

DRAFT
RAILROAD SAFETY ADVISORY COMMITTEE (RSAC)

Minutes of Meeting
October 11, 2005

The twenty-seventh meeting of the RSAC was convened at 9:35 a.m., in the Sphinx Grand Ballroom at the Almas Temple, 1315 K Street, 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. Ten of the forty-eight voting RSAC members were absent: The American Association of Private Railroad Car Owners (1 seat), The American Short Line and Regional Railroad Association (ASLRRA) (1 of 3 seats), The Association of Railway Museums (1 seat), The Brotherhood of Locomotive Engineers and Trainmen (BLET) (1 of 3 seats), The Brotherhood of Railroad Signalmen (BRS) (1 of 2 seats), The International Association of Machinists and Aerospace Workers (1 seat), The National Railroad Construction and Maintenance Association (1 seat), The Railway Supply Institute (1 seat), Safe Travel America (1 seat), and The Transport Workers Union of America (TWU) (1 of 2 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 95.

Chairperson Cothen welcomes RSAC Members and attendees. He asks Patricia Butera (FRA Office of Safety) to give a meeting room safety briefing.

Ms. Butera identifies the meeting room's fire and emergency exits. She asks for volunteers with cardiopulmonary resuscitation (CPR) qualification to identify themselves. A large number of RSAC attendees acknowledge having completed this training. Daniel Smith (FRA) and James Stem (United Transportation Union (UTU)) volunteer to perform CPR. Ms. Butera advises that a large number of RSAC attendees have cellular telephones, but volunteers Grady Cothen (FRA) to call the emergency telephone number, 911, should an emergency occur.

Chairperson Cothen makes opening remarks. He welcomes RSAC members and attendees. He introduces the new FRA Deputy Administrator, Clifford Eby. Mr. Eby most recently served as Senior Vice-President at Parsons Corporation, a California-based engineering and construction firm involved in a variety of transportation and other construction projects, including freight and passenger rail. Mr. Eby held a variety of executive management positions at the company covering areas such as finance, business development, strategic planning and technology. In the early 1980s, Mr. Eby served as Director of Finance and Statistics for the Association of American Railroads (AAR) where he analyzed railroad financial data following enactment of the Staggers Rail Act of 1980. While at the AAR, Mr. Eby presented economic arguments before the Interstate Commerce Commission (now, Surface Transportation Board) and other regulatory agencies. As a young civil engineer in the 1970s, Mr. Eby was involved in the

Northeast Corridor Improvement Project that made significant upgrades to track, equipment, and other rail infrastructure following the creation of the National Rail Passenger Corporation (Amtrak). Plus, he worked on the design and construction of Washington, D.C.'s Metro Rail Transit System. Chairperson Cothen asks Mr. Eby if he wishes to make any comments?

Clifford Eby (FRA) thanks RSAC members for attending today's meeting. He acknowledges that he has only been in his new job as Deputy FRA Administrator for a week and looks forward to being an observer at today's RSAC meeting.

Chairperson Cothen asks FRA Associate Administrator for Safety, Daniel Smith, for comments and an overview of the Meeting Agenda.

Daniel Smith (FRA) reports that there has been a lot of successes in 2005. However, it has been an up and down year for railroad safety. To deal with a number of frustrating issues, FRA developed and implemented the National Rail Safety Action Plan. In addition, FRA introduced a data-driven National Inspection Plan (NIP), as well as detailed, inspection discipline-specific guidance to help FRA better focus inspections and enforcement. Finally, FRA developed Railroad System Oversight (RSO), a new program that replaces the Safety Assurance and Compliance Program (SACP). RSO saves the partnership portion of SACP, which rail management and labor embraced, but at the same time, allows greater focus on FRA's safety program goals and accomplishments. Mr. Smith says there will be separate reports at today's meeting on these topics. In praising the railroad industry's response to safety issues and natural disasters, Mr. Smith cited the examples of Amtrak's Acela train brakes and Hurricanes Katrina and Rita. Amtrak and FRA were able to get to the bottom of the Acela train brake problem before anyone was hurt [On April 14, 2005, an FRA inspector discovered millimeter-sized cracks in some of an Acela Train's disc brake rotors. These defects extended to 300 of the Acela fleet's 1,440 disc brake rotors]. Mr. Smith said the railroad industry's response to Hurricanes Katrina and Rita was admirable. He praises the railroad industry for knowing how to deal with these types of situations. The country needed to get people out of first New Orleans, and then Houston—the railroad industry responded. Under safety trends, Mr. Smith first cites the worst hazardous material (hazmat) accident in recent memory, occurring on January 6, 2005, in Graniteville, South Carolina. Since then, the safety trends in the railroad industry have been quite good. He believes that for the nearly ten years of RSAC's efforts can take some credit for improvements in railroad safety trends. For 2005, RSAC/FRA accomplishments include issuing the following: (1) Positive Train Control Rules, (2) Train Horn Rules, (3) Reflectorization Rules, and (4) Locomotive Event Recorder Rules. He adds that progress has been made for issuing new rules for locomotive crashworthiness and locomotive cab working conditions—noise. Though he has been FRA's Associate Administrator for Safety since January 2005, having been in FRA's Office of Chief Counsel prior to that for nearly 27 years, Mr. Smith announces that he is leaving FRA, taking a job with the National Highway Traffic Safety Administration (NHTSA). At NHTSA, Mr. Smith will be the Associate Administrator for Enforcement. His new office will include the Office of Defects Investigation (the office that does automobile recalls) and the Office of Vehicle Safety Compliance. The office also deals with corporate Average Fuel Economy Standards. Mr. Smith will remain with FRA until October 28, 2005. Mr. Smith concludes by saying that the railroad industry is more in the limelight than other industries, when it fails. However, he adds, the railroad industry

succeeds more than it fails. He urges that RSAC efforts continue to move forward to improve railroad safety, adding that this job is never done.

Chairperson Cothen thanks Mr. Smith for his comments. He recognizes new members at today's meeting. They include Bill Roe (AAR–Union Pacific Railroad), Mark Schulze (AAR–BNSF Railroad), Ronald Batory (AAR–Consolidated Rail Corporation), and John Bell, the Federal Transit Administration replacement for Jerry Fisher, who retired.

Chairperson Cothen asks RSAC Working Group (WG) Facilitator, Cindy Gross (FRA–Office of Safety), and Passenger Safety WG Team Leader, Charles Bielitz (FRA–Office of Safety) for a report on Passenger Safety WG activities.

Cindy Gross (FRA) explains that the Passenger Safety WG divided its activities among the following four Task Forces (TF): (1) Crashworthiness/Glazing; (2) General Mechanical; (3) Track Vehicle Interaction; and (4) Emergency Preparedness. She asks Gary Fairbanks (FRA–Office of Safety) for a report on Crashworthiness/Glazing TF activities.

