3) by adding the following: (4) safety-related railroad employee' means: (A) a railroad employee who is subject to chapter 211 (Hours of Service Laws); (B) another operating railroad employee who is not subject to chapter 211; (C) an employee who maintains the right of way of a railroad; (D) an employee of a railroad carrier who is a hazardous materials (hazmat) employee as defined in section 5102(3) of this title; (E) an employee who inspects, repairs, or maintains locomotives, passenger cars, or freight cars; and (F) any other employee of a railroad carrier who directly affects railroad safety, as determined by the Secretary.

Under the slides, "FRA Objectives," Mr. Logue lists the following: (1) Develop regulations responsive to the statutory mandate; (2) Establish reasonable oversight criteria to ensure training plans are effective; (3) Determine which employees should be covered by this regulation; (4) Consider criteria we should use to determine which, if any, FRA-required training programs may be exempted from the new minimum training standards; (5) Establish training methodologies the regulated community should employ to ensure current employees understand which tasks are covered by Federal laws, regulations, and orders, as well as the railroad rules and procedures which implement them; and (6) Determine whether annual proficiency checks be established for all safety-related railroad employees, similar to those required for locomotive engineers and conductors: (a) Decide if periodic training intervals be extended if such checks were used.

Michael Logue (FRA) asks for questions.

Chairperson Cothen asks for a motion to accept proposed new RSAC Task No.: 10-01, Minimum Training Standards and Plans.

James Stem (United Transportation Union) moves to accept RSAC Task No.: 10-01, Minimum Training Standards and Plans.

William Bohné (International Brotherhood of Electrical Workers) seconds the motion.

BY VOICE VOTE, THE RAILROAD SAFETY ADVISORY COMMITTEE
APPROVES THE MOTION TO ACCEPT RSAC TASK NO.: 10-01, MINIMUM
TRAINING STANDARDS AND PLANS.

Chairperson Cothen asks RSAC member organizations to submit nominations for the Training Standards and Plans Working Group to Larry Woolverton (larry.woolverton@dot.gov) by March 31, 2010. He says FRA anticipates scheduling the first Training Standards and Plans Working Group meeting on April 13-14, 2010, in Philadelphia, Pennsylvania.

Chairperson Cothen asks Robert Lauby (FRA—Office of Safety, Deputy Associate Administrator for Regulatory and Legislative Operations) for a report on the Passenger Safety Working Group's Engineering Task Force activities. He says should the Passenger Safety Working Group accept the recommendations of the Engineering Task Force, the recommendations of the Passenger Safety Working Group will be sent to the full Railroad Safety Advisory Committee by electronic mail order ballot for approval.

Robert Lauby (FRA) uses a series of Microsoft PowerPoint Presentation slides, projected onto a screen for "Engineering Task Force, Status Update." Photocopies of the Microsoft PowerPoint Presentation were distributed to meeting attendees. In addition, all meeting handouts will be entered into the RSAC Docket and the RSAC Internet Web Site, and are not excerpted in their entirety in the RSAC Minutes.

Under the slide, "The Passenger Rail industry is on The Cusp of Tremendous Growth, Mr. Lauby says there is pressure to expand the passenger rail industry from:

(1) Congestion of highway systems; (2) Carbon emissions concerns; (3) Gasoline prices, and (4) The desire/need for modern passenger service.

Under the slide, "Demand Has Increased for Passenger Service," Mr. Lauby says:

(1) New and innovative designs are desirable; and (2) Carbuilders have a variety of vehicles working in other parts of the world that can fill US transportation needs.

Under the slide, "FRA is Receiving Waiver Petitions for Use of Alternative Railcar Designs," Mr. Lauby outlines why waivers from FRA's rules are a complicated process as follows: (1) High workload item for FRA; (2) Require a great deal of information and investigation; (3) Takes months to review and render a decision; (4) Positive results are not guaranteed; and (5) Risky to the petitioner.

Under the slide, “High-Speed Passenger Rail Safety Strategy Framed The Issues, Mr. Lauby says the High-Speed Passenger Rail Safety Strategy was discussed at the full RSAC meeting on September 10, 2009, in Washington, DC.

Under the slide, “The Strategy Acknowledged The Current FRA Requirements, Mr. Lauby outlines the following: (1) Tier I Equipment Safety Standards for trains operating up to 125 mph; (2) Tier II Equipment Safety Standards for high speed trains operating up to 150 mph—the only example in the United States is Amtrak Acela Express service in the Northeast Corridor on two sections of track located in Rhode Island and Massachusetts; and (3) Track Safety Standards that specify track geometry, cant deficiency, and car body acceleration limits for speeds up to 200 mph (FRA Track Classes 1 - 9).

Under the slide, “The Strategy also acknowledged that there was work to be done,” Mr. Lauby says (1) Worldwide equipment standards need to be reviewed to develop guidance for trains operating up to 220 mph; and (2) New rules that amend the Passenger Equipment Safety Standards and Track Safety Standards for Tier I and Tier II train operations need to be advanced.

Under the slide, “RSAC Engineering Task Force,” Mr. Lauby says The RSAC Engineering Task Force is part of the ongoing strategy to amend the Passenger Equipment Safety Standards.

Under the slide, “Guidelines Are Needed For A Variety of Passenger Rolling Stock,” Mr. Lauby lists the following: (1) Diesel Multiple Units (DMUs); (2) Electric Multiple Units (EMUs); (3) Crash Energy Management (CEM) passenger car designs; and (4) High-Speed rail equipment.

Under the slides, “The FRA Described Expanded Tiers of Rail Passenger Service in The Strategy,” and “Tiers of Rail Passenger Service Described in The Strategy,” Mr. Lauby shows a matrix outlining the characteristics of passenger service and safety requirements by Tier of service.

Under the slide, “The Engineering Task Force Will Work On Two Phases,” Mr. Lauby lists the following: (1) Tier I requirements; and (2) Tier II and above requirements, i.e., Tier II-V.

Under the slides, “The Engineering Task Force Is Initially Addressing Tier I Equipment Standards,” and “Tiers of Rail Passenger Service Described in Appendix B,” Mr. Lauby shows a matrix outlining the characteristics of Tier I passenger service and safety requirements for Tier I service.

Under the slide, “Tier I Standards,” Mr. Lauby says Tier I standards cover the following operations: (1) Regional Rail (0-65 mph); (2) Conventional Rail (0-79 mph); (3) Emerging High-speed Rail (80-110 mph); and (4) High-Speed Regional (111-125 mph).

Under the slides, “Future Engineering Task Force Initiatives Will Address Tier II Through Tier V Equipment Standards,” and “Tiers of Rail Passenger Service Described in Appendix B,” Mr. Lauby shows a matrix outlining the characteristics of Tier II through V passenger service and safety requirements for Tier II through V service.

