

66th Meeting of the Railroad Safety Advisory Committee (RSAC)
National Association of Home Builders (NAHB) National Housing Center
March 21, 2024
Minutes of Meeting

On March 21, 2024, the 66th meeting of the Federal Railroad Administration's (FRA) Railroad Safety Advisory Committee (RSAC), was held at the National Association of Home Builders (NAHB) National Housing Center at 1201 15th Street, NW in Washington, DC 20005, beginning at 9:40 am Eastern Daylight Savings Time, and adjourning at 3:24 pm. The meeting was also livestreamed on Zoom.

Except as noted, what follows is a summary of the major items discussed at the meeting; it is not, for the most part, a word-for-word transcription. Some quotes were edited for clarity.

Participants

Listed below, in alphabetical order by last name, are key attendees, and the companies and/or organizations they represent. Total attendance during the meeting was about 180, with 90 persons present at the NAHB Housing Center, and about another 90 on Zoom.

- Karl Alexy (FRA)—Chair
- Zach Allen (FRA) via Zoom
- Dan Alpert (FRA) via Zoom
- Patrick Ameen (Amsted Rail)
- Mark Anderson (FRA) via Zoom
- John Angel (AAR) via Zoom
- Erich Armpriester (HeritageRail)
- Dave Arouca via Zoom
- Ryan Bailey (CN)
- Daniel Baker (FRA)
- Mike Baldwin (BRS)
- Brent Ballew via Zoom
- Josh Banks (DOT) via Zoom
- Barbara Barr (FRA) via Zoom
- Michael Barron (FRA) via Zoom
- Shala Blue via Zoom
- Amit Bose (FRA)
- Frances Bourne via Zoom
- Ken Briers (RPA)
- Rob Castiglione (FRA) via Zoom
- Prabh Chawla (FRA) via Zoom
- Veronica Chittim (FRA) via Zoom
- Colin Connor (CSX) via Zoom
- Barry Cross, Jr (ATDA)
- Herman Crosson (Anacostia Rail)
- Alexandra Dandrea via Zoom
- Hakim Davis (FRA)
- Greg Deibler (AAR) via Zoom
- Brian DeLucia (TWU)
- Brandon Denucci (ATDA)
- Rod Doerr (UP) via Zoom
- Curtis Dolan via Zoom
- Angela Duncan (FRA) via Zoom
- Don Eccleston (CRC) via Zoom
- Aaron Edelman (Mooney Green)
- Lori Ebbighausen (LIRR) via Zoom
- Leonard Evans (FRA) via Zoom
- Gary Fairbanks (FRA) via Zoom
- Warren Flatau (FRA)
- John Fleps (NS)
- Marc Fuller (FRA)
- Allison Fultz (FRA)
- KellyAnne Gallagher (CRC)
- Kar Gazarov (FRA) via Zoom
- J.R. Gelnar (APTA) via Zoom
- Elliott Gillooly via Zoom
- J.J. Giuliano (IBEW)
- Kaitlyn Granger (FRA)
- Kami Groom (FRA) via Zoom
- Liz Gross (FRA) via Zoom
- Carolyn Hayward-Williams (FRA)
- Chris Hand (BRS)
- Steven Hart via Zoom
- Josh Hartford (IAMAW)
- Paul Hartman (API)
- Kurt Hastings (FRA)
- Lucinda Henriksen (FRA)
- Travis Herod (Watco) via Zoom
- Scott Hoose via Zoom
- Chris Holt (FRA)
- Ricky Huggins (FRA)
- Randall Hunt (NS)