Gary Fairbanks (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, "Overview," Mr. Fairbanks says his presentation will include: (1) development of cab car end frame optimization standards; (2) cab car end frame tests; (3) adoption of standard; (4) issues identified regarding test protocol; and (5) recommendations from RSAC. Under the viewgraph, "Development of Cab Car End Frame Optimization Standards," Mr. Fairbanks says the TF has reached consensus on fundamental technical requirements. In addition, the TF has reached consensus on the recommended "home" for the standards—the dynamic standard will be through FRA regulation; the quasi-static standard will be the American Public Transportation Association (APTA) standard. The TF has also reached consensus on values for energy absorption. However, the TF has not reached consensus for the dynamic standard. Under the viewgraph, "Cab Car End Frame Tests," a series of quasi-static tests, i.e., M-7 collision post, M-7 corner post, state of the art (SOA) corner post, etc., are helping to define the APTA Standard with the following criteria: minimum prescribed energy absorbed; no more than 10-inches deflection of collision/corner post into operator's cab; and no complete separation of attachments. A series of dynamic tests, i.e., 1990's corner posts, SOA collision posts, etc., are helping to define recommendations for FRA regulation with the following criterion: no more than 10-inches deformation of the collision/corner post. Under the viewgraph, "Adoption of Standard," Mr. Fairbanks says that adoption of the APTA Standard will supersede some of the requirements currently in the Code of Federal Regulations (CFR). FRA will resolve these differences when drafting the NPRM. FRA and APTA have concerns related to the dynamic test—FRA desires the dynamic performance load case; APTA does not. Under the viewgraph, "Action Items," Mr. Fairbanks says that FRA agrees that values used in the August 10, 2005, APTA Standard are numbers that could also be used in the dynamic test. FRA will do a dynamic test, paying the cost, using a state of the art (SOA) model. Under the viewgraph, "Issues Identified Regarding Test Protocol," Mr. Fairbanks says that FRA wants the Dynamic Test included as an option to the Static Test. FRA believes that a dynamic test is a performance standard, adding that a static test is more prescriptive and could possibly restrict development of new equipment. Also, the static test is not appropriate for nose-type designs and other configurations that exist or are in development. APTA opposed the inclusion of the Dynamic Test as an option. APTA says

the dynamic test will add cost and, without a test performed using a “production model design,” APTA will not be comfortable with the results of the dynamic test. Additionally, APTA believes that if dynamic testing is an option, customers, when ordering cars, will request both tests. Because a slight variation in speed and other variables can alter the dynamics of crashworthiness, and because of the difficulty in maintaining these variables in a dynamic test, APTA believes dynamic tests will need to be repeated, adding to the cost of acquiring passenger equipment.

Gary Fairbanks (FRA) asks for questions. With no questions, Mr. Fairbanks asks for a motion from RSAC members that FRA adopt the quasi-static performance load case for passenger equipment as stated in APTA SS-C&S-034-99 Rev. 1, Standard for the Design and Construction of Passenger Railroad Rolling Stock, Dated August 10, 2005, Section 5.3.1.3.1 Cab-end collision posts (49 CFR § 238.211 (b)) and 5.3.2.3.1 Cab-end corner posts. NOTE: Adoption of this standard supersedes some of the requirements in the CFR. FRA will resolve these differences when drafting the NPRM.

Kathryn Waters (APTA) moves that FRA adopt the quasi-static performance load case for passenger equipment as stated in APTA SS-C&S-034-99 Rev. 1, Standard for the Design and Construction of Passenger Railroad Rolling Stock, Dated August 10, 2005, Section 5.3.1.3.1 Cab-end collision posts (49 CFR § 238.211 (b)) and 5.3.2.3.1 Cab-end corner posts.

James Stem (United Transportation Union (UTU)), also, Raul Bravo (High-Speed Ground Transportation Association (HSGTA)) second the motion.

BY UNANIMOUS VOICE VOTE, THE FULL RSAC APPROVES THE PASSENGER SAFETY WORKING GROUP RECOMMENDATIONS THAT FRA ADOPT THE QUASI-STATIC PERFORMANCE LOAD CASE FOR PASSENGER EQUIPMENT AS STATED IN APTA SS-C&S-034-99 REV. 1, STANDARD FOR THE DESIGN AND CONSTRUCTION OF PASSENGER RAILROAD ROLLING STOCK, DATED AUGUST 10, 2005, SECTION 5.3.1.3.1 CAB-END COLLISION POSTS (49 CFR § 238.211 (B)) AND 5.3.2.3.1 CAB-END CORNER POSTS.

Chairperson Cothen thanks the Crashworthiness/Glazing Task Force and Passenger Safety Working Group for their efforts to advance these rules to the full RSAC. He thanks the full RSAC for approving rule text to amend 49 CFR § 238.211 (b) regulations.

Chairperson Cothen asks George Scerbo (FRA–Office of Safety) for a report on General Mechanical TF activities.

George Scerbo (FRA) uses a series of Microsoft PowerPoint presentations, projected onto a screen. Photocopies of the Microsoft PowerPoint viewgraphs were distributed to meeting attendees. In addition, copies of “Recommended Regulatory Changes by the PESS (Passenger Equipment Safety Standards) Mechanical Issues Task Force” 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. Scerbo explains that at its September 5, 2005, meeting, the Passenger Safety WG approved the General Mechanical TF recommendations for potential draft regulatory language in the following areas: (1) handbrake inspection; (2) securement of unattended equipment; (3) diesel multiple unit (DMU) additions to 49 CFR § 229; and (4) multiple unit (MU) definition clarification in 49 CFR § 229. Mr. Scerbo summarizes the proposed rule changes as

follows. Freight Power Brake Regulations require that handbrakes be tested annually. Similar language is proposed for passenger equipment under 49 CFR § 238. The added language requires that the hand or parking brake be tested at each 184-day inspection and that an inspection and test of the hand or parking brake be performed and documented at each annual inspection. A new definition of DMU was added to the Locomotive Safety Standards as part of new locomotive event recorder requirements. Language is also being proposed to clarify the definition of MU locomotive in 49 CFR § 229—to distinguish the difference between MU, DMU, and control cab locomotive. The recommended regulatory changes include proposed language in 49 CFR § 229.47 Emergency brake valve to add DMUs to be equipped with an emergency brake valve that is accessible to another crew member in the passenger compartment or vestibule. The words, “Emergency Brake Valve” shall be legibly stenciled or marked near each valve or shall be shown on an adjacent badge plate. In addition, under 49 CFR § 229.137 (vi) Sanitation, MU’s, DMU’s and control cab locomotives designed for passenger occupancy and used in intercity push-pull service are exempt where employees have ready access to railroad-provided sanitation in other passenger cars on the train or at frequent intervals during the course of their work shift. Finally, due to a number of incidents of runaway passenger equipment, draft language related to the securement of unattended equipment similar to language found in the Freight Power Brake Regulations is being proposed.

George Scerbo (FRA) asks for questions.

Peter Cannito (APTA–Metro-North Railroad) asks if something is new here on DMU?

Ken Briers (National Association of Railroad Passengers (NARP)) responds that a DMU carries people. That is why you do not want to call a DMU a locomotive.

Mr. Scerbo says he believes the draft language “fixes” the definition for DMU.

Mr. Briers says what needs to be “fixed” is calling an electric multiple unit (EMU) or DMU a locomotive. The larger issue is to call passenger-carrying equipment a locomotive. He believes a powered passenger coach is a locomotive.

Chairperson Cothen says changes in the definitions of DMU’s and MU’s are intended for that equipment which is treated as passenger service equipment under 49 CFR § 238, Passenger Equipment Safety Standards. He says the proposed rule text language will clarify rule text language found in 49 CFR § 229, Railroad Locomotive Safety Standards. Mr. Cothen says RSAC is being requested to approve draft rule text language which clarifies the definitions of DMU’s and MU’s. If approved, the draft rule text language will be the subject of a Notice of Proposed Rulemaking (NPRM). After issuance of the NPRM, comments can be made. All comments to the NPRM, including those concerning the definitions of DMU’s and MU’s will be referred back to the Passenger Safety WG for resolution. He adds that for some time, FRA has recognized the need to make a distinction between 49 CFR § 229 and 49 CFR § 238 definitions for locomotives.

Mr. Cannito is not opposed to change. He says there are differences between DMU’s and MU’s. He believes that FRA should restructure regulations to make them more specific to the equipment to which they apply.

Chairperson Cothen says that FRA wants to make its regulations clear and unambiguous. FRA will work to make this happen. He asks for a motion to approve draft rule text changes in the meeting handout, "Recommended Regulatory Changes by the PESS Mechanical Issues Task Force" in the following areas: (1) handbrake inspection; (2) securement of unattended equipment; (3) diesel multiple unit (DMU) additions to 49 CFR § 229; and (4) multiple unit (MU) definition clarification in 49 CFR § 229.

