

RAILROAD SAFETY ADVISORY COMMITTEE (RSAC)

Minutes of Meeting September 30, 1997

The sixth meeting of RSAC was convened at 9:35 a.m., in Salon D&E of the Baltimore Washington International (BWI) Airport Marriott Hotel, 1743 West Nursery Road, Baltimore, Maryland 21240, by the RSAC Chairperson, Federal Railroad Administration (FRA) Associate Administrator for Safety, James T. Schultz. The meeting was open to the public. Total attendance was approximately 115.

As RSAC members, or their alternates, assembled, attendance was recorded by sign-in log. An optional sign-in log was available for non-RSAC members. Sign-in logs for each daily meeting are a permanent part of the RSAC Docket. Nine of the forty-eight voting RSAC members, or "officially" designated alternates were absent: The American Association of Private Railroad Car Owners (1 seat), The Brotherhood of Maintenance of Way Employees (1 of 2 seats absent), The Hotel Employees & Restaurant Employees International Union (1 seat), The International Brotherhood of Boilermakers and Blacksmiths (1 seat), The National Conference of Firemen & Oilers (1 seat), The Transport Workers Union of America (2 seats), and The Transportation Communications International Union/BRC (2 of 3 seats absent). One of four non-voting RSAC members was absent: Transport Canada (1 seat).

In calling the meeting to order, Chairperson Schultz asked RSAC members to reflect upon the Committee accomplishments to date. RSAC members were reminded that when this process began five meetings ago [April 1-2, 1996], many did not think this process would work. Chairperson Schultz acknowledged the tireless efforts of FRA Administrator Jolene M. Molitoris, Deputy Administrator Donald M. Itzkoff, Deputy Associate Administrator for Safety Standards and Program Development Grady C. Cothen, Jr., Safety Law Division Assistant Chief Counsel, Daniel C. Smith, former Associate Administrator for Safety Bruce M. Fine, and RSAC Administrative Assistants Vicky McCully and Patricia Paolella to make the RSAC process happen. However, in the 90 days since the last RSAC Meeting [June 24, 1997], there have been five locomotive collisions resulting in six railroad fatalities. In addition to fatalities associated directly with the locomotive collisions, two additional railroad employee fatalities and three employee limb amputations have been reported. Clearly, there will be bumps in the road as FRA and its partners tackle the railroad safety agenda. But the leadership that will be required to address the many safety issues is already assembled. It is RSAC.

Following housekeeping chores (i.e., the location of nearest Fire Exits and lunch options), Chairperson Schultz welcomes RSAC Members Senor Antonio Lozada-

Bautista (Mexico), and Mr. Gary Gibson (Canadian National Railroad), and FRA Regional Administrators Mark H. McKeon, Fred Dennin, and Laurance Hasvold.

Chairperson Schultz introduces the FRA Deputy Administrator, Donald M. Itzkoff.

In opening remarks, Mr. Itzkoff announced that Administrator Molitoris is unable to attend today's meeting. The Administrator expresses gratitude for the work RSAC is doing. However, the attendees are reminded of the collision that occurred overnight and that the RSAC process must move forward [Note: a Consolidated Rail Corporation rear-end collision occurred near Hummelstown, Pennsylvania on September 29, 1997. A train conductor was killed.]. Today, RSAC will receive briefings on works-in-progress and the introduction of new tasks. The topics will include Passenger Train Emergency Preparedness, Passenger Equipment Standards, for which an NPRM was issued last week, Locomotive Crashworthiness, and Locomotive Cab Working Conditions. In addition, an RSAC Working Group is within striking distance of revising standards for Locomotive Engineer Certification, and FRA hopes to have an NPRM on revisions to Steam-Powered Locomotive Inspection Standards by the next meeting. FRA will also ask that RSAC consider adding Standards for Maintenance-of-Way Equipment to the rulemaking on Railroad Freight Car Safety Standards. Finally, FRA will ask RSAC to consider several tasks concerning positive train control (PTC). There are views by some RSAC members that the Full RSAC is not ready for PTC. However, FRA will never move forward on this regulatory agenda item if the Agency must wait until everyone is ready. In conclusion, Mr. Itzkoff reminds RSAC members that at the start of this process there were many who doubted that the Committee could collectively accomplish anything. But the process of compromise that underlies RSAC means that everybody doesn't get everything they want. On Behalf of the Secretary of Transportation and the FRA Administrator, who are focused on what RSAC is doing, Mr. Itzkoff welcomed all RSAC members to the meeting.

Chairperson Schultz introduces Safety Law Division Assistant Chief Counsel, Daniel C. Smith to discuss the "moratorium" issue.

