

**DRAFT**  
**RAILROAD SAFETY ADVISORY COMMITTEE (RSAC)**

**Minutes of Meeting**  
**February 22, 2006**

The twenty-eighth meeting of the RSAC was convened at 9:38 a.m., in the National Hall (Franklin/Monroe Rooms) of the Washington Plaza Hotel, 10 Thomas Circle, N.W., Washington, D.C. 20005, 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 daily meeting are part of the permanent RSAC Docket. Seven of the forty-eight voting RSAC members were absent: The American Association of State Highway & Transportation Officials (AASHTO) (1 seat), The Association of Railway Museums (1 seat), The Brotherhood of Locomotive Engineers and Trainmen (BLET) (2 of 3 seats), The Brotherhood of Railroad Signalmen (BRS) (1 of 2 seats), Safe Travel America (1 seat), and The Transport Workers Union of America (TWU) (1 of 2 seats). Three of seven non-voting/advisory RSAC members were absent: The Labor Council for Latin American Advancement, The League of Railway Industry Women, and Secretaria de Comunicaciones y Transporte (Mexico). Total meeting attendance, including presenters and support staff, was approximately 100.

Chairperson Cothen welcomes RSAC members and attendees. He asks Edward Pritchard (FRA—Office Director, Office of Safety Assurance and Compliance) to give a meeting room safety briefing.

Mr. Pritchard (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 RSAC attendees acknowledge having completed this training. Mr. Pritchard advises that a large number of RSAC attendees have cellular telephones, but volunteers Christopher Schulte (FRA) to call the emergency telephone number, 911, should an emergency occur. Mr. Pritchard advises that the hotel does not have an automated external defibrillator (AED).

Chairperson Cothen welcomes RSAC members and attendees. He introduces FRA Administrator, Joseph H. Boardman and asks that he make opening remarks. Prior to his appointment by President George W. Bush to FRA, Mr. Boardman served as the Commissioner of the New York State Department of Transportation and led a major transformation effort that better enabled that Agency to respond to changes associated with an ever-expanding global market place. He has served in the transportation industry for nearly thirty years with experience in city, county, and State government. In addition, he owned his own transportation management company. Most recently, he was chairman of the Executive Committee of the Transportation Research Board and Chair of the AASHTO's Standing Committee on Rail Transportation.

Joseph Boardman (FRA) thanks RSAC members for attending today's meeting. He describes his early working life—on a dairy farm in upstate New York—to his previous position as Commissioner of Transportation for the State of New York. While he acknowledges that these positions may not qualify him as an "expert" on the many

complex issues facing the railroad industry, he applauds and supports the commitment that RSAC, originally chartered on March 25, 1996, is undertaking to make the railroad industry safer.

Citing recent accident/incident statistics, comparing the first 11 months of calendar year 2005, with the same period of 2004: (1) the employee-on-duty injury rate is down 14 percent; (2) train accidents per million train miles are down 10 percent, but the actual number of these events exceeded the number in 2003; and (3) highway-rail grade crossing incidents resulting in death and injury are down in 2005 from 2004. However, fatalities remain almost 6 percent higher than the record low year of 2003. He notes that train collisions continue to rise, acknowledging that most of these occur in rail classification yards at low speeds. However, there have been several serious train collisions on main line tracks as well. While FRA and railroads can find encouragement in these statistics, Administrator Boardman says that railroads need to show progress in improving safety. To this end, he says, that is where the work of RSAC is so important.

Mr. Boardman acknowledges receiving briefings on RSAC Working Group (WG) activities. He knows that WG's are working hard to accomplish assigned Tasks. However, he encourages WG's to act quickly on issues. If WG's get hung-up on a particular issue, he requests that they move-on. He says, "The only constant we deal with in our lives is change. This means there is always work for this industry."

Administrator Boardman describes a recent Retreat with Secretary of Transportation Mineta DOT's Modal Administrators to explore the direction of the Nation's transportation needs over the next 3-4 years. Safety emerged as a high priority. But so was congestion. He says that a greater use of rail transportation in both freight traffic and passenger traffic can help reduce the Nation's "addiction to oil." A greater use of the National Rail Passenger Corporation (Amtrak) services in the Northeast corridor could help reduce congestion in the northeast corridor. Administrator Boardman says that FRA believes that increasing rail capacity and improving rail safety centers around three elements: (1) Technology, i.e., making people and systems more productive, smarter and safer. FRA can help through research and development, liaison with others in government, and through regulatory strategies that encourage innovation; (2) Quality Assurance, i.e., focusing on building safety and reliability into systems—investments will be needed to anticipate requirements, not catch up after failure sets in; and (3) Public-Private Partnerships, i.e., FRA offers its services for planning and coordination; the Agency is custodian of a \$35 billion loan guarantee program that may play a role in projects going forward. Mr. Boardman hopes that RSAC will focus on technology and quality assurance issues and how they can benefit safety.

He offers a story, which he calls the "Parable of the Donkey." Briefly, a donkey falls into an abandoned well. A farmer is unable to retrieve the donkey, so he asks friends to help bury the donkey by shoveling dirt into the abandoned well. As the dirt is shoveled, the donkey shakes the dirt off his back and packs the dirt down with his feet. Eventually, the donkey reaches the surface of the well and walks off. Mr. Boardman says, "Life often shovels dirt on us. The trick to get out of a hole is to shake the dirt off and to step up." In a parallel to RSAC WG activities, Mr. Boardman repeats his request for WG's to move quickly to claim safety improvements, or to move on to other topics. He says WG's do not have the time for traditional bargaining as it has been known historically in the railroad industry.

He offers five points to help guide WG's to eliminate the personal interest bias against change. These are: free the heart from hatred, free the mind of worries, live simply, give more, and expect less. He concludes his remarks by asking RSAC to think about how to make railroads safer and more productive. The two have to go together if the railroad industry is going to make its maximum contribution to a balanced transportation system.

Chairperson Cothen thanks Administrator Boardman for his opening remarks. He says Ross Capon has an announcement.

Ross Capon (National Association of Railroad Passengers (NARP)) announces that NARP is accepting nominations for the annual Dr. Gary Burch Memorial Award. Additional information on this topic can be found at NARP's Internet Web Site, i.e., [www.narprail.org](http://www.narprail.org). [The Dr. Gary Burch Memorial Safety Award is an annual award granting \$1,000 to the railroad worker who has done the most to improve the safety of railroad passengers. Dr. Burch was chief, of the Ear, Nose, and Throat Clinic at the Eisenhower Hospital at Fort Gordon, Georgia. He was one of eight passengers who died July 31, 1991, at Lugoff, South Carolina, while traveling on Amtrak's Silver Star. It derailed at a switch that the National Transportation Safety Board (NTSB) later said was "poorly maintained." Dr. Burch's wife, Bette, was traveling with him and was injured. Later, she and her children (Michael Burch and Kathryn Pettyjohn) decided to do what they could to improve passenger rail safety. Their effort resulted in the award. A selection committee solicits nominations from railroad companies and operating agencies and selects someone to receive the award at NARP's annual Washington, D.C., reception in April of every year.]

With no questions of Mr. Capon, Chairperson Cothen asks Douglas Taylor (FRA—Office of Safety Staff Director Operating Practices Division) for a report on Railroad Operating Rules (ROR) Working Group (WG) activities.