Raul Bravo (HSGTA) moves that the full RSAC approve draft rule text changes in the meeting handout, "Recommended Regulatory Changes by the PESS Mechanical Issues Task Force" in the following areas: (1) handbrake inspection; (2) securement of unattended equipment; (3) diesel multiple unit (DMU) additions to 49 CFR § 229; and (4) multiple unit (MU) definition clarification in 49 CFR § 229.

Bob VanderClute (AAR) seconds the motion.

BY UNANIMOUS VOICE VOTE, THE FULL RSAC APPROVES THE PASSENGER SAFETY WORKING GROUP RECOMMENDATION THAT FRA ADOPT DRAFT RULE TEXT CHANGES IN THE MEETING HANDOUT, "RECOMMENDED REGULATORY CHANGES BY THE PESS MECHANICAL ISSUES TASK FORCE" IN THE FOLLOWING AREAS: (1) HANDBRAKE INSPECTION; (2) SECUREMENT OF UNATTENDED EQUIPMENT; (3) DIESEL MULTIPLE UNIT (DMU) ADDITIONS TO 49 CFR § 229; AND (4) MULTIPLE UNIT (MU) DEFINITION CLARIFICATION IN 49 CFR § 229.

Chairperson Cothen thanks the General Mechanical Task Force and Passenger Safety Working Group for their efforts to advance these rules to the full RSAC. He thanks the full RSAC for approving rule text to amend 49 CFR § 238 and 49 CFR § 229 regulations.

Chairperson Cothen asks John Mardente (FRA—Office of Safety) for a report on Track Vehicle Interaction (TVI) TF activities.

John Mardente (FRA) first introduces the new FRA Office of Safety Staff Director for Track, Ken Rusk. Mr. Rusk replaces Al MacDowell, who retired.

Mr. Mardente 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. There is consistent attendance at meetings and excellent support from APTA, the Volpe National Transportation Systems Center (Volpe Center), and FRA's Office of Research and Development. Under the viewgraph, "Items Still Under Task Force Consideration, as of August 24, 2005," are the following: (1)(2)(3) Item G1-1: Wheel Flange Angle, Item G1-2: Wheel Conicity, and Item G1-3: Truck Equalization are under study by an APTA Passenger Rail Equipment Safety Standards (PRESS) Committee. These remain open items; (4) Item G2—Qualification and Testing Requirements (tied to Item G5-1; draft language will be presented at next TF meeting) is about 60-65 percent complete. The TF is looking for "surrogate measures" for testing requirements, i.e., computer modeling; (5) Under Item G3-1,

49 CFR § 213 and § 238 language consolidation, language has been drafted and accepted by the TF; (6) Item G3-2, Revision of Carbody and Truck Acceleration Criteria (partially closed; truck acceleration value to be recommended at next TF meeting); (7) Item G3-3 Net Axle Load (NAL)—this item is closed. The TF accepted the recommendation for Revisions to the Vehicle/Track Interaction Safety Limits Table in 49 CFR § 213.333—Net Axle Load (NAL), i.e., “the net lateral force exerted by any axle on the track shall not exceed the ratio of the static vertical load that the axle exerts on the track as calculated by the formula: $NAL\ Ratio = 0.4 + (4/V)$. The NAL ratio cannot be exceeded;” (8) Item G4, Reconsider adequacy of track geometry limits for high-speed operations (modeling continuing; recommendations may be presented at next TF meeting). Mr. Mardente explains that Item G4 is perhaps the most important item. Both the Volpe Center and Ensco, Incorporated are looking at G4 modeling and are making progress; (9) Item G5-1, Cant deficiency (draft language being crafted for next TF meeting). The TF is looking into the qualification process and the waiver process and the relationship between speed versus cant deficiency; and (10) Item G7— Elimination of Class 9 Track Standards,” 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. The next TVI TF meeting will be November 3-4, 2005, in Washington, D.C. He encourages RSAC members to attend at least one TVI TF meeting.

John Mardente (FRA) asks for questions.

With no questions of Mr. Mardente, Chairperson Cothen asks Brenda Moscoso (FRA—Office of Safety) for a report on Emergency Preparedness 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. In addition, draft rule text language for 49 CFR § 238.114, Rescue access windows, was 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 at its May 18, 2005, meeting, the full RSAC has approved 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 Emergency Preparedness TF reviewed the draft NPRM Preamble and rule text and now recommends extending the rescue access window implementation period for existing equipment to 18 months after the publication date of the final rule. To conform with NPRM requirements, one carrier, Metro-North Railroad, needs to replace poly-carbonate glazing with glass that can be broken, i.e., Type II glazing, on 482 cars. To accomplish this replacement, Metro-North Railroad needs additional time. Ms. Moscoso says the full RSAC will be asked at today’s meeting to re-approve revised draft rule text language for 49 CFR § 238.114, which reflects this change. Under the viewgraph, “Topics Under Consideration,” Ms. Moscoso says the Emergency Preparedness TF is considering the following: (1) number and location of exterior side doors; (2) removable panels/windows in passageway doors; (3) emergency lighting; (4) low-location emergency exit path markings; and (5) emergency signage. Ms. Moscoso asks for questions.

With no questions of Ms. Moscoso, Chairperson Cothen asks RSAC members to look at draft rule text language for 49 CFR § 238.114, Rescue access windows, that was distributed to meeting attendees. He asks for a motion to approve the draft rule text language, as amended.

Peter Cannito (APTA) moves that draft rule text language for 49 CFR § 238.114, Rescue access windows be approved as amended.

Thomas Streicher (ASLRRRA) seconds the motion.

BY UNANIMOUS VOICE VOTE, THE FULL RSAC APPROVES THE PASSENGER SAFETY WORKING GROUP RECOMMENDATION THAT FRA ADOPT DRAFT RULE TEXT CHANGES FOR 49 CFR § 238.114, RESCUE ACCESS WINDOWS.

Chairperson Cothen thanks the Emergency Preparedness Task Force and Passenger Safety Working Group for their efforts to revise these rules. He thanks the full RSAC for approving rule text revisions to 49 CFR § 238.114, Rescue access windows. He adds that he would like the full RSAC to consider having the Passenger Safety Working Group add "Passenger Safety in Stations" to the Working Group's activities next year. In addition, FRA continues to work on a report on "Push-Pull Operations," which will be provided to the House Appropriations Committee by June 2006. He says Ms. Moscoso is working on this report and appreciates the input she has received from RSAC members.

Chairperson Cothen asks Douglas Taylor (FRA—Office of Safety) 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. Under the viewgraph, "RSAC Task No. 05-02," Mr. Taylor repeats the purpose of the Railroad Operating Rules Working Group (WG)—to reduce the number of human factor-caused train accidents/incidents and related employee injuries. RSAC Task No. 05-02, Reduce Human Factor-Caused Train Accidents/Incidents, was accepted by the full RSAC on May 18, 2005. He says the WG is on schedule to complete its work by February 2006, and to present a report to the full RSAC at its next scheduled meeting. Under the viewgraph, "Task 05-02 Meeting Timeline," the ROR WG had its initial meeting on July 12-13, 2005. Subsequent meetings were held August 31-September 1, 2005, and September 28-29, 2005. Future meeting dates are scheduled monthly through January 2006, i.e., October 25-26, 2005, November 16-17, 2005, December 6-7, 2005, and January 18-19, 2006. Under the viewgraph, "Railroad Operating Rules Working Group," Mr. Taylor says progress is being made to federalize railroad operating rules in the following areas: (1) shoving or pushing movements; (2) leaving equipment in the clear; (3) switches and derails; and (4) the "good faith challenge." In addition, the WG will review training requirements and railroad operational testing requirements, i.e., types and frequency of testing and reporting requirements. Mr. Taylor asks for questions.