Mr. Smith explains that the issue of RSAC Working Group negotiations and collective bargaining agreement prohibitions arose at the last RSAC meeting. FRA has met with a core discussion group to try to resolve the moratorium issue. The core discussion group consists of Mr. William E. Loftus (American Short Line Railroad Association), Mr. Charles Dettmann (Association of American Railroads), Mr. Dan Pickett (Brotherhood of Railroad Signalmen), and Mr. Henry B. Lewin (Transportation Communications International Union/Brotherhood of Railway Carmen). The moratorium issue is not an RSAC issue. However, the outcome of the moratorium issue can impact RSAC. Briefly, Collective Bargaining Agreements have a moratorium provision that prevents further negotiation of those issues covered by the Collective Bargaining Agreements. Therefore, some have argued that discussing any law or rule that pertains to employee tasks in carrying out safety rules could violate the moratorium provisions of Collective

Bargaining Agreements. FRA has authority to specify employee qualifications as they deal with safety. At the same time, FRA has no interest in Collective Bargaining Agreements. However, if the moratorium issue cannot be resolved, it could affect the RSAC process because people will be discouraged from freely giving their advice. The fundamental issue relates to the freedom to speak in the RSAC forum. FRA's draft solution is to modify the RSAC Procedures. Mr. Smith believes that parties are very close. After a few remaining steps in the process are completed, FRA will send a draft of the proposal to the RSAC Members.

Chairperson Schultz asks Office of Research and Development Director Steven R. Ditmeyer for a progress report of the benefit-cost study of positive train control systems.

Mr. Ditmeyer explained that when FRA issues regulations, the Agency is required to consider safety, health, the environment, and any effect on the American economy. It is this last point, "any effect on the American Economy," that is the driving force for the benefit-cost study of positive train control (PTC) systems that includes "business" benefits. Mr. Ditmeyer's presentation made use of overhead view graphs to summarize key points. Photo copies of the overhead view graphs were distributed for inclusion in each member's RSAC Notebook. These materials are part of the permanent RSAC Docket and are not excerpted in detail in the RSAC Minutes.

Mr. Ditmeyer's remarks covered: Project Tasks, PTC Definition, Corridor Focus, Benefit Areas, Cost Estimates, Project Status & Schedule, and Future Steps. For the purposes of the cost-benefit study, PTC has been defined as a system using a 2-way digital link between a "field" and "office" location, using real-time position location information, on-board locomotive intelligence (i.e., an on-board computer), control office supervision, and integrated cab displays. In order for this system to have a chance of deployment, there must be adequate radio frequencies available to railroads for PTC purposes. FRA is supporting Congressional and Federal Communications Commission efforts to ensure that adequate dedicated radio frequencies are allocated to railroads. In addition, a nationwide network of differential global positioning system (DGPS) stations is being planned by the U.S. Coast Guard using Ground Wave Emergency Network (GWEN) sites being decommissioned by the U.S. Air Force. FRA is working with the U.S. Coast Guard to establish the DGPS stations so that they may be used for railroad and other civilian use. Signals from one of these DGPS stations, at Appleton, Washington, are available for use on the Burlington Northern Santa Fe-Union Pacific positive train separation (PTS) testbed in the pacific northwest. Under a communications-based PTC system, accurate train positioning information is essential.

Mr. Ditmeyer further defines PTC systems as having a capability for enforcement of movement authorities, and presumes that maintenance-of-way equipment is treated as if it were a train. Some of the benefit benefits of PTC include fuel savings from train pacing, better utilization of track and equipment (i.e., work order reporting), locomotive health monitoring, traffic control, more precise scheduling of employee deployment, and

better service for customers. Efforts are being made to quantify these “business” benefits

Under a contract with Parsons Brinckerhoff Quade & Douglas, Inc., and Zeta-Tech Associates, Inc., with oversight by FRA and the Volpe National Transportation Systems Center, five rail corridors have been selected for use in the benefit-cost analysis. The corridors were not randomly selected. Instead, corridors were selected on the basis of certain characteristics including high freight tonnage, freight train use in combination with passenger train use, and number of tracks. The three railroads that own the five study corridors are cooperating in supplying detailed information on the physical operating characteristics of these corridors.

The contractors are also identifying the costs of installing the equipment required for PTC. The contractors are discovering that the cost estimates supplied by the AAR and used in FRA’s 1994 Report to Congress, *Railroad Communications and Train Control*, were low. Still to be resolved cost issues include the amount of the locomotive fleet to equip, and the minimum operable corridor length.