Under the slide, “Tier II through Tier V Standards,” Mr. Lauby says Tier II through V standards cover the following operations: (1) High-speed Rail Mixed Operation–Tier II (126- 150 mph); (2) High-speed Rail Mixed Passenger–Tier III (0-150 mph); (3) High-speed Rail Dedicated–Tier IV (0-150 mph); and (4) High-speed Rail Express–Tier V (0-200/220 mph).

Under the slide, “Engineering Task Force Strategy,” Mr. Lauby says the strategy is to explore the possibility of describing a new tiered series of standards for the entire operating system, including equipment, in lieu of the current two-tiered structure that focuses on equipment only.

Under the slide, “Engineering Task Force Work On Structural Standards,” Mr. Lauby says new tiered standards would describe a range of operating environments and, for each such environments, would specify: (1) Basic end strength and CEM performance; (2) Side strength and roof strength as a function of weight; (3) Fixture securement; and (4) Acceptable occupant accelerations and restraint strategies.

Under the slide, “FRA’s Action Plan Also Included Finalizing The End Strength Rule,” Mr. Lauby says FRA will finalize the pending cab end strength rule and then will define additional options for compliance with tiered passenger car safety standards. He adds, the End Strength Rule was completed in January 2010.

Under the slide, “Review of the Engineering Task Force Activities,” Mr. Lauby says the Engineering Task Force has met four times as follows: (1) September 23-24, 2009, in Cambridge, Massachusetts; (2) November 3-4, 2009, in Philadelphia, Pennsylvania; (3) January 7-8, 2010, in Atlanta, Georgia; and (4) March 9-10, 2010, in Orlando, Florida.

Under the slide, “Cambridge, MA,” Mr. Lauby describes the following activities from the first Engineering Task Force (ETF) meeting: (1) Technical Presentations from the Volpe National Transportation Systems Center; (2) Initial Strawman proposal presented; (3) Baseline for future discussions; (4) Questions for/from Industry; (5) Homework assignments; and (6) Industry Conference Calls / Meetings.

Under the slide, “Philadelphia, PA,” Mr. Lauby describes the following activities from the second ETF meeting: (1) Presentations from railroads; (2) Presentations from carbuilders; (3) Refined strawman (criteria and procedures); (4) Agreements on some criteria/procedures; and (5) FRA and Industry positions established.

Under the slide, “Atlanta, GA,” Mr. Lauby describes the following activities from the third ETF meeting: (1) Discussed and Clarified the Criteria and Procedures; (2) Confirmed areas of consensus; (3) Identified remaining issues; and (4) Established teams to explore issues and make recommendations.

Under the slide, “Orlando, FL,” Mr. Lauby describes the following activities from the fourth ETF meeting: (1) Cleared up all remaining issues except Truck Attachment; (2) Confirmed areas of consensus; (3) Established team to explore Truck Attachment issue and make recommendations; and (4) Established plans for developing the guidance document.

Under the slides, “The ETF Criteria Addresses The Following Items.” Mr. Lauby lists the following 49 *Code of Federal Regulation* (CFR) Parts affected by the guidance document: (1) Part 238.203 Train Collision Dynamic Analysis; (2) Part 238.205 Colliding Car Override (Dynamic); (3) Part 238.207 Colliding Car Override (Plastic); (4) Part 238.209 Entry of Fluids; (5) Part 238.211 End Frame Integrity; (6) Part 238.213 End Frame Integrity; (7) Part 238.217 Side Structure; (8) Part 238.215 Roof Integrity; (9) Part 238.119 Truck Attachment; (10) Part 238.221 Glazing; and (11) Part 238.223 Interior Fixture Attachment.

Under the slides, “ETF Scorecard, March 10, 2010,” Mr. Lauby identifies the twelve requirements in the Guidance Summary and the status of each as follows: (1) Collision with conventional equipment—there is ETF “buy-in” on approach and most details—FRA has decided to use intrusion criteria based on Appendix F for pass/fail criteria for evaluating preservation of operating cab; (2) Occupant volume integrity—there is “buy-in” on the approach and details of Options A, B, and C. “Buy-in” is needed for the details in the procedures; (3) Colliding car override—there is “buy-in on approach, input criteria quantities and values, and on pass/fail criteria quantities—“Buy-in” is needed on values for pass/fail criteria; (4) Coupled equipment override—there is “buy-in on approach, input criteria quantities and valves, and on pass/fail criteria quantities—“Buy-in” needed on values for pass/fail criteria; (5) Fluid entry—there is “buy-in” with current regulation; (6) End structure integrity of cab end—there is “buy-in” with Appendix F Notice of Proposed Rulemaking (NPRM); (7) End structure integrity of non-cab end: (a) Collision posts—there is “buy-in” to extending collision post exception for articulated equipment to include crash energy management (CEM) equipment; and (b) Corner posts—FRA has decided to keep current required force levels, but allow them to be applied to corner structure, and not explicitly require a corner post; (8) Roof integrity—there is “buy-in” with current regulation; (9) Side structure integrity—FRA has decided to keep current regulation and to solicit new proposals for criteria from industry; (10) Truck attachment—FRA has decided to keep current regulation and to solicit new proposals for criteria from industry; (11) Interior fixture attachment—there is “buy-in” with current regulation; and (12) Occupant protection features—there is “buy-in” with current industry standards.

Under the slide, “The Engineering Task Force is An Ongoing Effort,” Mr. Lauby says the Volpe National Transportation Systems Center will develop a document based on discussions during the March 9-10, 2010, ETF Orlando, Florida, meeting that will be

published in draft form by the Middle of April 2010.

Under the slide, “Future Engineering Task Force Meetings,” Mr. Lauby says future ETF meetings will be scheduled to begin to explore Criteria for alternate rail vehicle standards at the Tier II to Tier V level.

Robert Lauby (FRA) asks for questions.

Rick Inclima (Brotherhood of Maintenance of Way Employees Division (BMWED)) says the ETF is not directly addressing track issues. However, he adds, the Passenger Safety Working Group’s Track Vehicle Interaction Task Force is planning to delete the Track Class 9 Track Standards and then rely on the Rule of Particular Applicability for any operator of train equipment at Track Class 9 track speeds, i.e., Maximum allowable speed for passenger trains is 200 mph. He asks how FRA plans to reconcile Track Class 9 with what is being done today for equipment waivers?

Robert Lauby (FRA) says high-speed rail today seems to center on the conventional aspects, for Tier I passenger equipment. He says the ETF is working on a waiver guidance to FRA’s Tier I passenger equipment standards. He says FRA is gathering information on what track structures are needed for higher classes of track. He says High-speed Rail Express–Tier V passenger equipment is for speeds ranging from 0-200/220 mph. He says the Rule of Particular Applicability requires an operator to prepare a plan describing how the operator will operate a passenger service safely at speeds up to 200 mph.

Leo Penne (American Association of State Highway and Transportation Officials (AASHTO)) asks, “How will this work be coordinated with the [49 U.S.C. 24101 Next Generation Corridor Train Equipment Pool, Section 305] Section 305 work?”