With no questions of Mr. Taylor, Chairperson Cothen announces the morning break.

Mr. Cothen calls the meeting to order. 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 four times since April 2005. The next scheduled WG meeting is November 8-9, 2005, in Chicago, Illinois. Under the viewgraph, “Initial Eleven Sections,” Mr. Schulte describes the status of issues under eleven sections of 49 CFR § 214, Railroad Workplace Safety, for which the WG is considering rule changes. The eleven sections and status of items within each section are: 49 CFR § 214, Subpart A–General. (1) § 214.7 Definitions. Definitions are needed for (a) automatic and manual interlocking (ongoing), (b) controlled point (ongoing), (c) switch arrangement (ongoing), (d) fouling the track (tabled), (e) effective securing device (consensus), (f) maximum authorized speed (consensus), (g) on-track safety manual (consensus), (h) hump yard facility (non-consensus)—there is consensus for where the hump yard facility begins, but not for where the hump yard facility ends, and (i) roadway worker (to be discussed); and 49 CFR § 214, Subpart C–Roadway Worker Protection. (2) §214.309 On-track safety program documents, there is consensus for lone worker provision and on-track safety rule revisions; (3) § 214.317 On-track safety procedures, generally, the discussion for exempting tunnel niches that are less than 48-inches away from track (primarily in the Northeast corridor) has been tabled. There is consensus for how roadway workers should cross tracks; (4) § 214.319 Working limits, generally, a task group is examining rules that could permit roadway workers to foul behind a train; (5) § 214.321 Exclusive track occupancy, the WG reached consensus on whether crew or worker name should be included on the “authority.” However, a discussion on data transmission has been tabled. The WG could not agree on whether to allow data display (computer or locomotive console monitor) versus paper authorization; (6) § 214.337 On-track safety procedures for lone workers, a discussion on switch arrangements and control points without switches is ongoing. Rendering track impassable, will be a topic in future discussions; (7) § 214.339 Audible warning from trains, the WG reached consensus on revising and clarifying this section; (8) § 214.343 Training and qualification, general, RWP training and qualification of other than roadway workers that provide on-track safety, i.e., contractors, is under management caucus review; (9) § 214.323 Foul time, consensus has been reached on the clarification of foul time provisions and consensus has been reached on the introduced topic, “verbal protection;” (10) § 214.327 Inaccessible track, a discussion on a train crew with a locomotive being considered a “physical feature” has been tabled; and (11) § 214.329 Train approach warning, consensus was reached to not include the use of a touch (tactile) warning in the rule and the WG is still considering rules for rendering track impassable. Under the viewgraph, “Requested Future Discussion,” labor organizations have requested consideration of rules for the following: (1) Adjacent track protection with respect to large scale and small scale work gang activities; (2) Location of the roadway worker-in-charge in relation to work activity; and (3) Training records and minimum requirements for basic roadway workers. Contractor organizations have requested the WG to consider training frequency for basic workers. Railroad management organizations have requested consideration of rules for the following: (1) individual train

detection at controlled points at the end of a controlled siding; and (2) on-track weed sprayers and snow blowers on non-controlled tracks.

Christopher Schulte (FRA) asks for questions.

Rick Inclima (Brotherhood of Maintenance of Way Employees Division (BMWED)) requests a minute of silence for BMWED member William F. Halte, Jr. Mr. Halte, a Union Pacific Railroad surfacing gang tamper operator with 28 years service, was struck and killed on October 5, 2005, by a passing UP freight train in Laramie, Wyoming. Following the minute of silence, Mr. Inclima says Mr. Halte is the latest roadway worker victim; there have been three roadway worker fatalities since June 2005. He says that while the RWP WG is working on proposed rules for 49 CFR § 214, as outlined by Christopher Schulte's presentation on RWP WG activities, adjacent track protection for roadway worker work crews is deficient. He believes that RSAC needs to address roadway worker protection on adjacent tracks. He says that "Safety Advisories" and "Training" are not doing the job now. As a roadway worker, he needs an advance warning so that he can clear the tracks 15 seconds before the approach of a train. Mr. Inclima says there is a "fix." He thanks the efforts of Christopher Schulte and Facilitator Dean Hollingsworth (FRA–Office of Safety) for their leadership efforts in the RWP WG. Mr. Inclima says the BMWED filed a petition with FRA on October 7, 2005, with a proposed "fix" to address roadway worker protection on adjacent tracks.

Daniel Smith (FRA) says the BMWED has FRA's sympathy. The family involved has FRA's sympathy. He assures Mr. Inclima that FRA will take seriously the issues raised in the BMWED petition.

With no further questions or comments of Mr. Schulte, Chairperson Cothen asks Mark Yachmetz (FRA–Office of Railroad Development) for a presentation on the Safe, Accountable, Flexible, Efficient Transportation Equity Act, A Legacy for Users (SAFETEA–LU).

Mark Yachmetz (FRA) explains that Jo Strang (FRA–Office of Railroad Development) was to have made today's presentation. However, she is in Colorado attending a demonstration project for a Congressional Committee. Mr. Yachmetz 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, "Overview of Act," SAFETEA-LU: (1) affects highway, highway safety, transit, and other programs, (2) authorizes and appropriates funds for programs and projects for basically FY 2005-2009, and (3) includes a section dedicated to rail transportation for the first time. Under the viewgraph, "Title IX: Rail Transportation," SAFETEA-LU authorizes funding for (1) High-speed Rail Corridor Development (FY 2006-2013), (2) Capital Grants for Rail Line Relocation Projects, (3) Rehabilitation and Improvement Financing, and (4) grants to the Alaska Railroad. Mr. Yachmetz explains that up to \$35 billion is available for these projects. In addition, SAFETEA-LU, Title IX: (1) under Train Travel in Communities without Grade Separation, requires a study of the impact of blocked highway-rail grade crossings on emergency responders—report due within one year; (2) under Welded Rail, directs FRA to require railroads to include in their procedures for inspecting continuously welded rail (CWR) track, procedures to identify cracks in rail joint bars within 90 days; directs FRA inspectors to obtain a copy of railroads' programs for inspecting CWR; requires FRA to set-up a

program to review FRA data on CWR; and directs FRA to require railroads to increase the frequency of inspections of rail joint bars in CWR, when necessary or appropriate; (3) under Tank Car Safety Improvements, requires FRA to: validate a predictive model to quantify relevant dynamic forces acting on tank cars under accident conditions within one year; develop and implement design standards for pressurized tank cars within 18 months; analyze steels used in shells of pre-1989 pressure tank cars to determine impact resistance within one year; and submit a report to Congress including recommendations on how to reduce the risk of catastrophic failure of tank cars within six months after analysis is completed; (4) under Tank Car Crashworthiness, requires FRA to evaluate and determine the adequacy of non-normalized steels to resist fracture propagation below the ductile-to-brittle transition temperature and its significance to overall risk; and (5) under Study of Rail Transportation and Regulation, requires FRA to enter into an arrangement with the Transportation Research Board (TRB) within 180 days to study railroad transportation systems since 1980 (including the performance of railroads, the projection of demand for freight, comparison of adequate returns versus rates and service, and the future role of the Surface Transportation Board (STB)—and submit a report to Congress. Under the viewgraph, “Title V: Research and Development,” FRA is required to develop a five-year strategic plan for research and development and to enter into an agreement with the National Academy of Science for administrative and management activities relating to governance of a National Cooperative Freight Transportation Research Program. Under the viewgraph, “Other Rail Related Items,” SAFETEA-LU: (1) establishes a freight intermodal distribution pilot grant program, (2) provides for deployment of magnetic levitation projects, (3) authorizes funds for Operation Lifesaver, (4) establishes a Gateway Rural Improvement Pilot Program in Vermont, (5) amends the purpose of “hazardous materials release prevention programs” to include the “environment,” i.e., “to protect against the risks to life, property, and the **environment** that are inherent,” and (6) earmarks funds for numerous rail projects. Under the viewgraph, “Summary,” SAFETEA-LU: (1) authorizes and appropriates many rail-related opportunities and challenges, and (2) establishes a tank car program in cooperation with the AAR Tank Car Committee to: rank tank cars that are perceived to be most vulnerable to catastrophic failure; and implement measures to eliminate or mitigate risk of tank car failure. Mr. Yachmetz asks for questions.