- Michael Hunter (FRA) via Zoom
- Ron Hynes (AAR) via Zoom
- Jennifer Hu (APTA)
- Richard Jankovich (AASHTO)
- Sean Jeans-Gail (RPA)
- Brent Johnson via Zoom
- Lori Kennedy (CPKC) via Zoom
- Starr Kidda (FRA) via Zoom
- Kenton Kilgore (FRA)
- Robyn Kinsley (Chlorine) via Zoom
- Hilary Konczal (APTA)
- Carl Lakin (TCU/BRC)
- Michael Lange via Zoom
- Pete Lapre (FRA)
- Nathan Leventon (APTA)
- Cameron Lonsdale (Amsted) via Zoom
- Tom Lynch via Zoom
- Mark Maday (FRA)
- Amanda Maizel (FRA)
- Larry Mann (SMART) via Zoom
- John Manutes (FRA) via Zoom
- John Mardente (FRA) via Zoom
- Jim Mathews (RPA)
- John Mayser (FRA)
- Kendra McDaniel via Zoom
- Michael Mills (UP)
- Jeff Moller (AAR)
- Sam Morgante via Zoom
- Roy Morrison (BMWED)
- David Mouldon via Zoom
- Kevin Myles (FRA) via Zoom
- Alan Nagler (FRA) via Zoom
- Gabe Neal (FRA) via Zoom
- Nataka Neely (FRA) via Zoom
- R. Quinn Norman (BRS) via Zoom
- Sarah Nural via Zoom
- James Orwan (IAMAW) via Zoom
- Mike Parisian (NYAB) via Zoom
- Douglas Parker (OSHA)
- Mark Patterson (FRA) via Zoom
- John Peternel (FRA) via Zoom
- Michael Pistone (NCFO)
- Anand Prabhakaran (Sharma & Assoc)
- Tim Presser (FRA) via Zoom
- John Purnell (FRA) via Zoom
- Victoria Quince (FRA) via Zoom
- Dan Rice (Wabtec)
- Devin Rouse (DeRail Advisory)
- Mike Rush (AAR)
- Al Russo (IBEW)
- Steven Sandberg (AAPRCO)
- Jason Schlosberg (FRA) via Zoom
- Mark Schulze (BNSF)
- Melody Sheahan (AAR) via Zoom
- Edwina Smallwood via Zoom
- Christy Smith (BLET)
- Michael Somersall (ASRSM) via Zoom
- Brian Sooter (APTA) via Zoom
- Michael Spinnicchia (FRA) via Zoom
- Andrew Straatveit (FRA)
- Shane Stiffler (FRA) via Zoom
- Patricia Sun (FRA)
- Joanne Swafford via Zoom
- Dewayne Swindall via Zoom
- Mehdi Taheri (RUBA)
- Tim Tarrant (BRS)
- Hoang Tran (CN)
- Darren Treiber (TCU/BRC)
- Donald Tweedie (FRA) via Zoom
- Brett Ulrich (Metro-North)
- Vince Verna (BLET)
- Justin Vonashek (Metro-North)
- Julia Wascom (OIG) via Zoom
- David Weisblatt (CSX)
- Ashley Wieland (NRC) via Zoom
- Jamie Williams (NS)
- Greg Wilson (Iowa RR) via Zoom
- Katey Wilson (TTD) via Zoom
- Ben Wright (TX Lgst Board) via Zoom
- Andrea Wohleber (FRA)
- Jason Wornoff via Zoom
- Jerry Wu (OIG) via Zoom
- Sarah Yurasko (ASLRRA)
- Thomas Zoeller (NS)
- Steve Zuiderveen (FRA)

Introduction

- At 9:40 am, after some technical issues with Zoom, Karl Alexy (FRA) began the meeting.
- Kenton Kilgore (FRA) provided a safety briefing.

- Karl Alexy (FRA) led introductions of those who were in the room. Kenton Kilgore (FRA) announced those who were on Zoom.

Remarks from DOT Secretary

- A pre-recorded video message from Department of Transportation Secretary Pete Buttigieg, was played:

Hello, and thank you for participating in this year's first meeting of the Railroad Safety Advisory Committee. This is a unique body, with diverse and important perspectives, freight and passenger railroads, labor unions, passenger advocacy, groups, suppliers, manufacturers, shippers, and more.

Collectively, this group is vital to keeping our economy humming. But even more importantly, to keeping communities and workers safe. And that's where I want to focus my brief remarks. Last year, I visited East Palestine, Ohio, to meet community members and see the Norfolk Southern derailment site there firsthand.

A few months later I met with rail workers in Nebraska, after an explosion at the Union Pacific Yard in North Platte, forced residents to evacuate their homes.

Administrator Bose was in Pueblo Colorado, at the site of a BNSF Railway coal train derailment. In 2023, America saw seven rail-related employee on duty deaths and 46 employee on duty major injuries, across all railroads. Every one of those incidents stands as a reminder of why this work matters so much, and of how much work we still have left to do.

I want to enlist all of you in the project of rejecting, not defending today's status quo when it comes to safety. We can find improvements together through the Train Braking Modernization Working Group, the Wayside Detector Working Group, and other efforts underway here.

When it comes to the confidential close call reporting system, or C3RS, a program that all Class I freight railroads committed to joining about a year ago, I want to applaud the partnership that BLET and SMART formed with Norfolk Southern to start joining this program. And I'm encouraged by Norfolk Southern becoming the first Class I freight to currently participate. We need more, and I know several more Class I freight railroads remain in talks with FRA and workers to fulfill that C3RS commitment. I know other unions and their members are interested in participating. So, we look forward to continuing this vital work, and I hope and expect we will be welcoming additional members into this program very soon.

Our Department has issued safety advisories, promulgated rules, conducted focused inspections on routes carrying hazardous materials, and more. We're making historic infrastructure investments to modernize and improve America's physical rail network through President Biden's infrastructure package, and Administrator Bose will go into more detail soon about what we are doing as a Department to improve safety on our

rails, using every tool we currently have. The actions that we have taken as a Department are essential. The actions that many of you have taken, for example, installing wayside defect detectors, are also essential, and we believe that passing the Railway Safety Act is essential.

But even as we push for that legislation, and even as each of us acts individually, there are many things that we can be doing together collective that could save lives, do right by workers, and protect communities. The fact that more than 88% of Class I union freight railroad workers now have sick leave is proof that positive change can happen, and can happen quickly when we align and work together.

So, I want to thank you all for being here. I encourage you to partner with us and with one another to find those areas of alignment. And I look forward to continuing our work together.