Robert Lauby (FRA) says the Section 305 Committee, he assumes, will be talking about requirements for “individual cars.” He says the ETF is working on requirements for a “train set.” He says a crash energy management (CEM) assessment is on a train set basis. He says Section 305 is standardizing requirements for individual cars.

Chairperson Cothen says the ETF is providing for alternatives so that FRA has a consistent way to evaluate technology. He says in the Section 305 arena, the Section 305 Committee will be able to “elect” criteria.

Chairperson Cothen announces the morning break.

M O R N I N G B R E A K 10:50 A.M. - 11:15 A.M.

Chairperson Cothen reconvenes the meeting. He says the technical aspects of the ETF are remarkable. He says Charles Bielitz (FRA–Office of Safety) and Robert Lauby (FRA–Office of Safety) are the FRA contacts for the conditions under which a train set would be the safety equivalent of FRA's current standards for Tier I passenger equipment. He says the full RSAC may not meet again until September 2010. He would like to have unanimous support by the full RSAC to allow FRA to “shop” the output of the Passenger Safety Working group on the ETF recommendation on Tier I passenger equipment waiver issues by electronic mail order ballot.

WITH NO OBJECTION, THE FULL RSAC ACCEPTS THE FRA RECOMMENDATION TO “SHOP” THE OUTPUT OF THE PASSENGER SAFETY WORKING GROUP ON THE ETF RECOMMENDATIONS ON TIER I PASSENGER EQUIPMENT WAIVER ISSUES BY ELECTRONIC MAIL ORDER BALLOT.

Chairperson Cothen asks Dr. Bernard Arseneau (FRA–Office of Safety) for a report on Medical Standards Working Group activities.

Bernard Arseneau (FRA) uses a series of Microsoft PowerPoint Presentation slides, projected onto a screen for “Medical Standards Working Group Report.” Photocopies of the Microsoft PowerPoint Presentation were distributed to meeting attendees. In addition, all meeting handouts will be entered into the RSAC Docket and the RSAC Internet Web Site, and are not excerpted in their entirety in the RSAC Minutes.

Under the slide, “Tasks,” Dr. Arseneau lists the following RSAC Tasks assigned to the Medical Standards (MS) Working Group (WG): (1) RSAC Task No.: 06-03 Medical Standards for Safety-Critical Personnel; and (2) RSAC Task No.: 09-02 Critical Incident Response.

Under the slide, “WG Report: Medical Standards Task 06-03,” Dr. Arseneau lists Milestones for December 2006 - April 2008 (10 MS WG meetings and 15 Physicians’ Task Force (TF) meetings) as follows: (1) Tentative agreement was achieved on some of the general overarching rule text; (2) Consensus was not achieved on key sections of draft rule text (e.g., fitness-for-duty exams/assessments, medications, & dispute resolution); (3) FRA announced (April 2008) it would draft text for these key sections and then reconvene the WG to discuss and build consensus; and (4) The Physicians’ TF was tasked (April 2008) to develop medical criteria & protocols.

Under the slide, “WG Report: Medical Standards Task 06-03,” Dr. Arseneau lists Milestones for the December 8-9, 2009, MS WG meeting as follows: (1) Draft text for sections of the proposed rule the WG had not been able to agree upon; (2) A draft Model Form for employees to report significant medical conditions and events, including medications; (3) A draft medications guidance document for safety-critical personnel; and (4) Physicians’ TF Report: (8 TF meetings/calls held since April 2008)

completed its task to develop medical criteria and protocols for the following conditions which were presented to the WG: (a) sleep apnea and narcolepsy; (b) cardiovascular; (c) diabetes; (d) seizures; (e) hearing impairments; (f) vision impairments; (g) stroke and neurological; (h) vestibular dysfunction; (i) syncope; (j) chronic liver disease; and (k) medical situations not otherwise addressed.

Under the slides, "WG Report: Medical Standards Task 06-03," Dr. Arseneau lists Milestones for MS WG meetings held February 16-17, 2010, and March 11-12, 2010, as follows: (1) Progress made on Appendix D to the draft rule: Reporting of significant medical conditions and events, including medications (Technical support provided by Physicians' TF); (2) Progress made on a Model Reporting Form for employees to report significant medical conditions and events, including medications (Technical support provided by Physicians' TF); (3) Some progress made on dispute resolution but significant details remain which are not agreed upon; (4) FRA has invited Industry and Labor to submit red-line revisions to all sections of the current FRA working draft; and (5) FRA will reassess progress and need for further WG meetings based on response of Labor and Industry to FRA's request.

Under the slide, "Physicians' TF," Dr. Arseneau says since the December 8-9, 2009, MS WG meeting, the Physicians' Task held meetings January 21-22, 2010, and March 3, 2010. He says the Physicians' TF continues to meet to provide the MS WG with technical fitness-for-duty expert support for: (1) Appendix D: Reportable significant medical conditions & events, including medications; (2) Model Employee Reporting Form: Significant medical conditions and events, including medications; (3) Medical Criteria and Protocols: Psychiatric Disorders; and (4) Over-the-counter and prescription medications guidance for employees (TF to update FRA Dec 2009 version).

Under the slides, "WG Report: Critical Incident Response Task 09-02," Dr. Arseneau says at the December 8-9, 2009, MS WG meeting, (1) The MS WG accepted RSAC Task No.: 09-02, Critical Incident Response [Task 09-02: to provide advice for the development and implementation of regulations for Critical Incident Stress Plans as required by the RSIA]; and (2) Nominated and appointed members to the Critical Incident Response TF

Bernard Arseneau (FRA) says the next MS WG meeting is scheduled for May 24-26, 2010, in Denver, Colorado. He says the MS WG expects to complete draft rule text by the summer of 2010.

Bernard Arseneau (FRA) asks for questions.

Question: Who is covered?

Bernard Arseneau (FRA) replies, "Hours of service employees that perform safety-critical work.

Rick Inclima (BMWED) asks for clarification. He asks about the scope of the critical-incident group from the “Minutes” of the last meeting.

Chairperson Cothen asks that RSAC members let Larry Woolverton (FRA–Office of Safety) know if anyone would like to join the critical-incident group. He says the Physicians’ Task Force has been on target for their efforts. He says the Physicians’ Task Force spirit is: “We want qualified and experienced railroad employees to work for as long as possible, in partnership with their own health care provider.” He says FRA believes this system will allow employees to work longer and more safely. He says there is more liberality in railroad medical standards versus Federal Aviation Administration, or Federal Transit Administration requirements. He says once you get a set of recommendations from the MS WG, he believes it will be a remarkable document.

Chairperson Cothen announces the lunch break.

L U N C H B R E A K 11:40 A.M. - 12:50 P.M.