Daniel Smith (FRA) asks from where will the \$35 billion in railroad project financing come?

Mark Yachmetz (FRA) responds, the borrowing power of the Federal government. It does not cost tax-payers anything; it does not require an appropriation.

Chairperson Cothen says that for the required study for “Train Travel in Communities Without Grade Separation,” FRA’s Rob Martin (FRA–Office of Policy) and Miriam Kloeppel (FRA–Office of Safety) are the Agency contacts.

With no additional questions of Mr. Yachmetz, Chairperson Cothen says that FRA has prepared a Notice of Proposed Rulemaking (NPRM) to satisfy the SAFETEA-LU inspection requirements for CWR joint bars (Section 9005(a) SAFETEA-LU, Public Law 109-59, August 10, 2005). Because of a 90-day SAFETEA-LU time requirement, the CWR joint bar NPRM needed to be issued without consulting RSAC. Chairperson Cothen says FRA is not comfortable putting out an Interim Final Rule on CWR joint bar inspections without RSAC input. Therefore, FRA asks RSAC approval to accept new RSAC Task No.: 05-03, Management of Continuous Welded Rail. Copies of RSAC Task No.: 05-03 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. By accepting the Task, RSAC will help manage the comments received by the Interim Final Rule. Chairperson Cothen says CWR joint bar cracks arise for reasons; CWR joint bar cracks propagate for reasons. He says proposed Task No.: 05-03 will require a report on the following issues: (1) Actions FRA should take in finalizing the pending rulemaking on prevention and detection of joint failures in CWR territory; (2) Suitability of railroad programs for management of CWR; and (3) Safety enhancements that should be proposed to further improve management of CWR. Chairperson Cothen requests the full RSAC to act on proposed new Task No.: 05-03, Management of Continuous Welded Rail.

Bob VanderClute (AAR) says the AAR understands, and supports inspection requirements for CWR joint bars. However, the AAR does not like the RSAC Task No.: 05-03 requirements to report on items (2) and (3), i.e., (2) Suitability of railroad programs for management of CWR; and (3) Safety enhancements that should be proposed to further improve management of CWR. Mr. VanderClute says the AAR will support meeting with FRA's engineering staff to discuss items (2) and (3).

Chairperson Cothen asks that RSAC accept proposed new Task No.: 05-03, amended to reflect just one issue requiring specific report, i.e., (1) Actions FRA should take in finalizing the pending rulemaking on prevention and detection of joint failures in CWR territory.

Rick Inclima (BMWED) does not agree with the proposal to eliminate RSAC Task No.: 05-03 requirements to report on items (2) and (3), i.e., (2) Suitability of railroad programs for management of CWR; and (3) Safety enhancements that should be proposed to further improve management of CWR. He says he was involved in the investigation of the January 2002, Minot, North Dakota, accident involving CWR joint bar failure, resulting in a Hazardous Material release (anhydrous ammonia) and one fatality. He says things break because there are other deficiencies. He does not believe CWR joint bar failure can be examined in a vacuum. CWR is a system. He does not believe that RSAC can just look at cracked joint bars. He motions that RSAC Task No.: 05-03 remain as written.

Chairperson Cothen responds that FRA would like the full RSAC to consider the proposed new Task statement intact. However, in the past, this has not always been possible. FRA then modifies the Task Statement to gain wider acceptance.

Daniel Smith (FRA) asks if there is any way to modify the language in items (2) and (3), i.e., (2) Suitability of railroad programs for management of CWR; and (3) Safety enhancements that should be proposed to further improve management of CWR, to make it more acceptable to the group?

Mr. VanderClute says the AAR needs to meet first with FRA's Track Division that is overseeing this issue.

Peter Cannito (APTA) says APTA would like to participate in these discussions.

Chairperson Cothen responds, certainly.

Robert Harvey (BLET) believes only part of the Task will be examined if items (2) and (3) are eliminated.

Timothy DePaepe (BRS) says part of the RSAC Working Group process is to examine accidents. He says RSAC should look at accident data for Item (2). At a minimum, he says the full RSAC should require items (1) and (2). He believes item (3) is also needed.

Bob VanderClute (AAR) explains that for FRA to issue its Interim Final Rule within the 90-day period specified in SAFETEA-LU, i.e., November 8, 2005, the AAR needs to sit down with FRA's Track Division people to determine what is needed for items (2) and (3).

Chairperson Cothen requests clarification that the AAR wants items (2) and (3), i.e., (2) Suitability of railroad programs for management of CWR; and (3) Safety enhancements that should be proposed to further improve management of CWR, eliminated from the Working Group reporting requirements.

Mr. VanderClute responds, that is correct.

Chairperson Cothen says the AAR is not asking for removal of general language in the task description, only the two items requiring specific reports.

Rick Inclima (BMWED) counters that CWR Programs must be examined in their entirety. The issue is why are the joint bars breaking? The answer is either "maintenance" or the "programs." He believes that FRA proposed Task statement is correct. The RSAC Working Group needs to look at joint bar programs and maintenance. He believes RSAC would be wasting its time on this Task if it does not look at joint bar programs and maintenance.

John Bell (Federal Transit Administration (FTA)) believes if FRA only receives RSAC guidance on item (1) Actions FRA should take in finalizing the pending rulemaking on prevention and detection of joint failures in CWR territory, it will have to respond to this issue without railroad industry input.

Chairperson Cothen responds, that is correct. He says the National Transportation Safety Board (NTSB) has brought this issue before FRA. It is time to resolve this issue. He proposes to offer Task No.: 05-03 to the full RSAC with just Item (1) Actions FRA should take in finalizing the pending rulemaking on prevention and detection of joint failures in CWR territory. Then, after the AAR has met with FRA's Track Division, FRA will place items (2) and (3) on the agenda of the next full RSAC meeting.

James Stem (UTU) asks if RSAC is just considering joint bar failures?

Chairperson Cothen says FRA has prepared an Interim Final Rule, which it will publish as soon as it can, even without RSAC input. There remain additional issues that need to be resolved, i.e., CWR joint failure. He asks for RSAC to accept Task No.: 05-03 with just Item (1). He will then put additional items (2) and (3) on the agenda for the February 2006, full RSAC meeting.

Mr. Stem says what he is hearing is that FRA is writing the rule. He sees no reason for an RSAC Working Group if items (2) and (3) cannot be discussed.

Daniel Smith (FRA) says FRA has only 90 days, from August 10, 2005, to issue the rule. The time left to involve RSAC is narrowing (it expires in November, 2005). In the interest of getting input from this group on this issue, FRA will receive "comments" from RSAC and

the public. He believes that any discussion of this issue will involved looking at railroad CWR maintenance programs. He does not see how anyone can look at CWR defects without looking at railroad maintenance programs.

Robert Harvey (BLET) says it is inevitable that an examination of CWR joint bar failures will include a discussion of railroad maintenance programs, as Mr. Smith says. He says RSAC might as well face this issue. He says the Task statement must look at items (1) and (2) at a minimum.

Mike Rush (AAR) says the AAR has only had Task Statement No.: 05-03 for a week. The AAR is puzzled with what is going on. The AAR wants a discussion with FRA's Track Division on what direction they are going.

Peter Cannito (APTA) believes the Task statement is broad and will permit everyone to get all the issues out on the table.