Remarks from FRA Administrator

- Amit Bose, the FRA Administrator, addressed RSAC. See “Presentation from FRA Administrator” on the RSAC website for the accompanying PowerPoint.

Good morning, everyone. Great to see everyone here, and great to see the turnout for this 66th RSAC meeting, and thank you all for participating in today’s meeting of the Committee. Safety remains front and center in my mind, and the attention that rail operations continue to receive from the public, and in the news is evident, and as Secretary Buttigieg just pointed out, the US Department of Transportation wants to enlist all of you in improving rail safety. I know safety is at the forefront of your mind every day, but there is always ample room for greater collaboration, and there are opportunities through this Committee and beyond to do more on important safety topics like train-braking modernization, wayside detector deployment, roadway worker, protection, and more.

In response to the East Palestine derailment, Secretary Buttigieg laid out a three-part push to increase freight rail safety and to hold railroads accountable, submitting the DOT and FRA to important safety actions while calling on railroads and inviting Congress to work with us to do even more. We’ve made progress on several of the priorities. In that three-part push at the Department of Transportation, we’re advancing the train crew staffing rule. We initiated and completed a safety inspection program on routes over which high hazard, flammable trains and other trains carrying large volumes of hazardous material travel. We initiated a focused inspection program of legacy tank cars and the entities that have chosen not to upgrade to the safer tank cars DOT 111.

Again, we deployed resources from the Bipartisan Infrastructure Law, notably through the railroad crossing elimination programs, and we pursued further rulemakings on high hazard flammable trains and electronically controlled pneumatic brakes. We called on the freight industry to join FRA’s Confidential Close Call Reporting program; Norfolk Southern now has a pilot in place. We deployed new inspection technologies that we did so without seeking permission to abandon human inspections, and we called on the

industry to expedite the phase out of certain tank cars. We called on the industry to provide proactive advanced notification to State emergency response teams when they are transporting hazardous gas tank cars through their states, and we called on the industry to provide paid sick leave.

To Congress, we ask them to increase the maximum fines that the Department of Transportation can issue to rail companies for violating safety regulations, and called on them to expand and strengthen rules governing high hazardous shipments, including high hazardous flammable trains, modernizing braking regulations, and increasing the use of electronic controlled pneumatic brakes; and to speed up the phase in of safer tank cars, and to increase funding to expand hazardous materials training for first responders.

As I've noted, we made progress on several of those priorities in the three-part push. But we know that several remain unfulfilled, while new issues and concerns also require attention. This is not a moment for half measures, passiveness, or dogmatic thinking. It's a moment, without a doubt, that demands more from all of us. It requires the active participation of this Committee, which has helped inform railroad safety actions before, and it will also do so going forward. FRA is fully committed to RSAC, and we are committed to using the full range of FRA's authorities, as well as the funding available to us from the Bipartisan Infrastructure Law, to make rail even safer.

We have taken, and we will continue to take, actions to raise rail safety standards and protect rail workers and communities from harm. That includes utilizing the authorities FRA currently has, to draw attention to safety concerns through advisories and bulletins and advanced rulemakings. It means embracing new focused efforts to examine safety cultures across the rail industry. I want to touch on a number of these actions now, and I'll discuss more throughout this PowerPoint.

I want to start here with the tools that FRA has in place, and is utilizing. I want to start with FRA safety advisories, eight of which we've issued over the past thirteen months, and the nine safety bulletins. Each of these safety warnings are tied to specific incidents, and I'll highlight some of those.

Our advisories relating to the maintenance of hot bearing wayside detectors are in response to the East Palestine derailment, two Kansas City Southern derailments, and two additional Norfolk Southern incidents in Ohio and Georgia. Our safety advisory that recommends railroads utilize wheel-impact, low detectors is the result of a Union Pacific derailment in Gothenburg, Nebraska. Our safety advisory expressing safety concerns relating to train makeup was informed by six separate derailments, including the Norfolk Southern derailments in Springfield, Ohio; Alders, Illinois; the Union Pacific derailments in Hampton, Iowa; Sibley, Iowa; and Rupert, Idaho; and a Kansas City Southern derailment in Garvette, Arkansas.

Our safety advisory expressing safety concerns with increasing train length is informed by three incidents, including a 28-car Norfolk, Southern derailment in Springfield, Ohio;

a 22-car Norfolk Southern derailment in Ravenna, Ohio; and a 37-car Union Pacific derailment in Rockwell, Iowa.

When it comes to rulemakings, FRA issued a final rule that will require railroads to provide emergency escape breathing apparatus to train crews. FRA recently received a petition for reconsideration of that rule making, and we are reviewing it.

We also issued a locomotive recording device final rule on passenger trains last year. FRA is pushing forward on rulemakings that would require railroads to develop written programs for certifying dispatchers and signal employees, and finalizing a rule to require at least two crew members on trains for most operations.