Chairperson Cothen reconvenes the meeting. He says there will be a mail order ballot for the proposed rule text on Passenger Hours of Service.

Jo Strang (FRA) asks the full RSAC to watch a video announcement by FRA Administrator Joseph Szabo. During the presentation, FRA Administrator Szabo announces Chairperson Cothen’s retirement from the Federal Railroad Administration after nearly 40 years of government service. He says the leadership and expertise of Chairperson Cothen will be missed.

Paul Sorrow (Brotherhood of Locomotive Engineers and Trainmen (BLET)) and Robert VanderClute (Association of American Railroads (AAR)) offer tributes to Chairperson Cothen on behalf of labor organizations and railroads.

Jo Strang (FRA) presents Chairperson Cothen with a service plaque of appreciation.

Kevin Kesler (FRA–Office of Railroad Development) presents Chairperson with a framed caricature of Chairperson Cothen surrounded by a caricature representing labor organizations and railroads.

Jo Strang (FRA) announces an afternoon break with refreshments. Chairperson Cothen thanks his colleagues for their tribute. He says, “This is emblematic of what we do together.”

Chairperson Cothen asks Mark McKeon (FRA–Office of Safety) for a report on Passenger Hours of Service (PHOS) Working Group (WG) activities.

Mark McKeon (FRA) says the Rail Safety Improvement Act (RSIA) of 2008 made substantial changes to freight railroad hours of service rules and left open changes to passenger hours of service rules. He says passenger hours of service rules are now being addressed by the PHOS WG. He asks William Parsons (American Public Transportation Association (APTA)), and Thomas Pontolillo (BLET) for a report on PHOS WG activities.

William Parsons (APTA) and Thomas Pontolillo (BLET) use a series of Microsoft PowerPoint Presentation slides, projected onto a screen for “Passenger Hours of Service Work Group Report.” Photocopies of the Microsoft PowerPoint Presentation were distributed to meeting attendees. In addition, all meeting handouts will be entered into the RSAC Docket and the RSAC Internet Web Site, and are not excerpted in their entirety in the RSAC Minutes.

Under the slide, “Passenger Hours of Service Rulemaking,” Mr. Pontolillo says: (1) The RSIA of 2008 granted FRA authority to promulgate substantive hours of service regulations for train employees of commuter and intercity passenger railroads. To allow FRA to accomplish this, these employees remain under the hours of service law as it existed prior to the RSIA of 2008 for 3 years from the date of enactment of the RSIA of 2008; and (2) If FRA does not have such regulations in effect by October 16, 2011, the hours of service requirements for train employees contained in the RSIA of 2008, which are now applicable to freight train employees, would go into effect for commuter and intercity passenger train employees.

Under the slide, “Passenger Hours of Service Working Group,” Mr. Parsons says: (1) The kick-off meeting for the PHOS WG was June 2009, in Washington, DC; (2) The working group met February 2, 2010, and March 4, 2010; and (3) The next PHOS WG meeting is scheduled for April 6, 2010.

Under the slide, “General Working Group Approach,” Mr. Parsons says: (1) Existing hours of service provisions for train employees (pre-RSIA of 2008) would remain in place as a “floor;” (2) Railroads would analyze fatigue implications of the schedules their employees work, using the Fatigue Avoidance Scheduling Tool (FAST) and submit fatigue management plans to FRA (also required as part of risk reduction plan, intended to mitigate existing fatigue); and (3) Mitigation of fatigue risk, from a set of developed mitigation tools, would be required where analysis reveals effectiveness level below a certain standard.

Under the slide, “HOS RSAC Task Force Report,” Mr. Parsons says: (1) The APTA HOS task force was formed a little over a year ago and has been meeting regularly to identify areas of possible risk for fatigue of Train and Engine employees of passenger

railroads; (2) A fatigue consultant hired by APTA has been working with the group to conduct the analysis; (3) Utilizing the FAST model, analysis has been completed on scheduled assignments submitted by the railroads; and (4) Analysis has also been completed on actual work histories for the month of July 2009, for 5 of the major passenger railroads, including Metro-North Railroad, New Jersey Transit, Southeastern Pennsylvania Transportation Authority, and Amtrak.

Under the slides, "Railroad Submission Status," "Crew Run Schedule Analysis Using the FAST Model," and "Major Commuter Railroads Risk of Operating Fatigue," Mr. Parsons shows data that is being analyzed by the PHOS TF. He says the data, representing 80 percent of railroad operating personnel in the United States, show that these employees are operating at risk for fatigue less than 1 percent of the time.

Under the slide, "HOS Task Force Objectives," Mr. Parsons lists the following: (1) Complete analysis of areas of possible risk for fatigue, for Train and Engine employees; (2) Complete development of tool box mitigations that address areas of risk for fatigue (16 mitigations have been developed); (3) Validate that the mitigations reduce exposure to fatigue; (4) Produce a consensus rule; (5) Compose a preamble to the rule; and (6) Develop a guidance document for a railroad submission for risk reduction of hazard for fatigue.

Under the slide, "Railroad Risk Reduction Submission," Mr. Parsons says the following: (1) Each passenger railroad will conduct an analysis to determine risk for fatigue; (2) Where risk to fatigue is found, mitigations will be utilized to reduce risk; and (3) Railroads will submit results of analysis and risk reduction plan to FRA for approval.

Under the slide, "FRA Internet Site," Mr. Parsons says FRA will establish and maintain an Internet Web site that will contain: (1) A guide for fatigue risk reduction submission; (2) A fatigue model to conduct analysis (training on use of the model will be provided); (3) Mitigations to address areas of risk for fatigue; (4) A Table of acceptable schedules; and (5) Training programs for consideration.

Under the slide, "Schedule to Implementation," Mr. Parsons says the following: (1) The PHOS task force to complete work on a draft rule and preamble language at the next task force meeting scheduled for March 30-31, 2010; (2) The PHOS TF will submit the draft rule text at the next HOS WG meeting, scheduled for April 6, 2010; (3) The PHOS WG will submit consensus recommendations to the full RSAC with a possible request for an electronic mail order ballot to obtain full RSAC approval; (4) A Notice of Proposed Rulemaking will be issued in the 4th quarter of 2010; (5) A Final Rule on Passenger Hours of Service will be issued no later than October 2011.

William Parsons (APTA) asks for questions.

Chairperson Cothen thanks Thomas Pontolillo (BLET) and William Parsons (APTA) for the presentation on PHOS WG and TF activities. He says we are on a short fuse for this topic. He says there is a lot of activity on Hours of Service at the U.S. Department of Transportation by several modes. He asks for RSAC permission to put the product of the PHOS WG out to the full RSAC by an electronic mail order ballot. He requests unanimous consent upon receiving recommendations from the PHOS WG that the full RSAC will receive the Notice of Proposed Rulemaking by an electronic mail order ballot.