Douglas Taylor (FRA) uses a series of Microsoft PowerPoint presentations, projected onto a screen. Photocopies of the Microsoft PowerPoint viewgraphs were distributed to meeting attendees. All meeting handouts will be entered into the RSAC Docket and are not excerpted in their entirety in the RSAC Minutes. RSAC Task No. 05-02, Reduce Human Factor-Caused Train Accidents/Incidents, was accepted by the full RSAC on May 18, 2005. Mr. Taylor explains that the WG has met 8 times, twice in 2006. The primary focus was on accidents/incidents involving 8 different accident/incident cause codes. He says the deadline for the WG to produce a Notice of Proposed Rulemaking (NPRM) has passed without the WG reaching consensus in any single area. However, he estimates that agreement was reached on about 70-80 percent of the issues under study.

FRA will now proceed to write the NPRM in order to meet a deadline set by Secretary of Transportation Mineta, having greatly benefitted from the RSAC WG input to the draft NPRM. He notes that nearly the entire October 25-26, 2005, WG meeting in Denver, Colorado, was devoted to resolving issues related to FRA Emergency Order (EO) No. 24, Emergency Order Requiring Special Handling, Instruction and Testing of Railroad Operating Rules Pertaining to Hand-Operated Main Track Switches, issued October 19, 2005. As a result of ROR WG input, Notice No. 2 to EO 24 was issued. Under the viewgraph, "Working Group Focus," Mr. Taylor says the WG concentrated on "Federalizing" railroad operating rules for the following: (1) shoving/pushing movements; (2) leaving equipment in the clear; (3) switches and derails;

(4) instruction/training; (5) operational tests and inspections; and (6) the “good faith challenge.” Under the viewgraph, “EO 24,” Mr. Taylor says that all of the requirements under EO 24 and EO 24 Notice 2, except for the continued use of a Switch Position Awareness Form (SPAF), have been integrated into the draft NPRM, which when final, will replace EO 24. This includes rules for hand-operated main-track switches, intra-crew communication, job briefings, and operational tests and inspections.

Joseph Boardman (FRA Administrator) says he is surprised that RSAC members are not cheering at the prospect at eliminating the SPAF from the Final Rule.

Douglas Taylor (FRA) continues. Under the viewgraph, “Working Group Discussion,” Mr. Taylor repeats that substantial agreement was reached on many issues, but there is no overall WG consensus for the draft NPRM. Under the viewgraph, “Operational Tests & Inspections,” the WG reached tentative agreement for railroad officers to be instructed and qualified on rules, the testing program and procedures and be provided appropriate field training. FRA proposed a system of monthly, quarterly, and semi-annual reviews of accidents/incidents by company officers to determine whether the testing program is focusing on the accidents/incidents that have occurred. However, concerns or objections by one or more of the WG participants were expressed over the level of detail and frequency of these reviews.

Finally, the WG discussed an exception to the operational tests and inspections requirements for railroads with less than 400,000 employee work hours. Under the viewgraph, “Training & Instruction,” draft rule text was circulated to the WG for written instruction, examination and qualification programs addressing 49 Code of Federal Regulation (CFR) § 218 rules with Federal sanctions including: (1) shoving, (2) leaving equipment in clear, and (3) switches and derails. However, concerns or objections by one or more of the WG participants were expressed for including provisions for the “good faith challenge” in the rule. Borrowed from Roadway Worker Protection Rules, i.e., 49 CFR § 214, the “good faith challenge” provision provides an mechanism for an employee to challenge, in good faith, any directive that would violate an on-track safety or operating rule. The draft NPRM requires that employees be trained on provisions of the rule within 12 months of the effective date of the rule.

The draft NPRM also allows FRA, for cause stated, to approve, or disapprove a railroad’s training program. However, concerns or objections by one or more of the WG participants were expressed over whether the training and instruction involve extensive and unjustified recordkeeping requirements and whether re-training is required for experienced employees within the 12-month period following the effective date of the rule. Under the viewgraph, “Good Faith Challenge,” Mr. Taylor repeats that this provision of the NPRM was taken directly from existing Roadway Worker Protection Rules. Under the “good faith challenge,” there is an employee right to challenge on the basis of a violation of FRA’s regulations. The employee would not be subject to discharge or discrimination. No work will be performed until the challenge is resolved. The resolution process includes the involvement of a railroad officer other than the person issuing the directive. However, concerns or objections by one or more of the WG participants were expressed over whether FRA has statutory authority to include the “good faith challenge” provision in its rules, saying an employee’s refusal to perform work falls under provisions of 49 United States Code § 20109. Mr. Taylor next describes ROR WG efforts to “Federalize” railroad operating rules in three areas. Under the viewgraph, “Shoving / Pushing Movements,” proposed new

rules require employees to visually determine that the track is clear, with limited equivalent exceptions, before beginning shoving/pushing movements. In addition, there are requirements for remote control operations. FRA is considering how these rules will affect short-line operations, particularly short-line remote control operations. However, concerns or objections by one or more of the WG participants were expressed over the applicability of restrictions to shoving/pushing movements over private grade crossings or pathways and whether there should be exceptions for movements over grade crossings equipped with flashing lights only. Under the viewgraph, "Leaving Equipment in the Clear," equipment must not be left where it would foul connecting track, with limited exceptions. However, concerns or objections by one or more of the WG participants were expressed over wording that would accommodate yard/industry track with insufficient capacity to hold equipment.

Under the viewgraph, "Switches & Derails," Mr. Taylor says the proposed "Federal" rules are typical of every railroad's operating rules, i.e., switches should be locked in their normal position when not in use; derails should be locked in the derailing position; equipment shall not foul track until switches/derails are properly lined, the route is clear, or the train has movement authority. Mr. Taylor says the Switch Position Awareness Form (SPAF) will not be carried forward from EO 24 due to the administrative burden on crews and railroads. In addition, the rules specify that cross-over switches need to be in correspondence, and job briefings are required when crews handle main track switches. However, concerns or objections by one or more of the WG participants were expressed over whether hand-operated main-track switches should be operated without permission of a train dispatcher, or employee-in-charge (EIC). Mr. Taylor concludes his report on ROR WG activities by asking for questions.

Fran Hooper (American Public Transportation Association (APTA)) understands that there was a discussion involving APTA members and FRA that was "in progress" at the conclusion of the last ROR WG meeting. She says APTA would like to complete that conversation before FRA proceeds with the NPRM.

Chairperson Cothen says counsel permitting, a continuation of the conversation may be possible. He says FRA established a February 2006, deadline based on the Secretary of Transportation's dictates. FRA covered many areas in the ROR WG meetings. However, he reminds RSAC members that FRA Administrator Boardman said in earlier remarks, "If a WG gets hung-up on an issue, move-on." He adds, everyone in the ROR WG worked hard. He says FRA has benefitted greatly from the WG conversations. He reads the following ROR WG consensus statement:

"The Working Group recognizes that FRA will proceed with a notice of proposed rulemaking addressing human factor train accidents and employee casualties involving railroad operating practices.

"The Working Group recommends that, in doing so, FRA take into consideration the issues and considerations brought forward during the Working Group's discussions.

"The Working Group requests that comments on FRA's proposal be referred to the Working Group for further consideration, with the goal of achieving consensus on the final rule. The Working Group further requests that its task remain in effect so that it may consider non-regulatory actions that may be helpful in addressing human factors affecting the safety of railroad operations."