Chairperson Cothen says FRA does not want to micro-manage CWR Programs. However, FRA needs accountability on this issue. He thanks everyone for their input. He asks for a motion that RSAC Task No.: 05-03 be accepted by the full RSAC, as amended, i.e., under Issues Requiring Specific Report, there is only (1) Actions FRA should take in finalizing the pending rulemaking on prevention and detection of joint failures in CWR territory.

John Samuels (AAR) moves to accept RSAC Task No.: 05-03, as amended.

Bob VanderClute (AAR) seconds the motion.

BY VOICE VOTE, THE FULL RSAC FAILS TO REACH CONSENSUS ON PROPOSED NEW TASK NO.: 05-03, MANAGEMENT OF CONTINUOU8S WELDED RAIL, AS AMENDED.

Chairperson Cothen announces the lunch break, during which FRA will consider what to do with proposed new Task No.: 05-03.

LUNCH BREAK 12:20 P.M. - 1:20 P.M.

Chairperson Cothen reconvenes the meeting. He says proposed new Task No.: 05-03 is too broad for some members and too narrow for other members. Therefore, FRA will "stand down" this Task. FRA will get the Interim Final Rule out on the street as soon as it can. FRA will have bilateral talks with management. At its next meeting, FRA will ask the full RSAC to consider this issue again. He asks for questions.

With no questions, Chairperson Cothen asks Daniel Smith for an update on National Rail Safety Action Plan activities.

Daniel Smith (FRA) says with regard to human factors, there is an RSAC Working Group (WG), Railroad Operating Rules (ROR), dealing with these issues. Douglas Taylor already reported on ROR WG activities at today's meeting. On the "Close Call System," FRA's Office of Research and Development is continuing work in this area. In terms of fatigue,

FRA is trying to accelerate efforts in this area. FRA has a good research design for a railroad industry model, which it hopes to begin testing. In terms of joint bar failure, there is an imaging system under development, which is showing promise in detecting hairline cracks. FRA has had cooperation with a number of railroads for field tests of this system. In addition, Mr. Smith says there is a need to get information out to “first responders” about train consists. FRA is looking at the “NOW” Program at CSX Transportation. NOW is a computer-based program which will get train consist information out quickly to both big city first responders and to small town volunteers following an emergency. Under tank car structural standards, there is an accelerated program to do research in this area. Requirements for tank car studies and inspections were previously outlined under Mark Yachmetz’s presentation on SAFETEA-LU. Finally, National Rail Safety Action Plan activities extend to highway-rail grade crossing accident investigation and outlining responsibilities.

Timothy DePaepe (BRS) says when it come to collecting data, he has been unable to access highway-rail grade crossing warning device activation/deactivation failures and false proceeds through FRA’s online databases.

Robert Harvey (BLET) says there is a way to access some of the data. He suggests that Mr. DePaepe contact Mark Jones (FRA–Office of Safety) for how to access FRA’s databases on highway-rail grade crossing warning device activation/deactivation failures and false proceeds.

With no additional questions or comments, Chairperson Cothen asks Gary Connors (FRA–Office of Safety) for a sketch on FRA’s National Inspection Plan (NIP).

Gary Connors (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, “What Is The NIP?,” (1) NIP uses historical information to estimate how inspection levels affect accident rates, (2) with these estimates, FRA can optimally assign resources, and (3) the goal is to lower fatality, injury, and accident rates. Under the viewgraph, “Background and Objective,” there was a lobbying effort for FRA to adopt NIP by FRA Regional Administrators, the Office of Management and Budget, which wanted FRA to relate resources to agency goals, the Office of the Inspector General, which wanted FRA to rely less on individual discretion and more on data analysis to target railroad inspections, and by Congressional oversight. Under the viewgraph, “National Inspection Plan Three Steps,” Step 1 is the numbers part of the process. An optimization model provides a baseline, which helps target the mix of inspections. Step 2 is the human judgment part of the process where FRA Regional Administrators make adjustments to the baseline to produce the final plan. Step 3 is the performance part of the process—execution tracking. Under the viewgraph, “Baseline Plan and Regional Adjustments,” the baseline plan was issued August 1, 2005. FRA regions made adjustments and plans were locked-in by mid-September 2005. Execution tracking begins October 2005. Under the viewgraph, “Summary of FY 06 Plan,” for Operating Practices, there will be more focus on major railroads, especially large classification yard operations and less focus on regional and short-line railroads. For Motive Power and Equipment, the plan is looking at less focus on major railroads, in general, and more focus on regional and short-line railroads. Under the viewgraph, “National Inspection Plan Summary,” NIP uses historical information and data analysis in the first step of the planning process. The three steps in the process are: (1)

optimization model provides a baseline (FY 06 baseline issued August 1, 2005), (2) FRA regional administrators make adjustments to the baseline to produce the final plan (adjustments for the year were locked-in mid-September 2005), and (3) execution tracking starts October 2005. Mr. Connors asks for questions.

Timothy DePaepe (BRS) asks if the tracking plan will decide where to make inspections?

Gary Connors (FRA) says the plan will allocate inspector resources to specific railroads.

Mr. DePaepe asks if FRA will track the number of violations?

Mr. Connors responds yes.

Patrick Ameen (AAR) questions viewgraph 4, i.e., "National Inspection Plan Three Steps" methodology. He asks what FRA offices are involved in this process?

Mr. Connors responds that the starting point is the staff of Edward Pritchard, FRA's Director, Office of Safety Assurance and Compliance. One of FRA's eight regions was also used to "test" the baseline targets for inspection disciplines (i.e., Operating Practices, Signal and Train Control, Track, Motive Power and Equipment, and Hazardous Materials).

Mr. Ameen asks if the "test" also applied to the model outputs plus the regional administrator adjustments.

Mr. Connors responds yes.

Daniel Smith (FRA) says that FRA recently hired Gary Connors after he spent 25 years with the U.S. Department of Defense making similar assessments. FRA asked Mr. Connors to look at FRA's data and to make a judgment of how this program should proceed to reduce accidents and incidents.

With no additional questions of Mr. Connors, Daniel Smith asks Dick Clairmont (FRA—Office of Safety) for a report on Railroad System Oversight (RSO) activities. RSO replaces the Safety Assurance and Compliance Program (SACP) as FRA's principal method of conducting railroad safety inspections.

Dick Clairmont (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, "Moving From SACP to Railroad System Oversight," Mr. Clairmont says RSO became effective October 1, 2005. Changes in the railroad industry are driving the change from SACP to RSO. However, RSO is saving what worked well in SACP. Under the viewgraph, "Moving Beyond SACP To RR System Oversight," Mr. Clairmont repeats that since the implementation of SACP, so much has changed in the railroad industry that there was a need to modify FRA's safety program to address the changing conditions and environment and to better integrate the overall safety program. Under the viewgraph, "SACP Since The Beginning," SACP was implemented in 1995. SACP opened communication between FRA, railroad management and railroad labor. SACP initiated collaborative safety problem solving, improved understanding, and improved safety. Under the viewgraph, "Where We Are Today," Mr. Clairmont says there are maturing relationships between