As you know, FRA conducted a supplemental safety assessment of BNSF, and of Norfolk Southern's safety culture, and we made that public in August of 2023. Right now, FRA is in the process of finalizing a report on BNSF's safety culture, and wrapping up field work on an assessment of CSX as we work to complete safety culture evaluations on all six Class I railroads this year in 2024 as a part of Secretary Buttigieg's three-part push.

He also called upon Class I freight railroads to join FRA's Confidential Close Call Reporting System, so rail workers can report close calls without fear of retribution. This is something that the RSAC working group has also taken up. To echo the Secretary, and what he just said in his video, FRA is greatly encouraged by the partnership demonstrated by BLET and SMART in working with Norfolk Southern and FRA to reach an agreement on the initial pilot of a C3RS program. It's a vital safety program that benefits 1000 NS workers represented by those unions. To the other Class I freight railroads and unions that are currently talking with FRA to join C3RS, we look forward to continuing those conversations and welcoming additional workers and carriers into the C3RS program.

In addition to C3RS, there are a number of technology initiatives that FRA actively supports, such as the effort to make maintenance of way machines safer for roadway workers, including by making progress on the National Transportation Safety Board's safety recommendation that railroads install detection and warning technology on high rail, back hoes, and other independently operating pieces of maintenance away equipment, and on the leading and trailing units of sets of maintenance away equipment operated by maintenance workers.

We also know that technology sometimes is not perfect. We continue to see problematic PTC failures, as many as nine unplanned outages since March of 2023, just a year ago. FRA continues to evaluate these failures closely to determine the root cause of this issue.

Additionally, after meeting extensively over a number of years to develop track standards, the automated track inspection, or ATI Working Group was unable to reach consensus, leaving FRA to decide it was time to close out the task.

We are making unprecedented investments in new rail, infrastructure, and communities nationwide that benefit rail safety to prevent deadly collisions with cars and pedestrians. These grant awards include 1.4 billion dollars for 70 projects and over 577 million dollars in the railroad crossing elimination program for 63 projects nationwide. In the coming weeks, FRA anticipates releasing the next notice of funding opportunity, and we aim to release additional railroad crossing elimination funding.

FRA continues to pay close attention to grade crossing safety, blocked crossings and very long trains, and other topics affecting communities and their quality of life. The first round of railroad crossing elimination grants will improve over 400 grade crossings around the country to make our roads, railways, and communities even safer. Still, we have more work to do to drive down the unacceptable status quo of 2000 grade crossing collisions, and the more than 200 casualties that occur at crossings every year. Right now, FRA has invested significant resources to address this issue, and it's a significant area where we need active participation and active collaboration to succeed.

When it comes to blocked crossings, FRA has expressed growing concern related to train makeup, and about the complexities associated with operating longer trains. Our safety advisory on longer trains, among other calls to action, urges railroads to address these complexities, and mitigate the impacts of long trains on blocked crossings. We're moving forward with an information collection request to get more data on long trains, too, which would require monthly reporting for major railroads to FRA.

This is not a moment to defend the status quo. All of us should be demonstrating a shared commitment to safety, and a willingness to act on that commitment that includes investing in our railroads' workforce rather than pursuing cost-cutting furloughs. As I stated earlier, significant safety improvements are still needed. Ample room for collaboration exists, and real opportunities are in front of all of us. Through this committee and beyond, in the coming weeks, FRA will be working with the Department to solicit interest in participating on the Railroad Safety Advisory Committee as additional members.

The Bipartisan Infrastructure Law had 23 sections on rail safety. FRA has completed work on 10 of those sections. We know we have more to do. FRA has also been working with our partners at the Department of Labor, with the Occupational Safety and Health Administration to make sure that workers are safe on a daily basis.

RSAC's expertise and diversity is a powerful asset to help meet this moment for all of us, and advance those safety efforts that will make our communities workers safer. I thank all of you again for being here today and for your active engagement. FRA looks forward to our continued work together.

Remarks from the Assistant Secretary of Labor for Occupational Safety and Health

- Karl Alexy introduced Mr. Douglas L. Parker, the Assistant Secretary of Labor for the Occupational Safety and Health Administration (OSHA) who addressed RSAC:

Good morning, everyone. I want to thank the Railroad Safety Advisory Committee for the opportunity to be here. I want to thank Administrator Bose for the invitation, and also the collaboration that we've been able to foster over the last year. I also want to thank Karl Alexy, the Associate Administrator for Railroad Safety, and the Chief Safety Officer for his work with the advisory committee.

The Occupational Safety and Health Administration is an agency in the Labor Department that most people associate with going out to employers and writing health and safety citations. And we oversee all protection standards and things like that. But the fact of the matter is, we also run the nation's whistleblower program for 25 additional statutes that cover everything from transportation to food, safety to environmental protection, to financial services, and of course, part of that mandate includes enforcing the whistleblower provisions of the Federal Railroad Safety Act.

I have been the Assistant Secretary, and I'm in my third year now, and one of the things that I have identified as a major priority, and we've been working on this, is to move the whistleblower program from being more of an appendage of the Occupational Safety and Health program to one that is more integrated with our overall mission of ensuring health and safety both in the traditional workplace context of occupational self-safety, but also when it comes to the other work that we do to protect the public health. And certainly our work with the Federal Railroad Administration is a key part of that.