Chairperson Cothen explains that the ROR WG consensus statement says the WG wants to revisit the NPRM for another look at the proposed rules. He says FRA wants to publish the NPRM not later than September 2006. He says comments to the NPRM will be brought forward to the ROR WG. He asks for a motion to accept the ROR WG Final Report on WG activities.

Tom Pontolillo (Brotherhood of Locomotive Engineers and Trainmen (BLET)) moves that the full RSAC accept the Final Report on ROR WG activities.

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

BY UNANIMOUS VOICE VOTE, THE FULL RSAC ACCEPTS THE FINAL REPORT ON THE RAILROAD OPERATING RULES WORKING GROUP ACTIVITIES.

Chairperson Cothen asks for a permission from the full RSAC for FRA to give comments to the NPRM on railroad operating rules to the ROR WG for review and resolution.

BY UNANIMOUS VOICE VOTE, THE FULL RSAC GIVES PERMISSION TO FRA TO HAVE THE ROR WG REVIEW COMMENTS TO THE NPRM ON RAILROAD OPERATING RULES.

Chairperson Cothen thanks RSAC for its votes on ROR WG activities. He asks Cindy Gross (FRA–Office of Safety, RSAC WG Facilitator) for a report on Passenger Safety WG activities.

Cindy Gross (FRA) says the full Passenger Safety WG has not met since September 7, 2005. Its next meeting is scheduled for March 21-22, 2006. However, she will ask John Mardente (FRA–Office of Safety) for a report on Track Vehicle Interaction (TVI) Task Force (TF) activities and Brenda Moscoso (FRA–Office of Safety) for a report on Emergency Preparedness (EPREP) TF activities. These two TF's have met subsequent to the last full meeting of the full Passenger Safety WG. Ms. Gross asks John Mardente for a report on TVI TF activities.

John Mardente (FRA) uses a series of Microsoft PowerPoint presentations, projected onto a screen. Photocopies of the Microsoft PowerPoint viewgraphs were distributed to meeting attendees. All meeting handouts will be entered into the RSAC Docket and are not excerpted in their entirety in the RSAC Minutes. Mr. Mardente says much progress is being made in this highly technical area. He says the TVI TF began meeting in 2004. Now, the TF is beginning to draft proposed rule text language.

Under the viewgraph, "RSAC TVI Technical Subgroup Issues," the principle issues are: (1) Vehicle Track Interaction (VTI) Limits; (2) Vehicle Qualification (VQ); (3) Monitoring Requirements; (4) Review of High-Speed Track Geometry Limits; (5) Track Geometry and High Cant Deficiency; (6) 49 CFR §§ 213/238 Language Consolidation; and (7) Elimination of FRA Class 9 Track Standards, i.e., maximum allowable operating speed is 200 mph. Under the viewgraph, "Vehicle Track Interaction (VTI) Limits," the TF is looking at wheel-rail force and carbody and truck acceleration criteria for (1) power cars, and (3) coaches. The TF is giving consideration to placing accelerometers on truck bodies. Under the viewgraph, "Vehicle Qualification (VQ)," Mr. Mardente explains that this is Item G-2

under the Passenger Safety WG's Issue Matrix. Undergoing TF review are the following considerations affecting 49 CFR § 213.345: (1) new equipment and qualified equipment; (2) route; (3) simulations; (4) lean test, i.e., 49 CFR § 213.57; (5) carbody and truck acceleration; (6) instrumented wheelset (IWS); and (7) submittals and approvals. The Volpe National Transportation Systems Center (Volpe) is looking into simulations for VQ. Under the viewgraph, "Monitoring Requirements," the TF is looking to amend 49 CFR §213.333 in the following areas: (1) track geometry measurement systems (TGMS); (2) carbody and truck acceleration; (3) IWS annual test; and (4) reporting. Under the viewgraph, "Review of High-Speed Track Geometry Limits and Track Geometry and High Cant Deficiency," Mr. Mardente explains that this is Item G-4 under the Passenger Safety WG's Issue Matrix.

The TF is studying analysis by Volpe and FRA, looking for commonality, so that tests in the following areas will flow: (1) combined defect limits; (2) short warp limit; (3) the relationship between track geometry and cant deficiency; and (4) simulation. Under the viewgraph, "213/238 Language Consolidation," the TF is looking at roll angle requirements for passenger safety as it removes duplicate requirements in 49 CFR § 238. Under the viewgraph, "Elimination of Class 9," the TVI TF has completed its review and has drafted language to delete references in the CFR to Class 9 Track Standards and to reduce the maximum operating speed for Class 8 track to 150 mph. The TVI TF will present the draft language as part of a package containing all of the TVI TF recommendations at a future Passenger Safety WG meeting. However, Mr. Mardente estimates that another year of work and perhaps 4-6 additional TF meetings will be required before the TVI TF completes its work. He says the most technical aspect involves the review of high-speed track geometry limits and track geometry and high cant deficiency. The next TVI TF meeting will be March 7-8, 2006, at the Melrose Hotel in Washington, D.C. He encourages RSAC members to attend at least one TVI TF meeting.

Chairperson Cothen asks if there are any questions for John Mardente on TVI TF activities. With no questions, Chairperson Cothen asks Brenda Moscoso for a report on EPREP TF activities.

Brenda Moscoso (FRA) uses a series of Microsoft PowerPoint presentations, projected onto a screen. Photocopies of the Microsoft PowerPoint viewgraphs were distributed to meeting attendees. All meeting handouts will be entered into the RSAC Docket and are not excerpted in their entirety in the RSAC Minutes. Under the viewgraph, "Notice of Proposed Rulemaking" (NPRM), Ms. Moscoso says that the an NPRM is being reviewed by FRA. The NPRM has been designated "significant" by the Office of Management and Budget (OMB), adding additional review by that Executive Branch of Government Agency. FRA anticipates publication of the NPRM by the Summer of 2006. [Note: At its May 18, 2005, meeting, the full RSAC has approved draft NPRM rule text for: (1) emergency window exits, (2) rescue access windows, (3) emergency communications, (4) emergency roof access, and (5) inspection and repair of emergency systems.] Subsequently, the EPREP TF began a review of additional topics. Under the viewgraph, "Removable Windows/Panels in Vestibule Doors," Ms. Moscoso says the TF is considering requirements to provide access to side and end frame door exits in new passenger cars. End doors are the preferred means of emergency exit. In addition, end doors are likely to be the preferred exit route from cars that have rolled onto their sides. The criteria under consideration for removable windows and panels in vestibule doors include: (1) ease of operability, i.e., rapid and easy removal without the use of tools or other implements; (2) dimensions, i.e., 23-inches horizontally and

approximately 28-inches vertically; (3) markings and instructions, i.e., the same as for emergency window exits; and (4) inspections, i.e., a representative sample will be tested every 184 days. For Powered Bi-Parting Doors, the following criteria are under consideration: (1) manual override feature; (2) door retention mechanism, e.g., ratchet and pawl or sprag; (3) markings and instructions, i.e., the same as for removable panels/windows; and (4) inspection, i.e., a representative sample will be tested every 184-days.