**THE FULL RSAC GIVES CONSENT TO RECEIVE THE RECOMMENDATIONS
OF THE PHOS WG BY ELECTRONIC MAIL ORDER BALLOT.**

Chairperson Cothen thanks the full RSAC for agreeing to this request.

Mark McKeon (FRA) asks Colleen Brennan (FRA—Office of Chief Counsel) for a presentation on “Hours of Service Rulemaking and Waivers.”

Colleen Brennan (FRA) uses a series of Microsoft PowerPoint Presentation slides, projected onto a screen for “Hours of Service Rulemaking and Waivers.” Photocopies of the Microsoft PowerPoint Presentation were distributed to meeting attendees. In addition, all meeting handouts will be entered into the RSAC Docket and the RSAC Internet Web Site, and are not excerpted in their entirety in the RSAC Minutes.

Under the slide, “Waivers -Statutory Authority,” Ms. Brennan says: (1) The Rail Safety Improvement Act of 2008 granted FRA the authority to waive one of the new hours of service requirements, at 49 U.S.C. 21103(a)(4). That paragraph requires that employees receive 48 hours off duty at the home terminal after initiating an on-duty period on 6 consecutive days, or 72 hours off duty at the home terminal after initiating an on-duty period on 7 consecutive days; however, (2) The Secretary may waive paragraph (4), consistent with the procedural requirements of section 20103 (FRA’s general waiver authority), if a collective bargaining agreement provides a different arrangement and such an arrangement is in the public interest and consistent with railroad safety.

Under the slide, “Pilot Projects Statutory Authority,” Ms. Brennan says: (1) 49 U.S.C. 21108 allows railroads to seek a waiver for the purpose of conducting a pilot project; (2) The Secretary may, after notice and opportunity for comment, approve such waivers for a period not to exceed two years, if the Secretary determines that such a waiver of compliance is in the public interest and is consistent with railroad safety; and (3) This was not added by the RSIA of 2008, but the new provisions have somewhat increased interest in pilot projects.

Under the slide, “Exemption Statutory Authority,” Ms. Brennan says the following: 49 U.S.C. 21102(b) provides that the Secretary may exempt a railroad having not more than 15 employees covered by the hours of service law for good cause shown, and on

deciding that the exemption is in the public interest and will not affect safety adversely. The exemption shall be for a specific period of time and is subject to review at least annually. The exemption may not authorize a carrier to require or allow its employees to be on duty more than a total of 16 hours in a 24-hour period.

Under the slide, "Petitions," Ms. Brennan says: (1) FRA's Railroad Safety Board has received 13 petitions to date; (2) 3 petitions have been or will be dismissed for lack of jurisdiction and/or lack of a jointly filed petition; (3) A substantial effort has gone into working with non-unionized railroads on how to demonstrate having sought the input of affected employees; and (4) Several small, non-unionized railroads that filed petitions have since aligned their interests with the petition of the American Short Line and Regional Railroad Association (ASLRRA), in which they were also included.

Under the slide, "Process for Evaluation of Petitions," Ms. Brennan says the following: (1) A threshold step is determining the petition is jointly filed, or establishing that a non-unionized railroad has consulted affected employees; and (2) FRA analyzes submitted schedules for which a waiver is sought, using the FAST model, to determine the fatigue implications of the requested schedule, and based on this analysis, a recommendation is made to the Railroad Safety Board as to whether the requested waiver is in the public interest and consistent with railroad safety.

Under the slide, "Petitions Granted," Ms. Brennan says four petitions have been granted or partially granted as follows: (1) To allow 6 days on and 1 day off for BLET employees working certain BNSF Railway Company yard assignments which initially go on duty on either the 1st or 2nd shift; (2) To allow the Canadian National (CN) Railway to split the workforce for calculation of the 276 hour monthly cap, with half starting on the first of the month and half starting on the 15th of the month; (3) Partial—to allow 6 days on and 1 day off for CN employees working regularly scheduled assignments that do not extend into the early morning hours (between midnight and 6 AM); and (4) Partial—to allow 6 days on and 1 day off for employees of railroads subject to ASLRRA petition, who are represented by BLET or USW, working regularly scheduled assignments that do not extend into the early morning hours (between midnight and 6 AM).

Under the slide, "Status of Current Work," Ms. Brennan describes the following: (1) The continued analysis of additional schedule information to be provided by CN, to determine if further relief may be granted; (2) The continued analysis of additional schedule information to determine if relief may be granted for other schedules related to ASLRRA petition; (3) The analysis of ASLRRA request to waive 276-hour limitation for management employees spending less than 25 percent of their time in covered service; and (4) The analysis of ASLRRA request for pilot project to develop fatigue management plans.

Under the slide, "Still to be Addressed," Ms. Brennan says FRA will consider the ASLRRA petition for exemption on behalf of its members having not more than 15

employees covered by the HSL. These entities are also included in the ASLRRA waiver request, and would be included in the pilot project.

Colleen Brennan (FRA) asks for questions.

Lawrence Mann (United Transportation Union) says absent from this discussion is FRA's interpretation of what the law requires. He asks, "Where is FRA's final interpretation?"

Colleen Brennan (FRA) says, "It is in the works." She says everyone is being guided by the interim interpretation. She says FRA is working on a final interpretation, but the interim interpretation is still in effect.

Chairperson Cothen asks Mark McKeon (FRA—Office of Safety) for a report on Conductor Certification Working Group activities.

Mark McKeon (FRA) uses a series of Microsoft PowerPoint Presentation slides, projected onto a screen for "Conductor Certification Regulation, 49 CFR 242." Photocopies of the Microsoft PowerPoint Presentation were distributed to meeting attendees. In addition, all meeting handouts will be entered into the RSAC Docket and the RSAC Internet Web Site, and are not excerpted in their entirety in the RSAC Minutes. He acknowledges the assistance he has received from the following FRA Team members: John Seguin, Jeffrey Horn, James Jordan, and Cynthia Gross.

Under the slide, "Accomplishments," Mr. McKeon lists the following: (1) Strawman based on enhanced Part 240 rules; (2) Consensus was reached on the regulatory text and preamble language from the RSAC working group; (3) Regulation includes minimum training standards required by RSIA 2008; and (4) Conductor defined as the crewmember in charge of a train or yard crew as defined in Part 218: (a) Passenger Conductor is a conductor who has also received emergency preparedness training under Part 239.