When we talk about occupational safety and health values within OSHA, we emphasize health and safety as a core value. You know, I don't typically give speeches about ensuring compliance. I don't give speeches about why you need to pay attention to a particular standard. What I emphasize is the importance of a comprehensive system of health and safety within your organization that ensures that you have a resilience and a commitment to health and safety as a core value, just as you would any of the other key indicators that you would look at as an executive.

We talk about three things that are that are essential to that role. One is a commitment from leadership to health and safety. The second is to have a systematic approach to finding and fixing hazards, so you have to have a system in place that is proactive, that has all the essential elements of a health and safety program. And these are, of course, translatable to things outside of occupational safety and health, like safe administration of your railroad systems.

And then the third thing that we emphasize is active worker participation. And this is why our whistleblower program is so important, because it has the worker participation, and by that, I mean having genuine input. A seat at the table in issues related to health and safety, an opportunity for employers to learn from workers about issues, clear lines of communication where they understand what the issues are, and a strong anti-retaliation program, in which workers speaking up about health and safety programs and health and

safety hazards is not simply encouraged, but is expected, and is a part of your fail-safe efforts to make sure that that hazards are addressed.

When that fails, that's when our whistleblower program kicks in. In a perfect world, we would be run out of business because every employer would have a robust system encouraging that kind of a communication issues would be addressed if they're hazards, and no one would have to call us. But unfortunately, that's not the world we live in, and we're often called on to be involved. As part of that effort, we have really invigorated our partnerships, and I think the strongest example is the partnership that we've developed with the Federal Railroad Administration.

We have had a Memorandum of Understanding with FRA since 2011, to improve coordination between the agencies and enforcing the whistleblower provisions of the Federal Railroad Safety Act. It protects employees from retaliation when they report safety violations or work-related injuries or illnesses to the government. Under this agreement, FRA refers employees complaining of alleged discrimination to OSHA, and OSHA refers to FRA any information that we obtain about potential violations that would be within the jurisdiction of FRA to address.

So, we share information like complaints, findings, and preliminary orders. We work together to develop training, so that so that our folks understand FRA and so that FRA employees understand the whistleblower provisions of the Federal Railroad Safety Act that we administer, and we can understand potential hazards in railroad safety violations that we may uncover during whistleblower complaint investigations, and make sure that even if the whistleblower investigation is prolonged, that we are proactively ensuring that FRA is aware of a hazard so that they can consider whether it's addressed, or it needs to be addressed.

This is a large part of our program outside of traditional OSHA whistleblower work. Since the MOU was implemented, we have received over 200 whistleblower complaints from the railroad industry.

I want to say a little bit about whistleblower protections, and just make sure that everyone is aware of the procedures and process of how the program works. Our whistleblower protection program enforces the protections for employees who suffer retaliation for engaging and protected activities. Who is covered? Employees of a railroad carrier are covered, so are those of a contractor or subcontractor, such as a manufacturer or repair of operational equipment at a carrier. Federal employees are not covered, however, all Federal agencies are required to establish procedures to ensure that employees do not suffer retaliation for reporting unsafe or unhelpful working conditions. The exception to that, and they are in a kind of a quasi-role, is that we do cover U.S. Postal Service employees.

Under the Federal Railroad Safety Act, an employer cannot discharge or retaliate against an employee for protected activities, such as providing information related to a complaint or hazard; causing that information to be provided to us; or assisting in an investigation by a Federal regulatory or law enforcement agency, including but not limited to us, a Congressional member or committee, or the employer, about an alleged violation of Federal laws that are related to railroad safety and security. Also protected is refusing to violate or assist in violating a Federal law related to railroad safety and security, so that would most commonly be a work refusal, filing a complaint, causing a proceeding to be brought, cooperating with an investigation, or testifying in a proceeding under Federal railroad safety and security laws, reporting a hazardous activity or security condition, or a work-related injury or illness. Those are also protected activities. Then, finally, complaints relating to accurately reported hours of duty, or refusing to work when confronted with a hazardous safety or security condition.

So, who can file? An employee who believes they have been retaliated against in violation of the Federal Railroad Safety Act may file a complaint with OSHA. They can file by visiting a local OSHA office. They can send us a written complaint. They can use our online complaint form. OSHA accepts complaints in any language. The complaint must be filed within 180 days of when the alleged adverse action took place.

When we receive a complaint, we will review it to determine if the complaint meets the threshold requirements of the law for retaliation. Does it allege that the employee engaged in protected activity? Did the respondent, meaning the employer? Did the employee suffer an adverse action, and were the circumstances sufficient to infer that the protected activity was a contributing factor in the adverse action? That's kind of the standard of proof.

If there is a valid complaint, we then conduct an investigation and collect evidence, and if the evidence supports the employee's complaint of retaliation, OSHA will issue an order requiring the employer to put the employee back to work, pay lost wages, restore benefits, and other possible relief. But the exact requirements will depend on the facts of the case. If evidence does not support the employees complaint, OSHA will dismiss the complaint.