Among the outstanding issues for removable windows/panels in vestibule doors include the following: (1) location, i.e., in the lower half of the door, to the extent possible; (2) applicability to interior vestibule/cab compartment doors due to potential security implications; and (3) removable windows/panels in end-frame doors. Under the viewgraph, "Emergency Lighting," Ms. Moscoso explains the goal is to have a well-protected emergency power supply. For new equipment, the TF is recommending that the American Public Transportation Association (APTA) revise its emergency lighting standard to include a requirement for an independent power source. For existing equipment, the TF is monitoring Amtrak's experience with its "disaster lighting system" before proceeding with recommendations in this area. Under the viewgraph, "Incorporation by Reference of APTA PRESS Standards," Ms. Moscoso explains that FRA intends to incorporate by reference into the Code of Federal Regulations (CFR) APTA's Passenger Rail Equipment Safety Standards (PRESS), when issued, for: (1) Emergency Lighting (existing equipment compliant by 2015; new equipment will have independent power source); (2) Low-Location Exit Path Markings (implementation schedule to be determined); and (3) Emergency Signage for Egress/Access (non-high-performance photo-luminescent (HPPL) material will not be "grandfathered;" for new equipment, HPPL Extended (HPPLX) material or electrically powered with an independent power source will be required; for existing equipment, HPPL material or electrically powered (electrically powered with an independent power source after five years) will be required. Ms. Moscoso asks for questions.

Rick Inclima (Brotherhood of Maintenance of Way Employees Division (BMWED)) asks about any problems with incorporating APTA Standards into the CFR. He asks what happens if APTA modifies its Standards?

Chairperson Cothen explains that incorporating APTA PRESS Standards into the CFR is a two-phase process. FRA first looks for either a "material" change, or a "language" change. In adopting APTA PRESS Standards into the CFR, FRA is looking for an "equivalent level of safety." He asks Ms. Moscoso for an ETA (estimated time of arrival) of the APTA PRESS Standards for the full RSAC's consideration.

Brenda Moscoso (FRA) explains that two of the three APTA PRESS Standards may be ready for the Passenger Safety Working Group's consideration at its March 21-22, 2006, meeting.

Chairperson Cothen explains that the comment period for the NPRM on Passenger Safety Mechanical Issues is closed. He says that any material comments on the NPRM received by FRA will be referred-back to the Passenger Safety Working Group's Mechanical Task Force for review.

Chairperson Cothen announces the morning break.

Mr. Cothen calls the meeting to order. He announces that Fred Ohly (National Railroad Passenger Corporation (Amtrak)) is retiring shortly. He asks RSAC to thank Mr. Ohly for his contribution to RSAC. He recognizes the new Federal Transit Administration member, Levern McElveen. Mr. McElveen replaces John Bell. He asks Christopher Schulte (FRA–Office of Safety) for a report on Roadway Worker Protection (RWP) Working Group (WG) activities.

Christopher Schulte (FRA) uses a series of Microsoft PowerPoint presentations, projected onto a screen. Photocopies of the Microsoft PowerPoint viewgraphs were distributed to meeting attendees. All meeting handouts will be entered into the RSAC Docket and are not excerpted in their entirety in the RSAC Minutes. Under the viewgraph, “Session Status,” Mr. Schulte explains that the RWP WG met five times in calendar year 2005, since its start-up in April 2005. It has met twice in 2006. The next scheduled WG meeting is March 15-16, 2006, in San Antonio, Texas.

Under the viewgraphs, “Consensus Items,” Mr. Schulte summarizes the progress being made as follows. The WG has agreed to: (1) use 49 CFR § 236 definitions for control point and manual/automatic interlocking in the definition section of 49 CFR § 214; (2) not develop a new term for “switch arrangement,” i.e., a type of power-operated switch; (3) clarify the existing definition for “effective securing device;” (4) not revise the definition, “Fouling a Track;” (5) define “On-Track Safety Manual;” (6) define “Maximum Authorized Speed” (as it applies to on-track safety); (7) revise § 214.309 to clarify requirements of the on-track safety manual; (8) add new sub-paragraph for on-track safety briefing to require procedural instructions regarding adjacent tracks (§ 214.315); (9) add new paragraph enabling roadway workers to cross tracks (§ 214.317); (10) add new paragraph allowing unique identifier versus employee name for a roadway work group on an authority (§ 214.321); (11) revise § 214.323 to clarify that roadway workers may not allow movement into foul time; (12) a proposed new § 214.324, “verbal protection,” similar to foul time for interlockings/control points only—to facilitate movements; (13) not include “tactile” as a regulatory alternative to audible and visual for train approach warning; (14) revise § 214.337 to allow individual train detection at control points without switches; (15) add a new paragraph prohibiting the use of individual train detection for work involving material or equipment that cannot be readily moved by hand (§ 214.337); (16) changes in § 214.335 regarding roadway work group activities in the vicinity of adjacent tracks: (a) requires on-track safety for adjacent controlled track closer than 19 feet to the occupied track for on-ground workers with rail-bound machines; (b) requires all work to stop upon notification when speeds are greater than 25 mph; and (c) permits hi-rail vehicles, tower catenary cars with on-ground work, and on-ground work to the field side, to proceed without controlled adjacent track on-track safety. Special on-track safety briefing required, and the rule text also reinforces the prerogative of the roadway worker in charge (RWIC) to establish adjacent track on-track safety, as necessary.); and (17) clarify locomotive horn sounding when approaching roadway workers (revisions to § 214.339).

Under the viewgraph, “Non-Consensus Items,” Mr. Schulte describes the following areas where the WG has been unable to reach consensus: (1) definition of a remote hump yard facility (The WG can agree where the hump yard facility begins, but not where it ends); (2) occupancy behind; (3) use of tunnel niches that may be closer than 4-feet

from active track; and (4) train approach warning and the prohibition of work involving material or equipment that cannot be readily moved.

Under the viewgraphs, "Future Discussion Points," Mr. Schulte explains the labor, management, and FRA WG members contributed to the following list of issues the WG wants to address: (1) definition of roadway worker and work preparation activities; (2) assignment of a RWIC for contractors; (3) electronic versus paper documentation; (4) train coordination on non-controlled track; (5) roadway worker limitations when warned by a watchman; (6) lone worker limitations when trains approach; (7) individual train detection at controlled points; (8) on-track training of other than roadway workers who provide protection for roadway work groups; (9) maximum training time span for roadway workers; (10) location of roadway worker in charge; (11) on-track snow throwers and weed-sprayer operations on non-controlled track; (12) snow removal at passenger platforms (affects commuter railroads and railroad contractors, where men and equipment are closer than 4-feet to active tracks); (13) training frequency of contractors; (14) yard limits—controlled/non-controlled; (15) block register territory; (16) railroads informing contractor of on-track safety requirements; and (17) switch manipulation. Mr. Schulte asks for questions.

With no questions of Mr. Schulte, Chairperson Cothen announces that the Transportation Security Agency (TSA) had been expected to make a presentation before RSAC today. However, TSA is unable to attend today's meeting. He asks FRA Administrator Boardman for additional comments on this topic.

Administrator Boardman says he spoke with Robert D. Jamison, Deputy Director, TSA (former Acting FRA Administrator) about today's TSA presentation. But, he adds, in the Government structure, Agency staff cannot always say what they want. TSA wanted to be here today, but they were not able to get the rest of the Department of Homeland Security (DHS) informed of what they were going to say. He says that TSA's presentation will be postponed until a later RSAC meeting.

Chairperson Cothen asks RSAC's permission to vary the meeting Agenda. He says Acting FRA Associate Administrator for Safety, Jo Strang, is attending a DOT meeting for Administrator Boardman, so that Mr. Boardman can attend today's RSAC meeting. Chairperson Cothen proposes that RSAC hear Jo Strang's remarks on the National Rail Safety Action Plan during the afternoon session.