Under the slides, "Comparison of Part 240 and Part 242," Mr. McKeon says the following: (1) For Part 240: (a) National Drivers Register check is required; (b) Utilizes Employee Assistance Programs (EAP); (c) For individuals who are dually certified as a locomotive engineer and a conductor, flow back to a conductor position is permitted if locomotive engineer certification is revoked; (d) Railroad locomotive engineer certification program is submitted to FRA for approval; (e) Part 218 Subpart F violations are not locomotive engineer certification revocable events; and (f) Railroad revocation hearing may following hearing procedures contained in applicable collective bargaining agreement; and (2) For Part 242: (a) National Drivers Register check is not required; (b) Utilizes Substance Abuse Professionals (SAP); (c) For individuals who are dually certified as a conductor and a locomotive engineer, flow back to a locomotive engineer position is not permitted if a conductor certification is revoked; (d) Conductor

Certification Program is submitted to FRA for approval and a copy is submitted to the president of each labor organization that represents the railroad's employees subject to Part 242; (e) Part 218 Subpart F violations are conductor certification revocable events; and (f) Notwithstanding applicable collective bargaining agreement, a railroad shall provide the conductor with a copy of written information and list of witnesses that the railroad will present at the decertification hearing.

Under the first slide, "Decertification Events," Mr. McKeon lists the following: (1) Failure to perform or have knowledge that a required brake test has been performed; (2) Occupying main track without authority; (3) Tampering; (4) Failure to take appropriate action: (a) Speeding; and (b) Signal indication (excludes hand and radio). Note: The conductor must be in the cab of the locomotive or have knowledge of the signal indication.

Under the second slide, "Decertification Events," Mr. McKeon cites the following rule sections for decertifiable events: (1) Part 218.99 -Shoving or pushing (if reportable); (2) Part 218.101-Leaving equipment in the clear; (3) Part 218-103-Hand operated crossovers; (4) Part 218.105-Hand operated main line switches; (5) Part 218.107-Hand operated crossover switches; and (6) Part 218.109-Hand operated fixed derails.

Under the slides, "Periods of Revocation," Mr. McKeon says the Part 242 Conductor Certification periods of revocation follow the periods in Part 240: (1) First event = 30 days; (2) Second event within 24 months = 6 months; (3) Third event within 36 months = 1 year; and (4) Fourth event within 36 months = 3 years. Mr. McKeon says revocation periods for certain violations will be reduced by one half if they occur on other than main track and another revocable event has not occurred within the previous 12 months.

Mark McKeon (FRA) asks for questions. He asks the full RSAC to look at the additional handout material, "Draft 9, Part 242–Qualification and Certification of Conductors." He says this represents the consensus output of the Conductor Certification Working Group.

Chairperson Cothen asks if there are discussion or questions about this material?

Chairperson Cothen asks for a motion for the full RSAC to accept "Draft 9, Part 242–Qualification and Certification of Conductors," as the consensus draft rule text that the full RSAC will recommend to the FRA Administrator.

Andrew Corcoran (Association of American Railroads) moves that the full RSAC accept the recommendation of the Conductor Certification Working Group that "Draft 9, Part 242–Qualification and Certification of Conductors," be forwarded to the FRA Administrator.

James Stem (United Transportation Union) seconds the motion.

BY VOICE VOTE, THE FULL RSAC ACCEPTS, AS THE CONSENSUS OUTPUT FOR THE CONDUCTOR CERTIFICATION WORKING GROUP, "DRAFT 9, PART 242–QUALIFICATION AND CERTIFICATION OF CONDUCTORS," AND REQUESTS THAT THIS DOCUMENT BE FORWARDED TO THE FRA ADMINISTRATOR.

Chairperson Cothen asks Joseph Gallant (FRA–Office of Safety) for a report on Switching Operations Fatality Analysis (SOFA) Working Group activities.

Joseph Gallant (FRA) says the SOFA Working Group has been in existence for 12 years. He says it is a non-regulatory group. He says the group looks for commonality in accidents and gets information on its analysis out to railroads. He says when the SOFA group meets, it is an independent entity, i.e., the group is responsible to itself, not to the organizations from which the members are affiliated. He says the measure of success will be when we have stopped adding to the list of switching operations fatalities. He believes a Final SOFA Report will be issued in the fall of 2010. He asks Gary Conners (Retired FRA, a member of the SOFA Working Group) for a presentation on SOFA Working Group activities.

Gary Conners (FRA) uses a series of Microsoft PowerPoint Presentation slides, projected onto a screen for "SOFA." Photocopies of the Microsoft PowerPoint Presentation were distributed to meeting attendees. In addition, all meeting handouts will be entered into the RSAC Docket and the RSAC Internet Web Site, and are not excerpted in their entirety in the RSAC Minutes.

Under the slide, "Background," Mr. Conners says the following about SOFA: (1) It was formed in February 1998, at request of FRA to (a) investigate switching fatalities to train and engine-service employees; and (b) determine causes and issue findings' (2) It is a non-regulatory effort; (3) Representatives are from: (a) American Short Line and Regional Railroad Association (ASLRRA); (b) Association of American Railroads (AAR); (c) Brotherhood of Locomotive Engineers and Trainmen (BLET); (d) Federal Railroad Administration (FRA); and (e) United Transportation Union (UTU); (4) Has issued two reports covering 124 cases; and (5) The current group evaluated 55 more cases for the next report.

Under the slide, "SOFA Methodology," Mr. Conners outlines the following: (1) Assign switching fatalities for review: (a) 55 cases from 2004 through 2009; and (b) 124 cases have already been reviewed from 1992 through 2003; (2) Case by case review of 55 new cases: (a) Record facts in a database; (b) Discuss the case; and (c) Agree on Possible Contributing Factors (PCF)—on average there are 2-3 contributing factors for each accident; (3) Classify the 55 cases: (a) SOFA 1-5; and (b) 15 Special Switching Hazards (SSH); (4) Look for commonalities and trends among 179 cases; and (5) Agree on findings.

Under the slides, “SOFA Fatalities: Two Time Periods, Before and After the First SOFA Report, Mr. Conners shows line and bar charts depicting SOFA fatalities before the issue of the SOFA report in October 1999 and following the issue of the SOFA Report which contained five voluntary recommendations for employee safety awareness around switching operations.

Under the slide, “Progress on SOFA 1, 2, and 4, Mr. Conners describes the progress that has been made between 2001 to 2009, compared to 1992-2000, on (1) SOFA 1, adjusting knuckles, adjusting drawbars, or installing EOT; (2) SOFA 2, struck by equipment other than their own on yard or industry track; and (3) SOFA 4, move controlled by a combination of hand and radio signals or specific distances were not given. He says the actions taken in these areas were effective.

Under the slide, “SOFA Safety Forum,” Mr. Conners says the following about the SOFA Safety Forum: (1) It met on February 25, 2010; (2) The Purpose: (a) Engage with industry leaders; and (b) Gain insight into five proposed SOFA findings; (3) Over 70 Attendees, including representatives from the United Transportation Union; Brotherhood of Locomotive Engineers and Trainmen; Association of American Railroads, American Short Line and Regional Railroad Association; Seven Class I railroads; Seven Regional and Short Line Companies; Amtrak, and FRA; and (4) Five breakout groups discussed these findings: (a) SOFA 3 (Job Briefing); (b) SOFA 5 (Mentoring); (c) Close Clearance; (d) Hazards on Industry Track; and (e) Struck by Mainline Train.