Within 30 days following our decision, employer and or the employee may request a full hearing before an administrative law judge in the Department of Labor. That judge will make a decision, and then that decision may be appealed by either party to the Department's Administrative Review Board. So, there are multiple layers that one goes through with a case. This, however, is not the only way in which an employee can address a retaliation claim. If the department does not issue a final decision within 210 days, the employee has the option of filing a complaint in Federal court.

You may have questions about that, and I'm happy to connect you with our whistleblower program. A good starting point is [whistleblowers.gov](https://www.whistleblowers.gov), which is an OSAH website where you can find out more.

We have made a number of improvements in managing our work. One of the things that we have done, in where we identify egregious cases of retaliation, is to seek expedited relief. That may be in the form of a cease-and-desist letter, or that may be in the form of court action.

The whistleblower program is a very process-oriented program and OSHA has historically had a significant caseload, and we continue to deal with it. However, I'm happy to say that in 2023, we reduced our overall average caseload. On January 1, the average age of a case was 330 days, and by September, we reduced that to 200 days by making some adjustments, and how we perform our work to make sure it's more efficient. Closing out some older cases, and doing redistribution of our work to make sure that we were more timely acting on our cases. We also did a thorough review of our FRA-related cases after the East Palestine incident, to make sure that there were no other significant hazards that were identified in our portfolio that we had not yet referred, for whatever reason, to FRA.

The other thing that I want to mention before I close is that, in addition to our partnership through the MOU with the FRA, we ensure that we have good information sharing, and that we're working together on cases. One thing that Mr. Bose and I did in 2023 is to put out a blog on the retaliation issue and the importance of whistleblower protections, and to make sure that people were aware of our partnership and aware of their right to file complaints. And we've continued to work together to engage in communications with the industry to ensure that people, the workers, are aware of their rights. And that's something that we're going to continue to do on an ongoing basis, just to make sure that people are aware of their rights and can exercise them.

thank you for your attention, and I'm happy to take questions and engage in dialogue about whatever issues you want to talk about.

- Following Mr. Parker's address, Roy Morrison (BMWED) asked Allison Fultz (FRA) about a case in 2018 where 10 cases where managers were found guilty of willfully and intentionally retaliating against workers. What happened to those managers? Did FRA take any action against them? Are those managers still working in the railroad industry? When will FRA create a publicly-facing website to provide public access to the determination of cases like these, as FAA has done?
 - Allison Fultz (FRA) replied that FRA did look into those 10 cases, and they were all administratively closed. There were investigations that accompanied those, and at a minimum, FRA issued letters. We don't know which of those people are still

working in the industry. As to any managers receiving individual liability for violation notices, there are a number that we are investigating now, but we are not at liberty to give any more details. FRA is looking into setting up a database similar to FAA's, but we cannot provide a timeline yet.

Occupant Protection Systems

- Karl Alexy (FRA) introduced Michael Hunter (FRA) to give a presentation virtually on occupant protection systems.
- Michael said that occupant protection systems are one of the requirements of the Infrastructure Investment and Jobs Act (IIJA), also known as the Bipartisan Infrastructure Law (BIL).
 - FRA is researching efforts to improve the safety of passenger equipment: occupant restraint systems; airbags; emergency window retention systems; and interior designs, to include seats, baggage, restraints, and table configuration and attachment.
 - FRA is compiling and finalizing its report to Congress on these items. Once it is complete, it will most likely be made available publicly on the FRA website.
 - The report summarizes years of research undertaken by FRA. The information in the report will be brought back to the RSAC Passenger Safety Working Group (which the former Engineering Task Force was a sub-group of).
 - The Passenger Safety Working Group has been instrumental in helping FRA develop many passenger equipment regulations for high-speed train.
 - The Passenger Safety Working Group will review the report to see if any updates may be necessary to our current passenger safety regulations under Part 238, primarily focusing on emergency systems.
 - FRA will probably bring the report to the Passenger Safety Working Group in the fall of 2024. This will allow time for the report to be submitted to Congress, and for FRA to develop a path forward with any revisions, if any, that need to be made to the current regulations.
 - No decision on any rulemakings, efforts, guidance, or industry standards has been made as of this time.
 - Michael Hunter (FRA) anticipates notifying the Passenger Safety Working Group members in the summer of 2024.
- There were no questions on this topic from the RSAC members.

Break until 11:00 am.