He asks Michael E. Iden (Association of American Railroads—Union Pacific Railroad) for a presentation on a proposed new RSAC Task involving the review and revision of locomotive safety standards. As Mr. Iden sets up his presentation, Chairperson Cothen explains that locomotive safety standards were last revised 25 years ago. He notes that the Agency would like to review its rules at least every 10 years. Along the way, there have been requests for a rulemaking, i.e., there is an AAR Petition before FRA for permission to remove the requirement for locomotive sanders. Both the AAR and the American Short Line and Regional Railroad Association (ASLRRA) have requested waivers to both daily and periodic locomotive inspections. FRA would like an RSAC WG to take-up this issue. FRA also notes that remote control locomotive operations have not been integrated into its safety standards. There is also the issue of electronic record keeping, as part of the Paperwork Reduction Act. Chairperson Cothen says the locomotive sander issue has been before the Agency for eight months. Therefore, there is a short time frame for dealing with this issue. For other issues that would come before

the WG for revisions to locomotive safety standards, Chairperson Cothen hopes that the WG can process the issues in an orderly way, consistent with members' work loads.

Michael E. Iden (AAR) uses a series of Microsoft PowerPoint presentations, projected onto a screen. Photocopies of the Microsoft PowerPoint viewgraphs were distributed to meeting attendees. All meeting handouts will be entered into the RSAC Docket and are not excerpted in their entirety in the RSAC Minutes.

Under the viewgraph, "49 CFR 229.131," Mr. Iden explains that the Petition of the AAR before FRA is a request to delete 49 CFR § 229.131, Sanders, i.e., "Except for MU locomotives, each locomotive shall be equipped with operable sanders that deposit sand on each rail in front of the first power operated wheel set in the direction of movement." Under the viewgraph, "Sand for Braking," Mr. Iden offers the following observations: (1) Sand is an historic adhesion enhancer for locomotive "traction" (first recorded use occurred in 1936); (2) There is no documented evidence supporting sand as a "braking" adhesion enhancer; (3) Canadian tests from 1988 show no difference in freight and passenger train stopping distances with and without sand under various weather conditions and speeds; (4) A Canadian Air Brake Club report from 1989 shows that sand does not perform a safety function; (5) Sanders are not required by regulation in Canada, where railroads make decisions about sanders and sand (and operate locomotives accordingly) based on operational considerations. Mr. Iden says clear and consistent test results under a variety of weather conditions, speeds, with sand, without sand, and for both freight and passenger trains show that the presence or absence of sand does not have any significant influence on emergency stop distances for freight or passenger trains.

Chairperson Cothen asks if there are questions of Mr. Iden?

Ross Capon (NARP) asks if Canadian railroads use sand at all? He asks if there is a safety consideration for trains using sand for "traction" versus "braking?"

Michael Iden (AAR) says with the current high horsepower locomotives, there is no operational need for sand. He says the use of sand is an operational managerial decision.

David Elliott (High-Speed Ground Transportation Association (HSGTA)) asks for clarification of whether sand is needed in the Northeastern United States during the "leaf" season?

Mr. Iden says it is a case of "traction adhesion" versus "braking adhesion."

Mr. Elliott says he is the new RSAC representative for the HSGTA. Formerly he represented APTA on RSAC Working Groups.

Timothy DePaepe (Brotherhood of Railway Signalmen (BRS)) asks if the data on the inefficiency of locomotive sanders for braking has been around for 17 years, why is the AAR making this request now?

Mr. Iden says the Union Pacific Railroad has had an interest in removing the requirement for locomotive sanders for the past 7 years. He asks Mike Rush (AAR-Counsel) for an explanation of when the AAR first considered the Petition to delete 49 CFR § 229.131, Sanders.

Mike Rush (AAR) responds that the timing of AAR's Petition was based on a question of the railroad association's priorities.

Mr. DePaepe asks if any testing involving locomotive sanders was undertaken in extreme conditions such as heat in the Southern United States?

Rick Inclima (BMWED) asks if research has been undertaken concerning internal rail flaws and engine burn factors. He suggests that the WG will need to look at these issues as it considers the AAR's request to remove locomotive sanders.

Chairperson Cothen offers new RSAC Task No.: 06-01, Review and Revision of the Locomotive Safety Standards for RSAC consideration. Copies of RSAC Task No.: 06-01 were distributed to meeting attendees. All meeting handouts will be entered into the RSAC Docket and are not excerpted in their entirety in the RSAC Minutes. In addition, all RSAC Task Statements will be posted on the RSAC Internet Web Site (<http://rsac.fra.dot.gov>).

Mark Schulze (AAR) asks for clarification of the third Task Statement Issue, i.e., "Apart from traditional train control, what is the role of electronic control systems in the operation of locomotives for switching and for train operations? What safety criteria should be applied?"

Chairperson Cothen explains that it is a Subpart H issue, i.e., whether electronic controls can operate in a fail-safe condition.

Mr. Inclima asks to add to the "Issues Requiring Specific Report," a report on internal rail flaws and engine burn failures that may result from the elimination of 49 CFR § 229.131, Sanders.

Chairperson Cothen asks that the Minutes of the RSAC meeting reflect Mr. Inclima's request, i.e., that it is the intention of FRA to add a discussion on train handling practices and internal rail flaws to the WG's consideration of the elimination of 49 CFR § 229.131. He asks for a motion that the full RSAC accept proposed new Task No.: 06-01, Review and Revision of the Locomotive Safety Standards.

James Stem (United Transportation Union (UTU)) moves that the full RSAC accept proposed new Task No.: 06-01, Review and Revision of the Locomotive Safety Standards.

Bob VanderClute (AAR) seconds the motion. He requests that for the variety of issues considered by the WG, under proposed new Task No.: 06-01, that each issue be examined and reported-out separately, rather than wait for a draft NPRM at the conclusion of the WG's activities.

Chairperson Cothen responds, "So noted."

**BY UNANIMOUS VOICE VOTE, THE FULL RSAC ACCEPTS PROPOSED NEW TASK NO.: 06-01, REVIEW AND REVISION OF THE LOCOMOTIVE SAFETY STANDARDS.**

Chairperson Cothen thanks the full RSAC for accepting new Task No.:06-01. He announces the lunch break.

Chairperson Cothen reconvenes the meeting. He asks acting FRA Associate Administrator for Safety Jo Strang for a progress report on National Rail Safety Action Plan implementation, which has a goal of improving safety by targeting the most frequent and highest risk causes of train accidents in America.

Jo Strang (FRA) explains that the National Rail Safety Action Plan is targeting the following areas: (1) reduce human factor accidents, (2) address fatigue, (3) improve track safety, (4) improve hazardous materials safety and emergency response capability, (5) strengthen FRA compliance program, and (6) foster further improvements in highway-rail grade crossing safety.

In the area of "Human Factor Related Accidents," Ms. Strang says RSAC heard earlier from Douglas Taylor on the ROR WG activities. FRA will issue a notice of proposed rulemaking by September 2006, to "Federalize" a small number of railroad operating rules in the areas of (1) shoving and pushing movements, (2) leaving equipment in the clear, and (3) switches and derails.