Under the slide, “What is Next,” Mr. Conners says the SOFA Working Group will meet during the week of March 22, 2010, to discuss the results of the SOFA Safety Forum. He says the Final SOFA Report is due in the Fall of 2010.

Joseph Gallant (FRA) asks for questions.

Chairperson Cothen asks Carlo Patrick (FRA–Office of Safety) for a report on Rail Integrity Task Force (RITF) activities.

Carlo Patrick (FRA) uses a series of Microsoft PowerPoint Presentation slides, projected onto a screen for “Track Safety Standards Working Group Report (Rail Integrity Task Force).” Photocopies of the Microsoft PowerPoint Presentation were distributed to meeting attendees. In addition, all meeting handouts will be entered into the RSAC Docket and the RSAC Internet Web Site, and are not excerpted in their entirety in the RSAC Minutes. Mr. Patrick says the only item that the Track Safety Standards Working Group is working on is rail integrity.

Under the slide, “Task 08-03 (first item),” Mr. Patrick reads the first issue requiring specific report from RSAC Task No.: 08-03, Track Safety Standards–Rail Integrity: Factors that can and should be included in determining the frequency of internal rail flaw

testing and a methodology for taking those factors into consideration with respect to mandatory testing intervals.

Under the slide, “NTSB Recommended Criteria,” Mr. Patrick says the U.S. National Transportation Safety Board (NTSB) has recommended a damage tolerance approach that would establish an inspection frequency that allows internal rail defects to be identified before they reach critical size. He says FRA is to consider factors that affect defect growth rate: (1) rail head wear; (2) accumulated tonnage; (3) rail surface conditions; (4) track geometry; (5) track support; (6) steel specifications; (7) temperature differentials; and (8) residual stresses in rail.

Under the slide, “Rail Integrity Task Force Task Force Agreed to Consider Performance Based Test Model that would address NTSB recommendations.” Mr. Patrick says Consensus was Reached on a Volpe National Transportation Systems Center (Volpe)-Recommended Model Driven by Minimum Criteria of: (1) Service Failure Rate (Fatigue Defects Only); (2) Detected Defect Rate; (3) Annual Tonnage; (4) Performance Target (Risk Factor); and (5) Slow Crack Growth Life. In addition, Mr. Patrick says, track would be inspected for internal rail flaws at a test frequency of a minimum of once a year, or every 30 Million Gross Tons of traffic. Mr. Patrick says the Volpe model will be provided to railroads on FRA’s Internet Web Site.

Under slide 7, Mr. Patrick says: (1) Railroads are to provide FRA with access to annual internal flaw detection program when requested; (2) The program will be updated annually with adjustments made as necessary to maintain target rate; and (3) Railroads are to allow FRA access to defect and failure data to ensure compliancy.

Under the slide, “Task 08-03 (second item),” Mr. Patrick reads the second issue requiring specific report from RSAC Task No.: 08-03, Track Safety Standards–Rail Integrity: Whether the quality and consistency of internal rail flaw testing can be improved and how.

Under the slide, “RITF Consensus,” Mr. Patrick lists the following topics: (1) Consensus reached on definition of a “valid test”—definition added to Part 213.237; (2) Consensus reached on minimum criteria for a “qualified operator”—to be added to CFR 49; Part 213 as new 213.238; and (3) Guideline to sizing transverse oriented rail defects reflecting rail head loss in 213.113 Remedial Action Table.

Under the slide, “Task 08-03 (third item),” Mr. Patrick reads the third issue requiring specific report from RSAC Task No.: 08-03, Track Safety Standards–Rail Integrity: Whether adjustments to current remedial action criteria are warranted.

Under the slide, “RITF Recommendations,” Mr. Patrick lists the following recommendations: (1) RITF consensus on “crushed head defect” and “longitudinal web oriented weld defect” definitions completed. Remedial action to be included in §213.113

defect table; (2) RITF consensus on revisions to current defect definitions; and (3) RITF consensus on revision to the remedial action table focusing on transverse oriented defects.

Under the slide, "Task 08-03 (fourth item)," Mr. Patrick reads the fourth issue requiring specific report from RSAC Task No.: 08-03, Track Safety Standards–Rail Integrity: The effect of rail head wear, surface conditions and other relevant factors on the acquisition and interpretation of internal rail flaw test results.

Under the slide, "RITF Recommendation," Mr. Patrick says the RITF has previously recommended that this item be closed and does not recommend regulatory action.

Under the slide, "Task force action item request," Mr. Patrick says the U.S. Department of Transportation's Office of the Inspector General recommended that FRA revise its track safety regulations for internal rail flaw testing to require the railroads to report all track locations (milepost numbers or track miles) covered during internal rail flaw testing.

Under the slide, "Current §213.241(c) -Identification and milepost limits of track tested is not required," Mr. Patrick reads the current rule text as follows: "§213.241(c) Rail inspection records shall specify the date of inspection, the location and nature of any internal defects found, the remedial action taken and the date thereof, and the location of any intervals of track not tested per §213.237(d). The owner shall retain a rail inspection record for at least two years after the inspection and for one year after remedial action is taken."

Under slide 17, Mr. Patrick says there is RITF consensus to revise Section 213.241(c) that will provide FRA access to documentation that confirms a continuous test was performed on all tracks required.

Under the slide, "CWR [continuous welded rail] Update," Mr. Patrick lists the following: (1) The Final CWR rule was published in *Federal Register* on August 25, 2009; (2) A correcting Amendment was published in *Federal Register* on October 21, 2009, that includes compliance dates for commuter, intercity passenger, and any additional railroad that has CWR; and (3) In response to a petition for reconsideration to the Final Rule, FRA redefined "Buckling Prone Condition" and "Adjusting/De-Stressing," in a notice published in the *Federal Register* on January 29, 2010.

Carlo Patrick (FRA) says the next RITF meeting will be held in Washington, D.C., on April 20, 2010. He asks for questions.

With no questions of Mr. Patrick, Chairperson Cothen announces the afternoon break.

A F T E R N O O N B R E A K 2:30 P.M. - 2:40 P.M.

Chairperson Cothen reconvenes the meeting. He asks Lamar Allen (FRA–Office of Safety) for a report on the Part 219 Control of Alcohol and Drug Use Notice of Proposed Rulemaking (NPRM). He says, “This is a heads-up to RSAC members for possible revisions to alcohol and drug rules.”

Lamar Allen (FRA) announces that the new FRA attorney assigned to alcohol and drug use issues is Elizabeth Gross (FRA–Office of Chief Counsel). He says Elizabeth Gross replaces Patricia Sun (FRA–Office of Chief Counsel) in that position. He uses a series of Microsoft PowerPoint Presentation slides, projected onto a screen for “Part 219 NPRM Update.” Photocopies of the Microsoft PowerPoint Presentation were distributed to meeting attendees. In addition, all meeting handouts will be entered into the RSAC Docket and the RSAC Internet Web Site, and are not excerpted in their entirety in the RSAC Minutes.