Update from the Close Call Reporting Systems (C3RS) Working Group

- Karl Alexy (FRA) introduced Rob Castiglione (FRA) to give a presentation on the latest status of the C3RS Working Group. See the RSAC website for the PowerPoint presentation.
- Rob Castiglione said that the group had discussed how to make it more attractive to eliminate some of the bureaucratic processes, particularly for waivers, which is a heavy lift. He mentioned that there is some interest in incorporating or codifying programs or waivers into a regulation.
 - The working group discussed what reports could be accepted, and the frequency in which employees could still receive protection from discipline.
 - The working group is having discussions on implementing pilot programs on a large scale. He acknowledged that is a heavy lift, but FRA is ready, and NASA can provide assistance. FRA is trying to take a page out of FAA's playbook and their approach to close call reporting.
 - Some of the discussions in the working group had to do with known events involving minor damage under the FRA action reporting threshold, and protection from discipline for retrospective discovery of incidents such as camera events, recorders, and other technologies.
 - Not everyone in the working group was pleased with how NASA, as the third party, operates with respect to quality reporting, and the speed of reporting.
 - The working group discussed the practicality of standing up an internal alternative approach to C3RS, such as FAA's ASAP. FRA's proposed program has elements of ASAP, and FRA believes that we have a solid program.
 - One of the Class I railroads has a C3RS pilot program underway, and FRA is in discussion with others to implement theirs.
 - FRA's next focus is going to be on certification regulations, and waivers. Rob Castiglione (FRA) said he anticipates more meetings of the working group in 2024. In the meantime, FRA will continue to work with the railroads and labor unions to expand C3RS. FRA will continue to support peer review teams, as we have done in the past. FRA will continue to do outreach, as it has since 2012.
- Following the presentation, Rob Castiglione (FRA) took questions and comments from the RSAC members.

- Mike Rush (AAR) said that several of the railroads prefer ASAP over the NASA system.
- Vince Verna (BLET) said that he had learned quite a bit about the advantages of ASAP from FAA, and hoped that knowledge would be integrated into C3RS. He said that it was past time to get the ball rolling on C3RS, and is encouraged that Norfolk Southern has a pilot program.
- Jim Mathews (RPA) said that a lot of time has been spent going back and forth on what both sides seem to believe is worthwhile, and there are details that need to be hammered out, specifically known events and repeat offenders. The data is overwhelmingly in favor of this type of program, and as a representative of the traveling public, he urged RSAC and FRA to speed up implementing C3RS. The stakes are too high to wait.
- Karl Alexy (FRA) said that the C3RS Working Group and its efforts would continue.

Update from the Train Braking Modernization Working Group

- Karl Alexy (FRA) introduced Steve Zuiderveen (FRA) to present the latest status of the Train Braking Modernization Working Group.
- Steve Zuiderveen (FRA) said that in 2006, BNSF and Norfolk Southern petitioned FRA to be allowed to operate ECP (electronically controlled pneumatic) brakes on a trial basis. In 2013, FRA published a final rule authorizing ECP brakes. In 2015, the Pipeline and Hazardous Materials Safety Administration (PHMSA) published a final rule requiring all high hazard flammable trains to be equipped with ECP brakes by January 1, 2021.
 - This rule was challenged, and was no longer valid as of December 4, 2017. Work that FRA and RSAC was doing on ECP brakes came to an end.
 - The February 2023 East Palestine derailment revived interest in ECP Brakes, and the Train Braking Modernization Working Group was created. Three Task Forces were created under it, for ECP brakes, distributed power, and operating practices.
- Steve Zuiderveen (FRA) presented on the progress made by the ECP Brakes Task Force. See the RSAC website for the PowerPoint presentation.
 - Presentation included: task group charters; roster of members; objectives and subtasks (as applicable); and list of meetings that had occurred or were planned.
 - A 60-minute lunch break was held during the ECP presentation to accommodate a technical issue with the laptop being used.

- Following the ECP presentation, Steve took questions and comments from the RSAC members.
 - Mike Rush (AAR) said that this work was complex, and it appeared to him unrealistic to think that it would be completed within the one-year time period typically allotted to working groups.
 - Vince Verna (BLET) asked if FRA is looking at costs for ECP brakes versus costs for other braking systems. Are there cost benefits to be had?
 - Steve Zuiderveen (FRA) said that FRA is consulting with brake experts from Australia and South Africa on potential cost benefits. FRA believes they need at least four to six more months to determine costs.
- Kar Gazarov (FRA) presented on the progress made by the Distributed Power (DP) Task Force. See the RSAC website for the PowerPoint presentation.
 - Presentation included: task group charters; roster of members; objectives and subtasks (as applicable); and list of meetings that had occurred or were planned.
 - During the presentation, there were technical issues with Zoom that were resolved after a few minutes.
 - Following the DP presentation, Kar took questions and comments from the RSAC members.
 - Jeff Moller (AAR) proposed that because some topics are covered in more than one task force, that when the time comes to present the results of the Train Braking Modernization Working Group, that the subject matter experts from the three task forces work together on the final work product.
- John Mayser (FRA) presented on the progress made by the Operating Practices (OP) Task Force. See the RSAC website for the PowerPoint presentation.
 - Presentation included: task group charters; roster of members; objectives and subtasks (as applicable); and list of meetings that had occurred or were planned.
 - There were no questions from the RSAC members following the OP presentation.
- **The RSAC members voted to extend the Target Date for RSAC Task Number 2023-03, “Train Braking Modernization Working Group,” by 6 months, to October 13, 2024.**