In addition, FRA's Office of Railroad Development will undertake a "Close Call Reporting" pilot project. Four railroads have expressed an interest in taking part. But Ms. Strang encourages others to offer to participate. A contract to evaluate Close Call Demonstration Project data has been awarded to the Altarum Institute. A revised target date for starting to take reports is July 30, 2006.

In the area of "Fatigue" an analysis of accident data provided by five Class I railroads using FRA's "fatigue model" is underway. A preliminary report is anticipated during March 2006; a final report is planned for August 2006. In the area of "Improve Track Safety," FRA is on target to develop a vehicle-mounted system and related crack detection software for its Joint Bar Imaging System (for automated crack detection). Testing and demonstrations are planned for the coming months. In addition, two additional automated track geometry cars will be operational by September 15, 2006, and December 15, 2006, respectively.

In the area of "Improve Hazardous Materials Safety and Emergency Response Capability" are the following: (1) a promising technology using a wireless communications network and switch position detectors is being demonstrated on BNSF railroad to inform train dispatchers of switch positions in non-signaled territory; (2) a review of a pilot project on CSX Transportation to make commodities lists of a train's consist available to first responders is underway; (3) FRA is accelerating tank car structural research to complete this project mandated by the Safe, Accountable, Flexible, Efficient Transportation Equity Act, A Legacy for Users (SAFETEA-LU). SAFETEA-LU calls for this research to be finished by August 19, 2006, which is not possible. FRA is adding resources to this effort in hope to complete research by August 2007; (4) Research by Volpe and Foster-Miller, Incorporated is underway to model tank car deformation during derailments. A comparison between observed and calculated deformations from the January 6, 2005, Graniteville, South Carolina, train accident may be accomplished by August 2006; (5) dynamic fracture toughness testing of metal samples from cars involved in accidents are being collected and inventoried by Southwest Research Institute for future reference for accident investigations; and

(6) preliminary low-level risk analysis, expected to be completed by December 2006, is under way to prioritize the tank cars that are most vulnerable to catastrophic failure. Higher-level analysis can be conducted after the research on derailment forces and testing for fracture toughness has been completed.

In the area of "Strengthen FRA Compliance Program," as of January 2006, FRA has implemented the use of a National Inspection Plan (NIP) for four inspection disciplines (Track, Operating Practices, Motive Power and Equipment, and Signal and Train Control) to better target railroad inspections. The Hazardous Materials inspection discipline is expected to be integrated into NIP by March 31, 2006.

In the area of "Foster Further Improvements in Highway-Rail Grade Crossing Safety," FRA continues to build partnerships with State and Local Agencies. A Safety Advisory offering assistance in accident investigation has been distributed at national law enforcement conferences. A target to develop a Louisiana State Action Plan was delayed because of hurricanes. Ms. Strang asks for questions.

With no questions of Jo Strang, Chairperson Cothen asks Ken Rusk (FRA—Office of Safety Staff Director for Track) for a presentation on Continuous Welded Rail (CWR) issues.

Ken Rusk (FRA) explains that he was formerly with FRA's Atlanta, Georgia office and was recruited to replace Al MacDowell, who retired, as Staff Director for Track. He uses a series of Microsoft PowerPoint presentations, projected onto a screen. Photocopies of the Microsoft PowerPoint viewgraphs were distributed to meeting attendees. All meeting handouts will be entered into the RSAC Docket and are not excerpted in their entirety in the RSAC Minutes.

Mr. Rusk says an Interim Final Rule has been issued for Continuous Welded Rail Bolted Joints. Under the viewgraph, "History" three major accidents involving joint bar failure or CWR failure between 2002 and 2004, i.e., accidents near Minot, North Dakota, Flora, Mississippi, and Pico Rivera, California prompted the Safe, Accountable, Flexible, Efficient Transportation Equity Act, A Legacy for Users (SAFETEA-LU) to require that FRA take certain measures regarding CWR. Under the viewgraph, "SAFETEA-LU," FRA is required to: (1) instruct FRA track inspectors to obtain copies of the most recent CWR programs of each railroad within the inspectors' area of responsibility; (2) establish a program to review CWR joint bar inspection data from railroads; (3) require each track owner to implement procedures to improve the identification of cracks and other incipient failures in bolted joints within CWR.

To meet Congressional requirements under tight time restraints, FRA needed to bypass its preferred method of rules formation, RSAC. An Interim Final Rule regarding CWR was published on November 2, 2005, 70 Federal Register (FR) 66288 (FRA Docket Number FRA 2005-22522). The compliance date for new paragraph (g) under 49 CFR § 213.119, is January 3, 2006.

Under the viewgraph, "Interim Final Rule (IFR)" are the following: (1) railroads are to identify and locate each bolted rail joint in CWR, including a system to inventory, locate, and identify each joint. There are requirements for recordkeeping of each CWR joint inspection and any remedial action required; (2) railroads are to conduct periodic and special on-foot inspections of all bolted rail joints in CWR; (3) the IFR specifies the conditions of potential joint failure; (4) the IFR specifies the appropriate remedial actions;

and (5) the IFR specifies the minimum timing of the inspections, based on FRA Track Class, which should also be based on the configuration and condition of the joint.

Under the viewgraph, "IFR Alternative," in lieu of the requirements for the on-ground inspection, a track owner may seek approval from the FRA Associate Administrator for Safety to use alternate procedures. The Associate Administrator for Safety shall determine that the alternate procedure provides an "equivalent level of safety." While the alternate procedure is undergoing FRA review, the track owner shall continue to comply with the inspection requirements of the IFR. Under the viewgraph, "IFR Comments," the following is a sampling of comments that FRA has received to the IFR: (1) the IFR should not require railroads to inventory CWR joints or record inspection results by joint; (2) it is unnecessary for IFR to apply to joints next to turnouts and diamonds since monthly inspections of turnouts and diamonds are already required; (3) the requirement to inspect for rail end batter or mismatch should be clarified; (4) railroads should not be required to remove pavement or crossing pads to inspect joints; (5) railroads should be permitted to operate an irregularly scheduled train over Class 2 CWR track without the required CWR joint inspections; and (6) current inspection frequency is a one-size fits all approach that will not establish sufficient levels of safety under certain conditions. Ken Rusk asks for questions.

With no questions of Mr. Rusk, Chairperson Cothen offers new RSAC Task No.: 06-02, Track Safety Standards and Continuous Welded Rail, for RSAC consideration. Copies of RSAC Task No.: 06-02 were distributed to meeting attendees. All meeting handouts will be entered into the RSAC Docket and are not excerpted in their entirety in the RSAC Minutes. In addition, all RSAC Task Statements will be posted on the RSAC Internet Web Site (<http://rsac.fra.dot.gov>).

He says the WG will be asked to look at the IFR comments received by FRA and to help decide how to integrate the comments into the Final Rule. In explaining the need for RSAC to take up Task No.: 06-02, he cites recent comments made by FRA Deputy Administrator Eby to the effect that, "if you are treating symptoms to a problem, you are not treating the underlying cause." He says FRA needs a discussion about the management of CWR. He says FRA has a rail integrity Task Force also working on this issue.

For the proposed new RSAC Task No.: 06-02, FRA envisions at a minimum that the WG will integrate comments to the IFR into the Final Rule. He hopes this would be a fairly quick process. Then, he says, the WG can look at other track structure issues. He says it is not necessary for the WG to look at all of 49 CFR § 213, unless it wants to. Also, he says the WG will not be asked to repeat Passenger Safety WG issues under proposed new Task No.: 06-02. He asks for RSAC comments on proposed new Task No.: 06-02, Track Safety Standards and Continuous Welded Rail.