Under the slide, “Part 219 NPRM,” Mr. Allen says the following: (1) Part 412 of the RSIA requires a completed rulemaking by October 2010 to expand the scope of Part 219 to maintenance of way employees (Note: FRA is working to meet the deadline but as a significant rule change we may not make the RSIA deadline.); and (2) NTSB Safety Recommendation R-01-07 is as follows: Revise post-accident regulation to ensure that the exemption for highway-rail grade crossing accidents does not apply to a railroad employee whose actions at or near a grade crossing may have contributed to the cause or severity of the event (Note: FRA is proposing a new qualifying post-accident event for human factor caused highway-rail grade crossing events.).

Under the slide, “Other Proposed Amendments Part 1,” Mr. Allen says numerous aspects and components of the Part 219 Regulation need updating, clarifying, and maturing, including: (1) Small railroads will no longer be exempt from reasonable suspicion testing; (2) Monetary post-accident testing thresholds for Major Accidents and Impact Accidents will be increased; (3) The derailment collision and raking collision exception for Impact Accidents will be removed; and (4) Reasonable cause/reasonable suspicion testing requirements will be separated and restructured for clarity and understanding.

Lamar Allen (FRA) thanks the Norfolk Southern Railroad for hosting a conference on alcohol and drug abuse in South Carolina two weeks ago. He says FRA sees benefits to programs like Operation Red Block.

Under the slide, “Other Proposed Amendments Part 2,” Mr. Allen says (1) “Incidents” will be removed as a basis for reasonable cause testing; (2) Post-accident Testing Panel expansion, including reporting will be discussed; (3) Requirements for employers to conduct, document, and report observations to better ensure Part 219.101 and Part 219.102 compliance will be clarified; (4) Restructure and clarify Random testing critical

components; and (5) Restructure and clarify Subpart E to better support Peer Prevention and Usage.

Under the slide, "Overview," Mr. Allen lists the following: (1) Significant ongoing discussion between FRA staff and Industry, especially about adding maintenance of way employees to Part 219 scope. FRA goals: appropriate coverage; accountability; and auditability. FRA's final position will be determined in light of the public comments to the NPRM; (2) FRA is not planning to change its current successful compliance and enforcement strategy or application for Part 219; and (3) NPRM changes will better position FRA programs to support Part 226 Medical Standards when it is implemented.

Under the slide, "Overview 2," Mr. Allen says the NPRM will state FRA's position on each of the changes, but will also ask numerous questions about alternate methodologies or policies.

Lamar Allen (FRA) says Part 219 is being set-up to better support new rules for Part 226, fitness-for-duty assessments, that will flow from the Medical Standards Working Group. He asks for questions.

James Stem (United Transportation Union (UTU)) says Mr. Allen touched on FRA's interest in Peer Review Programs. He says he sees a trend for the future in that direction. He believes it is important to discuss this in a forum like the full RSAC. He says programs like Operation Red Block gives an opportunity for employees to stand-up and not tolerate drug and alcohol abuse in the work place. He says this is about eliminating a safety hazard on a property. He says the United Transportation Union is prepared to help any railroad with establishing an Operation Red Block Program. He thanks Lamar Allen and FRA for their efforts.

Stephen Strachan (National Railroad Passenger Corporation (Amtrak)) says Operation Red Block has been on Amtrak property since 1987. He says he supports this effort.

Rick Inclima (Brotherhood of Maintenance of Way Employees Division (BMWED)) says the BMWED has recently started an "Operation Red Block"-like Program. He says for contractors, it is a risk no matter who is paying the salary. He asks, "Do you foresee that the proposed Part 219 changes will address post-fatality testing for railroad workers versus contractors?" He asks, "Will that be addressed?"

Lamar Allen (FRA) replies, "Yes, it will."

Rick Inclima (BMWED) asks, "When will the Part 219 NPRM be issued?"

Lamar Allen (FRA) replies, he does not know.

Robert Grimaila (Association of American Railroads (AAR)) says the railroads share the view of James Stem. He says Peer Review efforts at the Union Pacific Railroad are successful.

Lawrence Mann (UTU) says alcohol and drug protocols need to meet certain scientific specifications. He asks, "Where do I go to find out what the protocols are, or if a company is using out-of-date testing methods?"

Cynthia Gross (FRA Facilitator) says company testing does not fall under Part 219 alcohol and drug regulations. She says FRA has no jurisdiction over company testing.

James Stem (UTU) asks if the Part 219 Preamble will address labor's request that testing standards for alcohol and drug used be based on scientific testing methods?

Chairperson Cothen says we get the sense that the current model for alcohol and drug testing has been embraced by labor and management. He says FRA will attempt to achieve clarity in language for Parts 219, 226, 240, and 242. He says provisions in all these rules need to be reconciled.

Chairperson Cothen asks, as an administrative matter, if anyone is concerned about other FRA Regulatory Activities?

Rick Inclima (BMWED) asks about cab car accommodations. He says he believes there is a deadline approaching in the next two weeks on this topic.

Chairperson Cothen says Alan Misiaszek (FRA–Office of Safety) has a mature draft proposal on this topic that, later in the summer of 2010, will be out, after regulatory review is complete.

James Grady (AAR) asks about the locomotive cab "Escape Respirator" issue?

Chairperson Cothen says there was a contract that studied this topic and a NPRM on this topic is in FRA's Office of Chief Counsel. He believes there might be a September 2010, publication date for the NPRM on Escape Respirators.

Chairperson Cothen asks for additions and corrections to the Minutes of the September 10, 2009, RSAC meeting. With no additions or corrections, Chairperson Cothen asks for a motion to accept the Minutes for the September 10, 2009, RSAC meeting, as presented.

Rick Inclima (BMWED) motions that the Minutes for the September 10, 2009, meeting of the Railroad Safety Advisory Committee be approved, as presented.

James Grady (AAR) seconds the motion.

BY VOICE VOTE, THE FULL RSAC APPROVES THE MOTION TO ACCEPT THE MINUTES FOR THE SEPTEMBER 10, 2009, MEETING, AS PRESENTED.

Robert Lauby (FRA) says the best time for the next full RSAC meeting will be some time in September 2010. He says FRA has blocked-out September 23, 2010, for a meeting to be held in Washington, DC.

Chairperson Cothen reminds RSAC member organizations to submit nominations for the Training Standards and Plans Working Group to Larry Woolverton (larry.woolverton@dot.gov) by March 31, 2010. He says FRA anticipates scheduling the first Training Standards and Plans Working Group meeting on April 13-14, 2010, in Philadelphia, Pennsylvania.

Chairperson Cothen thanks RSAC members and visitors for attending today's meeting. He adjourns the meeting at 3:30 pm.

M E E T I N G A D J O U R N E D 3:30 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.