labor, management, and FRA. Hundreds of safety issues have been resolved. As a whole, the railroad industry has been responsive with objective safety dialogue and less FRA facilitation needed. Under the viewgraph, "Challenges Driving Change," there are greater Congressional and DOT expectations for the railroad industry. There is additional focus on FRA's safety program goals and accomplishments, i.e., the Government Performance and Results Act of 1993 (GPRA) requirements. There is change in the nature of issues affecting the railroad industry including environmental, fatigue, and work life concerns. There are more complex issues and regulations, and the need to focus FRA resources and staff to address challenges. Under the viewgraph, "Addressing The Challenges," An internal FRA work group studied SACP performance, structures, and alternatives. The internal FRA work group recommended a role reduction in SACP. However, the internal FRA work group saw value in the collaborative process and other SACP elements. Under the viewgraph, "Saving What Works Well," RSO maintains the existing FRA SACP Managers for major railroads as FRA's single point of RSO contact. RSO maintains the collaborative process, continues to assist with productive labor/management relationships, and continues regulatory guidance and assistance. Under the viewgraph, "How RSO Will Function," (1) safety data will be used to better identify and focus on the most significant industry safety problems and emerging safety concerns; (2) FRA will hold annual Safety Performance meetings with railroad senior managers; (3) through revised internal and external processes, RSO will improve communication, increase FRA internal accountability, improve FRA resource utilization, add focus on defined DOT/FRA safety goals and metrics, and improve coordination between FRA (regions and headquarters), railroad management, and labor. Under the viewgraph, "Value Added," RSO will (1) make use of safety data to better focus resources, activities, and common interests, (2) result in better safety analysis of railroad operations, (3) place additional focus on safety issues of greatest concern, (4) provide earlier identification of emerging safety concerns and issues, (5) place greater emphasis on the resolution of more selective safety issues, and (6) realign FRA resources with agency goals where appropriate. Under the viewgraph, "Implementation," (1) RSO was implemented October 1, 2005, (2) FRA sent a letter to labor organizations and railroads in September 2005, to explain RSO, (3) an RSO Manager will make a presentation to railroad Oversight Groups at their next regularly scheduled meeting, (4) an RSO Manager must justify each collaborative effort against other FRA program resource needs, (5) an RSO effort competes for priority with other FRA activities, and (6) an RSO Manager will focus activity on high-priority safety issues and activities. Under the viewgraph, "End Results," Mr. Clairmont expects process changes will occur. However, FRA remains committed to collaborative railroad labor/management safety program efforts. FRA's RSO Manager will remain involved in substantive issues. FRA will continue to be available where safety will be best served. Mr. Clairmont asks for questions.

Rick Inclima (BMWED) raises concerns about RSO. He says it seems on its face that there will be less labor input. He says the benefit of SACP was an open forum. While he would like to be proved wrong, he believes that RSO will take the worker and the worker representatives out of the process. He asks what good is it to have FRA senior management sit down with a railroad's Chief Operating Officer (COO) to discuss safety concerns and issues, when the railroad's COO is probably never out on the property? He believes under RSO, labor is being put on the "back burner." He says labor's voice is no longer protected. He believes the environment for labor to speak freely is being stripped-away from railroad workers. He hopes he is wrong. But he believes that railroad labor is being pushed aside under RSO.

Dick Clairmont (FRA) says FRA does not want RSO to go in that direction. In meeting with COO's, it is a case of management coming to FRA and FRA telling management how they are doing.

Daniel Smith (FRA) says the letters that went out specifically said that FRA, management, and labor discussions are not being thrown-out under RSO. However, he adds, the issue-selection process under SACP was less than desired. That means, to some degree, to limit some discussions. He says non-regulatory issues are very important. But, he adds, FRA is going to be more selective of what issues are going to be discussed.

Rick Inclima (BMWED) says it is nice to say you are supporting a collaborative process, but he does not believe FRA is. He believes workers will be intimidated. Labor has supported efforts for an increase in FRA inspectors; management has not. He sees RSO as less labor input.

Mr. Smith says that is not what FRA is trying to do. FRA does not want to silence labor.

Mr. Inclima says he is giving FRA his opinion. He hopes he is wrong. However, if FRA does not hear from workers on the ground, FRA is not hearing.

James Stem (UTU) asks who is the RSO Manager?

Mr. Clairmont responds Michael DeEmilio is the overall RSO Manager for FRA.

Chairperson Cothen adds that each of the former individual railroad SACP Managers will remain in place as individual railroad RSO Managers. Mike DeEmilio will oversee the activities of the individual railroad RSO Managers. Ideally, he says, labor/management collaboration can become so intertwined, as on the Alaska Railroad SACP, that it does not need FRA to facilitate labor/management meetings.

Mr. Smith says if RSO is not working, tell FRA. FRA understands the successes of SACP, but also recognizes SACP's shortcomings.

Robert Harvey (BLET) asks if RSAC members could receive a list of RSO Managers?

Dick Clairmont responds yes.

Lydia Leeds (FRA–Office of Safety) says a list of RSO Managers will be placed on the RSAC Internet Web Site.

Chairperson Cothen says the Senate Commerce Committee asks FRA to prepare a report on Remote Control Locomotive (RCL) Operations. He asks Douglas Taylor (FRA–Office of Safety) for a quick summary of RCL operations.

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. Mr. Taylor describes highlights for the Congressional Report on Remote Control Locomotive Operations. Under the viewgraph, "Accident/Incident Rates," RCL versus conventional accident/incident rates were examined for a 13-month period, December 1, 2003 through December 31, 2004. Initially RCL

accident/incident rates were shown to be 25 percent higher than conventional operations rates. However, 50 percent of the RCL accidents/incidents during the study period were attributed to a single carrier. When weighted accident/incident data for the same period is examined, the accident/incident data for RCL versus conventional operations is nearly equal. Perhaps more important, the data shows the RCL employee injury rate to be 20 percent lower than for conventional operations. Under the viewgraph, "RCL Main Track Operations," FRA submitted a letter to the AAR and ASLRRRA, on September 9, 2005, mirroring recommendations in the Congressional RCL Report. Under the viewgraph, "September 9th Letter," FRA is recommending restrictions of RCL movements subject to 49 CFR § 232. These include horsepower limitations (no more than 3,000 horsepower distributed over 8 axles), train length limitations (1,000 feet), train speed limitations (15 mph is maximum speed), and grade limitations (no grades of 0.5 percent or greater for 0.25 miles or more). FRA is open to modifying these restrictions, provided a railroad can show that movements can be conducted safely. FRA is open to technological advances. Mr. Taylor requests that railroads contact John Conklin (FRA—Office of Safety) with questions concerning new technology development. He notes that RCL technology will not work everywhere. For training (i.e., 49 CFR § 240), RCL operators should receive the same classroom training as conventional engineers and RCL operators should receive a minimum of 120 hours of actual documented operating time. FRA plans to meet with the AAR to discuss RCL operations issues. Under the viewgraph, "Human Factors Accidents," yard switching is a leading cause of all railroad accidents/incidents. It appears that RCL switching accidents/incidents are equal to conventional operation switching accidents/incidents. Mr. Taylor asks for questions.

With no questions of Mr. Taylor, Chairperson Cothen asks Michele Sampson (FRA—Office of Safety) for a report on the Dedicated Train Study.

Michele Sampson (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, "History," the Dedicated Train Study was mandated by the Hazardous Material Transportation Uniform Safety Act of 1990. FRA contracted the Volpe National Transportation Systems Center (Volpe) to manage the study. A first draft was dated February 1993. The Final Report, "Use of Dedicated Trains for Transportation of High-Level Radioactive Waste and Spent Nuclear Fuel, Report to Congress, March 2005," was transmitted to Congress on September 22, 2005. The report may be viewed on FRA's Internet Web Site, www.fra.dot.gov under SAFETY, under PUBLICATIONS. Under the viewgraph, "Study Methodology," three types of train service were considered: (1) regular trains, (2) key trains, and (3) dedicated trains. A comparison of radiation dose risk for each of the three types of train service was made under (1) incident-free and (2) accident conditions. Under the viewgraph, "Findings," The Volpe Study indicates that risk to employees and the public from the transportation of spent nuclear fuel (SNF)/high-level radioactive waste (HLRW) is low, but on a comparative basis, dedicated trains appear to offer advantages over general train consists. Under the viewgraph, "Path Forward," FRA will determine if a rulemaking is warranted. FRA will evaluate cost/benefit data associated with dedicated SNF/HLRW service. FRA will review AAR operating and maintenance standards for SNF/HLRW service published post-study. FRA will review the U.S. Department of Energy (DOE) and industry shipment planning documents. Finally, FRA will review and update its Safety Compliance Oversight Plan (SCOP), a coordination and inspection plan specific to the safe movement of SNF/HLRW. Under the viewgraph,

“Shipment of SNF,” DOE’s Yucca Mountain Facility (Nevada) is not anticipated to open until after Year 2012, due to unresolved licensing issues and funding issues. However DOE issued a policy statement in July 2005, for the use of dedicated trains for SNF/HLRW shipments to the Yucca Mountain Facility. Under the viewgraph, “Shipment of SNF,” eight electric utilities have partnered with the Skull Valley Band of Goshute Indians for storage of SNF on private land. On September 9, 2005, the Nuclear Regulatory Commission approved a license to build and operate an interim storage facility for SNF on the Skull Valley Reservation in Tooele, County, Utah. The transportation of SNF to this facility will be by dedicated trains. Ms. Sampson asks for questions.