Bob VanderClute (AAR) is pleased to see an aggressive date for addressing CWR issues. But he adds, that the WG will need to resolve the CWR inventory issue early-on.

Rick Inclima (BMWED) says in looking at the proposed new Task Statement, it appears to be open-ended. He says there are time restraints. He says if the WG focuses exclusively on CWR issues under 49 CFR § 213, the task will be manageable. He reiterates that the focus of the Task Statement should be amended to only look at CWR issues under 49 CFR Part 213. He is concerned about the ability to get the task accomplished in short order. He proposes to modify the "Purpose" section of the Task

as follows: “To review and revise the [**Continuous Welded Rail (CWR)-related provisions**] of Track Safety Standards, with particular emphasis on reduction of derailments and consequent injuries and damage caused by defective conditions, including joint failures, in track using CWR.” To also narrow the focus of the proposed new Task, he requests that the 4<sup>th</sup> bullet under “Description,” be eliminated, i.e., “Recommend other enhancements or corrections to the Track Safety Standards, as needed.”

Mr. VanderClute agrees with Mr. Inclima’s suggestions.

Chairperson Cothen expresses hope that a systems approach can be taken. He says this Task is not just about 49 CFR § 213.119, Continuous Welded Rail (CWR); general. He asks for a motion from the full RSAC to accept proposed new RSAC Task No.: 06-02, Track Safety Standards and Continuous Welded Rail, as amended.

John Samuels (AAR) explains that CWR is a dynamic system. He says there are many factors that can cause fractures in CWR. He says the WG will get into many high-cost areas of making changes to the current system. He asks at what point will there be a “reality check” on this process?

Chairperson Cothen responds that FRA has economists assigned to each WG who can assist the WG with this type of analysis. He repeats his request for a motion from the full RSAC to accept proposed new RSAC Task No.: 06-02, Track Safety Standards and Continuous Welded Rail, as amended. He says FRA needs RSAC’s help on resolving IFR issues. The IFR was issued to conform with Congressional intent and deadlines. But, he adds, FRA has heard that Capitol Hill is not entirely happy with FRA’s approach. He agrees with Dr. Samuels that the approach should be cost effective.

Mr. Inclima moves that the full RSAC accept proposed new RSAC Task No.: 06-02, Track Safety Standards and Continuous Welded Rail, as amended.

Timothy DePaepe (BRS) seconds the motion.

BY UNANIMOUS VOICE VOTE, THE FULL RSAC ACCEPTS PROPOSED NEW TASK NO.: 06-02, TRACK SAFETY STANDARDS AND CONTINUOUS WELDED RAIL, AS AMENDED.

Chairperson Cothen thanks the full RSAC for accepting new Task No.:06-02. He asks that the major stakeholders for both Task No.: 06-01, Review and Revision of the Locomotive Safety Standards, and Task No.: 06-02, Track Safety Standards and Continuous Welded Rail, as amended, submit nominations to serve on the respective Working Groups. He asks that nominations, both Principals and Alternates, be submitted by March 8, 2006, two weeks hence, to FRA’s Patricia Butera (E-mail address: [Patricia.Butera@FRA.DOT.GOV](mailto:Patricia.Butera@FRA.DOT.GOV)).

Fran Hooper (APTA) asks for “electronic” versions of the new Task Statements.

Chairperson Cothen says the Task Statements will be put on FRA’s Internet Web Site and will be E-mailed to RSAC members.

With no further questions, Chairperson Cothen asks Joseph Gallant (FRA-Office of Safety) for a report on the Collision Analysis Study. He says this will be an interim briefing.

Joseph Gallant (FRA) gives background information for the Collision Analysis Working Group (CAWG) Study. [The railroad industry formed a working group to examine main line train collisions. Under the direction of FRA, the working group also included representatives from the American Short Line and Regional Railroad Association, the Association of American Railroads, the Brotherhood of Locomotive Engineers and Trainmen, the United Transportation Union, and the Volpe National Transportation Systems Center. The CAWG held its first meeting on July 17-18, 2002.

Initially, CAWG agreed to review the data available for 49 incidents where human factor causes contributed to the accidents. The 49 main line train collisions occurred during a five-year period from January 1, 1997, through December 31, 2001, and resulted in 12 employee fatalities, 52 passenger and 97 employee injuries, with an estimated \$54 million in track, signal, and equipment damage. At the CAWG meeting in August 2003, the database was expanded by adding qualifying collisions that had occurred during 2002. This expanded the CAWG database to 65 qualifying incidents occurring between January 1, 1997, and December 31, 2002. All selected incidents contained the following criteria: (1) each collision must have occurred during mainline operations (eliminating yard operations); (2) except for Amtrak operations, each collision must have involved a train that had at least two crewmembers on the locomotive consist (eliminating switching operations); and (3) each collision must have involved a train exceeding its authority by passing a stop signal, failing to comply with a signal requiring restricted speed or by entering territory without train order, track warrant or direct traffic control authority (eliminating vandalism, and most adjacent track cases).

The CAWG review will provide the railroad industry with an opportunity to re-examine its safety practices and policies based on any commonalities found, which will help ensure that every reasonable precaution is being taken to prevent future collisions.] Mr. Gallant says in 2005, an initial CAWG Report was critiqued by the AAR. In September 2005, CAWG accepted the AAR's suggested modifications. Upon further review, additional recommendations were made by the AAR. When these additional recommendations were not accepted by CAWG, the AAR withdrew its sponsorship of the final report. Mr. Gallant explains that there are eight sections to the CAWG Report. He says there will be a slide show presentation of the CAWG Report at the next full RSAC meeting. Mr. Gallant asks for questions.

James Stem (UTU) congratulates FRA for staying the course to get the CAWG Report out. He says it was the same "Team" that got the Switching Operations Fatality Analysis (SOFA) Report out. He says he has served on many RSAC WG's. He has found that a small group of labor, management, and FRA representatives can sit down, when an impasse is reached within the WG, and usually, issues can be resolved. He says a small group can get down to problem solving. He hopes that the AAR removed its name from the CAWG Report only for this one issue. He believes that the CAWG Report will make recommendations that will help protect lives and prevent accidents.

Tom Pontolillo (BLET) adds that RSAC WG's tend to look at issues from a "forest" viewpoint. He says the CAWG Report lifted out 65 "trees" and looked at each from a ground-up approach as the Working Group looked for ways to manage the "forest."

Chairperson Cothen thanks the RSAC for its comments on the CAWG Report. He says this study is the type of root cause analysis that FRA is looking for. He says that at the end of the day, FRA does not look for everybody to agree on everything. For the next meeting agenda topic, Chairperson Cothen says the issue of non-accident releases of hazardous materials (hazmat) has been a concern at FRA for a long time. He says FRA is constantly working with other Agencies to address this issue. He asks William Schoonover, FRA–Office of Safety Staff Director of Hazardous Materials Division, for a presentation on FRA’s Non-Accident Release Reduction Program.