Update from the Roadway Worker Protection (RWP) Working Group

- Karl Alexy (FRA) introduced Tim Presser (FRA), to present the latest status of the Roadway Worker Protection (RWP) Working Group. See the RSAC website for the PowerPoint presentation.
- The Working Group had its kickoff meeting on January 26, 2023; subsequent meetings were held on May 11, 2023; September 7, 2023; and November 16, 2023.
- Currently, there are four items with on-going actions:
 - Revise the definition of *Watchman/lookout* to make it consistent with the regulatory requirement (Subpart A)
 - Various parties stated they did not approve of the examples of audible and visual devices being removed from the definition.
 - Action: FRA to review language and determine next course of action.
 - Evaluate safety features for *On-Track Roadway Maintenance Machines (RMM)* under 214 Subpart D (installation of operator presence controls, collision avoidance technology, hi-rail limit control systems and/or back up cameras on newly built on-track roadway maintenance machines).
 - AAR/Industry Action Item: AAR will provide presentation at next meeting on systems currently being tested on the railroads with how systems work, results, and reliability.
 - Discuss ways to allow routine *hi-rail inspections on non-controlled track under §214.317 in conjunction with 301(c)*. While 301(c) was originally intended for movements only (tramping), track inspection from inside the confines of equipment can be safely accomplished under this same provision.
 - BMWED Action Item: BMWED submitted their documents on why they do not agree to adding inspections activities to 214.317(c) and 214.301(c). Document is posted on the Teams site for comments.
 - Simplify adjacent track protection so all roadway workers can better understand the requirements.
 - Small Task Group Action Item: Small working group presented their work on simplifying the *Adjacent Controlled Track rule*. The group will continue to meet and refine the language and incorporate and take into consideration comments that will be supplied on the Teams site.

- The next RWP Working Group meeting is scheduled for March 28, 2024, and will be conducted via MS Teams.
- Following the presentation, Tim took questions and comments from the RSAC members.
 - Jeff Moller (AAR) praised the efforts made by the Working Group, and said that he was hopeful that the group would come to consensus on some important items, such as adjacent track protection.

Update from the Wayside Detectors Working Group

- Karl Alexy (FRA) introduced Carolyn Hayward-Williams, FRA Director of Office of Railroad Systems, to present the latest status of the Wayside Detectors Working Group. See the RSAC website for the PowerPoint presentation.
- The Working Group most recently met on February 29, 2024.
- The Working Group previously identified six subtasks that need to be performed:
 - Task 1: Define and identify wayside detector types and quantities. This task was mostly completed at the February 29 meeting.
 - Task 2: Review and evaluate safety accident and incident history. This task is in process.
 - Task 3: Analyze installation, calibration, test, repair and maintenance processes and practices. This task is in process.
 - Task 4: Analyze communication and reporting methods. This task is in process.
 - Task 5: Analyze decision process for actions to avert accidents and incidents. This task is in process.
 - Task 6: Prepare recommendations to RSAC. For the most part, this task has not been started.
- Following the presentation, there were no questions from the RSAC members.

Other Regulatory Activity

- Karl Alexy (FRA) introduced Lucinda Henriksen (FRA) to present the latest status of several regulatory items currently under development within FRA. See the RSAC website for the PowerPoint presentation.

- FRA published the Emergency Escape Breathing Apparatus final rule on January 26, 2024.
 - In March 2024, FRA received two petitions to reconsider, from the American Short Line and Regional Railroad Association (ASLRRA), and from ASLRRA and the Association of American Railroads (AAR).
- FRA is developing final rules for: Train Crew Size Safety Requirements; Dispatcher and Signal Employee Certification; Passenger Equipment Safety Standards for High-Speed Trainsets; and Freight Car Certification.
- Other FRA rules in process include: Training, Qualification, and Oversight for Safety-Related Railroad Employees; an Notice of Proposed Rulemaking (NPRM) in response to a petition for reconsideration for the Risk Reduction Program; Amendments to Freight Car Reflectorization; an NPRM re. Positive Train Control Systems; Noise Emission Compliance Regulations; and the Electronic Service Rule.
- Open IJA rulemaking mandates include: Emergency Lighting; New Passenger Service Pre-Revenue Safety Validation Plan; Advancing Safety and Innovative Technology; and High Speed Train Noise Emissions.
- Other potential rules include: Passenger Rail Vehicle Occupant Protection System; and Amendments to Critical Incident Stress Plan Regulation.
- Following the presentation, Lucinda took questions and comments from the RSAC members.
 - Sarah Yurasko (ASLRRA) asked about the Electronic Service Rule. Lucinda said that it was an administrative change.

Wrap-Up and Adjournment

- Karl Alexy (FRA) led a discussion on the number of recent working group meetings.
 - Sarah Yurasko (ASLRRA) and Vince Verna (BLET) said that there had been a lot of meetings of late, and that it was difficult to participate in them all. Vince asked that meetings not be scheduled to run at the same time.
 - Karl Alexy (FRA) said that FRA would adjust its schedules to better accommodate participation by all interested parties.
- Minutes from the October 26, 2023 RSAC meeting were approved with no revisions.
- The meeting was adjourned at 3:24 pm, Eastern Daylight Savings Time.