With no questions of Ms. Sampson, Chairperson Cothen says the AAR has put forward a very aggressive standard for the transportation of SNF/HLRW. With this standard, FRA should be able to respond to State and Local representatives’ concerns on this topic. On August 16, 2005, FRA transmitted a Report to Congress, “Safe Placement of Train Cars, June 2005,” required by Section 111 of the Hazardous Materials Transportation Authorization Act of 1994. This report is on FRA’s Internet Web Site, i.e., www.fra.dot.gov under SAFETY, under PUBLICATIONS. In the Report’s conclusions, FRA is not in a position to resolve all issues on this topic. FRA is developing a modeling tool. Even though the Report is out, additional work needs to be done. While research and efforts have been made on hazardous materials placement in train consists, FRA is waiting for feedback on this topic.

Chairperson Cothen announces an afternoon break.

AFTERNOON BREAK 3:05 P.M. - 3:12 P.M.

Chairperson Cothen reconvenes the meeting. He asks Ray Kasey (FRA–Office of Safety) for a report on Safety Advisory 2005-04 (*70 Federal Register* 58503, dated October 6, 2005), advising shippers, consignees, and railroads of the dangers of allowing cars of “time-sensitive” chemicals to remain undelivered beyond their anticipated date of placement and to recommend enhanced procedures to avoid such occurrences. This action is being taken to improve the safety and reliability of hazardous materials shipments by railroads. Safety Advisory 2005-04 is posted on FRA’s Internet Web Site, i.e., www.fra.dot.gov under SAFETY, under PUBLIC ADVISORIES, under SAFETY ADVISORIES. Mr. Kasey describes a August 28, 2005, Cincinnati, Ohio incident in which a tank car containing a flammable liquid began smoking, causing the evacuation of approximately 800 people. FRA’s preliminary investigation indicates the cause of the incident was a polymerization of the styrene monomer in the tank car due to an extended time in transportation. Under Safety Advisory 2005-04 recommendations, (1) FRA strongly encourages all railroads to develop procedures that conform to AAR Circular OT-55-H and to assure that railroad employees responsible for the movement of time-sensitive chemicals are familiar with and clearly understand these procedures, (2) FRA recommends that shippers and consignees monitor the progress of time-sensitive materials that they have shipped and ordered, and (3) Hazardous material regulations require each person who offers a hazardous material for transportation in commerce to class and describe the material correctly. FRA recommends that shippers and consignees work with the railroads to explore ways to reduce the risks in transporting the full range of time-sensitive materials. While FRA’s investigation of the Cincinnati, Ohio incident is not yet complete, the fact that a car containing a time-sensitive material was

allowed to languish on the same railroad for seven months, is not acceptable. Mr. Kasey asks for questions.

Mike Rush (AAR) says the AAR is awaiting the National Transportation Safety Board's Final Report on this incident.

Bob VanderClute (AAR) says the AAR is examining this incident, looking for a solution to prevent it from happening again.

With no further questions or comments of Mr. Kasey, Chairperson Cothen offers a status report on other regulatory activities.

Chairperson Cothen reports that the Locomotive Event Recorder Final Rule has been published. The Locomotive Cab Noise Final Rule is under final review. A Medical Standards Report has been received by FRA. He says "sleep disorders" can now be examined by RSAC, when it has time. In March 2005, the Positive Train Control (PTC) rule was published. In July, FRA held a PTC workshop. There is progress on technical aspects of highway-rail grade crossing controllers and there are software plans for PTC applications. On the Train Horn Rule, FRA has responded to the AAR's Petition by letter. FRA intends to publish a portion of the Reflectorization Rule—the Agency is close to having the Final Rule amendments signed and published. The AAR has offered to change its standards for reflectorization quickly once the Final Rule is out.

Mr. Rush asks if the Office of Management and Budget (OMB) were to decide that the Train Horn Rule was "significant," how long would the clearance process take?

Chairperson Cothen estimates 30 days for Office of the Secretary of Transportation (OST) review and 90 days for OMB review.

Robert Harvey (BLET) asks where that leaves the industry with the existing rule?

Chairperson Cothen responds that FRA will enforce Train Horn Rules in accordance with FRA's response to AAR.

Patrick Ameen (AAR) says the AAR will be able to adopt the Standards on Reflectorization quickly—within days. He says the AAR wants to first be in sync with FRA.

Chairperson Cothen asks Daniel Smith to reflect on the natural disasters that have affected the United States this year.

Daniel Smith (FRA) says railroads responded admirably to the Hurricane disasters of Katrina and Rita. However, hurricanes will happen again. He says FRA would like to know if the railroad industry has thought about its own performance. He adds that much analysis has been made of the Government's performance.

Rick Inclima (BMWED) says there are a lot of new hazards that are introduced following a natural disaster with which FRA may not be familiar. He says the quicker railroad employees can get information about, and access to the vaccines, work boots, and work clothes to enter natural disaster areas, the better their safety and health will be.

Bill Roe (AAR) says the Union Pacific Railroad puts out information to employees saying if they are going to work in contaminated water, they should check with the railroad's medical department first.

Timothy DePaepe (BRS) says railroad employees are looking for generic information regarding entering any disaster area.

John Drake (AAR) says the Norfolk Southern Railroad has been relocating employees, who lived in the hurricane disaster zones. He believes a "post"-Hurricane Katrina debriefing could be beneficial to the railroad industry.

Daniel Smith (FRA) says FRA Administrator Joseph Boardman has requested that FRA make an inquiry about conducting a "post"-Hurricane Katrina debriefing.

With no additional questions or comments, Chairperson Cothen asks RSAC for additions or corrections to the Minutes for the 26th RSAC meeting, held May 18, 2005.

WITH NO ADDITIONS OR CORRECTIONS, THE FULL RSAC APPROVES THE MINUTES FOR THE 26TH MEETING BY UNANIMOUS VOICE VOTE.

Timothy DePaepe (BRS) comments that RSAC has three concurrent Working Groups (WG) underway. Time is becoming an issue. He believes people want to get work done. However, scheduling WG meetings is becoming difficult. He wants meetings set up six months in advance. He notes that all labor organizations will have meeting in June and July 2006. He says labor representatives will not be available for the months of June 2006, and most of July 2006.

Andrew Corcoran (AAR) says it is not often, but Mr. DePaepe and he are in agreement.

Chairperson Cothen asks RSAC Facilitator Cindy Gross to work on the future planning of WG Meetings.

Chairperson Cothen asks for a date for the next RSAC Meeting. He suggests February 16, 2006, or February 22, 2006. After a brief discussion involving members' schedules and schedule conflicts, Chairperson Cothen announces that FRA will try to arrange the next RSAC Meeting for Wednesday, February 22, 2006, in Washington, D.C.

With no further business, Chairperson Cothen adjourns the 27th RSAC Meeting at 3:45 p.m.

MEETING ADJOURNED 3:45 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.