William Schoonover (FRA) uses a series of Microsoft PowerPoint presentations, projected onto a screen. Photocopies of the Microsoft PowerPoint viewgraphs were distributed to meeting attendees. All meeting handouts will be entered into the RSAC Docket and are not excerpted in their entirety in the RSAC Minutes. Under the viewgraph, “Accident Trends,” Mr. Schoonover explains that between calendar year 2000 and calendar year 2005 there were very few accidents that resulted in the release of hazmat. In calendar year 2000, train accidents resulted in 75 cars releasing hazmat; in calendar year 2005, train accidents resulted in 44 cars releasing hazmat.

Under the viewgraph, “Non-Accident Release Trends,” there has been a 41 percent reduction in non-accident releases of hazmat between calendar year 1996, and calendar year 2005. Mr. Schoonover says bulk shipments account for about 85 percent of hazmat shipments by rail, and 94 percent of non-accident hazmat releases in calendar year 2005. Under the viewgraph, “HM-229 Regulatory Changes,” the Final Rule became effective January 1, 2005. Changes included the following: (1) electronic filing of reports; (2) revisions to the reporting form; (3) expansion of reporting requirements to entities other than carriers; (4) expansion of exceptions; (5) notification to shippers; (6) reporting of undeclared shipments; and (7) criteria for updating reports.

Under the viewgraph, “Update Requirements,” a Hazmat Incident Report must be updated within one year of the date of occurrence of the incident whenever: (1) a death results from injury caused by hazmat; (2) there was a misidentification of the hazmat or packaging information on a prior incident report; (3) damage, loss, or related cost that was not known when the initial incident report was filed becomes known; or (4) damage, loss, or related cost changes by \$25,000 or more, or 10 percent of the prior total estimate, whichever is greater.

Under the viewgraph, “Railroad Categorizing,” Mr. Schoonover explains that U.S. Rail carriers categorize hazmat releases using a risk ranking index referred to as the Non-Accident Release Ranking Index (NARRI) Rating, which uses various factors to rank the results of a release. These factors include: (1) prevention factors; (2) shipping package factors; (3) product hazard factors; (4) extenuating product risk factors; (5) human impact factors; and (6) environmental impact factors. FRA investigates any incident with a NARRI Rating above 100.

Under the viewgraph, “FRA Focus Issues,” Mr. Schoonover explains that about 10 percent of non-accident hazmat releases are from a single product, i.e., bulk alcohol shipments. Under the viewgraph, “The Facts,” there is increased demand for ethanol for use as a fuel additive to gasoline for motor vehicles. This helps reduce foreign energy demands. Consequently, new ethanol production facilities have been built (20 new facilities since 2000). There are currently 94 facilities that produce ethanol. Under the viewgraph, “The Future,” there are 28 additional ethanol facilities in development in 13 States. Also, 9 of the 94 existing facilities have expansion plans under development.

When all of these projects are complete, annual production capacity of ethanol will be 6 billion gallons, of which about 95 percent will move by rail.

Under the viewgraph, "Alcohol Action Plan," FRA intends to focus inspection efforts with alcohol shippers and the Renewable Fuels Association. There is a \$200,000 research program specific to alcohol. Mr. Schoonover notes that the capillary action of alcohol is different from water. Under the viewgraph, "Additional Program Plans," Mr. Schoonover notes that the latest data show that 30 percent of non-accident releases of hazmat are tied to 53 companies in 64 different locations. He repeats FRA's intention to investigate all non-accident hazmat releases with a NARRI Rating greater than 100. FRA will review employee injuries from hazmat releases. As a result of FRA's investigation of releases, the Agency will seek appropriate legal remedies. Finally, in support of industry efforts, FRA will develop a "best practices/found solutions" approach to reduce non-accident-related hazmat releases. Mr. Schoonover asks for questions.

With no questions of Mr. Schoonover, Chairperson Cothen offers a status report on other FRA regulatory actions. He says the Locomotive Crashworthiness NPRM is undergoing clearance at the Office of Management and Budget. The Occupational Noise NPRM is at the Office of the Secretary of Transportation (OST) awaiting clearance. Finally, the Train Horn NPRM is awaiting clearance at OST. Chairperson Cothen says that the staff at FRA is also working on fine tuning rules for accident/incident reporting. He asks if RSAC Member Francis G. McKenna (Tourist Railway Association, Incorporated) is still in attendance? He relates that Mr. McKenna was concerned that small railroads were required to spend \$2 to have every Accident/Incident Report notarized. After researching the United States Code, Mr. McKenna found a process to relieve small railroads of this requirement. FRA is currently revising its forms to provide for use of affirmations. Chairperson Cothen also notes that the AAR has requested FRA to look at electronic recordkeeping overall. Many carriers have requested waivers from maintaining "paper" records. The AAR says FRA should not be in a "waiver mode" forever. Chairperson Cothen says FRA staff is working on a provision to allow electronic recordkeeping.

Fran Hooper (APTA) asks that before FRA's staff moves forward on electronic recordkeeping, they should look at whether the Agency understands the way commuter railroads are complying with these Standards as well as how the Class I railroads comply with these Standards.

Timothy DePaepe (BRS) asks for an explanation of what is meant by electronic recordkeeping.

Chairperson Cothen responds that the AAR has raised a larger obligation of FRA to comply with requirements of the Government Paperwork Elimination Act.

Mr. DePaepe asks if labor representatives are being asked about this topic.

Chairperson Cothen responds, "Yes, particularly on railroads where waivers are in place."

Mr. DePaepe asks for BRS involvement in this process.

In other regulatory activities, Chairperson Cothen says FRA is waiting for validation of a model on fatigue issues. The Agency is also working on sleep disorder issues. Finally, FRA is waiting for a report on Medical Standards for railroad employees.

David Elliott (HSGTA) asks for clarification of the three rules undergoing clearances (i.e., Locomotive Crashworthiness, Occupational Noise, and Train Horn).

Chairperson Cothen repeats the review status for the rules for Locomotive Crashworthiness, Occupational Noise, and Train Horn NPRM's. He also mentions that other Agency reports are under development, including the Report on Push-Pull Train Operations.

Chairperson Cothen asks for additions or corrections to the October 11, 2005, Minutes for the 27<sup>th</sup> RSAC meeting.

John Drake (AAR) asks to correct the Minutes to identify his organization as CSX Transportation, not Norfolk Southern Corporation, on Page 22.

Chairperson Cothen says that change will be noted.

WITH NO ADDITIONAL CORRECTIONS TO THE OCTOBER 11, 2005, RSAC MEETING MINUTES, CHAIRPERSON COTHEN SAYS THE MEETING MINUTES FOR THE 27<sup>TH</sup> RSAC MEETING ARE ADOPTED, AS CORRECTED.

Chairperson Cothen requests that the full RSAC meet in May 2006. He suggests May 18, 2006.

Bob VanderClute (AAR) says there is a Rail T&I (Transportation and Infrastructure) Subcommittee meeting on May 18, 2006. He adds, the Harriman Awards are scheduled for May 16, 2006.

Timothy DePaepe (BRS) asks if there could be a tentative date set for a September 2006, full RSAC meeting.

Fran Hooper (APTA) says APTA's Annual Meeting is scheduled for October 8-11, 2006.

Chairperson Cothen notes members concerns. He says member organizations can send alternates to the full RSAC meeting, if members have other commitments. He says FRA is not prepared to commit to a meeting date for September 2006. With no further business, Chairperson Cothen adjourns the 28<sup>th</sup> RSAC Meeting at 2:55 p.m.

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MEETING ADJOURNED 2:55 P.M.

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*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.