Mr. Ditmeyer explained that FRA’s safety concerns relate to train collisions and train overspeed derailments. FRA recognizes that there are a variety of systems available to prevent this type of accident including automatic train control (ATC), and the incremental train control system (ITCS). However, for the purpose of the business benefits analysis, FRA used the definition of PTC given above. Later today, FRA will ask RSAC to accept three PTC-related task statements including a task statement to develop standards for PTC systems. The key characteristic of PTC systems is that the locomotive will have the ability to enforce “instructions.” If crew members do not respond to instructions, the locomotive on-board computer will enforce the instructions.

Mr. Ditmeyer concluded his presentation by giving a tentative schedule for the contractor’s submission of the draft and final benefit-cost study. If RSAC accepts the three PTC-related task statements that will be presented today, the draft cost-benefit study along with estimated safety benefits for the five rail corridors that have been selected for use in the benefit-cost analysis will be made available to the PTC Working Group. The PTC Working Group may also wish to include business and safety costs and benefits for additional rail corridors.

Mr. Ditmeyer asks RSAC members if there are any questions regarding his presentation.

Charles Dettmann (Association of American Railroads (AAR)) believes that the PTC “business-benefits” presentation is inappropriate. He believes it prejudices the issue. Mr. Dettmann quotes from the RSAC statement of purpose [from “The RSAC Process,” dated March 27, 1996]:

“The **committee** [emphasis added by Mr. Dettmann] shall seek agreement on the facts and data underlying any real or perceived safety problems; identify cost effective solutions based on the agreed-upon facts; and identify regulatory options where necessary to implement those solutions...”

Mr. Dettmann believes that what RSAC Members are witnessing is pre-judging. The corridors that have been selected are arbitrarily as to location. He believes that the RSAC Working Group may select corridors that are completely different from those selected by FRA.

Mr. Itzkoff appreciates Mr. Dettmann laying-out the issue. However, if RSAC decides to accept the PTC-related tasks, the business benefits selected by the Working Group can also be included in the deliberative process. Clearly, the Working Group will be asked to determine business benefits. However, FRA has an obligation to provide data to the Working Group, including a business benefits analysis. Ultimately, RSAC can apply the relative weight it wants to assign any business benefits analysis.

Mr. Dettmann reiterates that he believes a significant pre-judging of PTC has occurred, before the issue is turned over to an RSAC Working Group. Mr. Dettmann reads the “purpose” statement of proposed Task No.: 97-4, Positive Train Control Systems-- Technologies, Definitions, and Capabilities:

“To facilitate understanding of current Positive Train Control (PTC) technologies, definitions, and capabilities.”

Dan Pickett (Brotherhood of Railroad Signalmen) asks if Mr. Dettmann is opposed to RSAC considering PTC.

Mr. Dettmann responds that he is not opposed to RSAC considering PTC, but wants the Working Group to set its own agenda.

Chairperson Schultz proposes a morning break. Following the morning break, RSAC will be asked to consider the proposed task statements for PTC.

Ray Lineweber (United Transportation Union) responds to Chairperson Schultz that he asked FRA, on behalf of RSAC Members, for information on the ongoing PTC studies. Until this information is received, the “jury” on PTC is out.

Mr. Dettmann emphasizes that if PTC is turned over to RSAC, the Working Group should decide what approach to take; what corridors to study. Prior to the morning break, Chairperson Schultz acknowledges “distinguished” guests in attendance. Included is Dr. Paul Rothberg (Congressional Research Service), Patricia J. Thompson, (Department of Transportation’s (DOT) Office of Inspector General), and Jack Wells (House Committee on Transportation and Infrastructure).

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

Chairperson Schultz announces a change to the Agenda. Consideration of the three PTC-related task statements will occur after the lunch break.

Chairperson Schultz asks for approval of the Minutes of two previous RSAC Meetings: June 24, 1997(5th RSAC Meeting), and October 31-November 1, 1996 (3rd RSAC Meeting).

THE MINUTES OF THE THIRD RSAC MEETING, HELD OCTOBER 31-NOVEMBER 1, 1996, ARE APPROVED BY VOICE VOTE.

Robert A. Harvey (Brotherhood of Locomotive Engineers (BLE)) requests that the following change be made to page two of the Minutes of June 24, 1997:

[Under remarks of Administrator Molitoris] ...Today, FRA will ask RSAC to undertake new projects. One of these will be Locomotive Crashworthiness [previously read Locomotive Engineer Certification]...

THE MINUTES OF THE FIFTH RSAC MEETING, HELD JUNE 24, 1997, ARE APPROVED, AS MODIFIED, BY VOICE VOTE.

Chairperson Schultz asks Deputy Associate Administrator for Safety Standards and Program Development Grady C. Cothen, Jr. to brief RSAC members on the two tasks related to locomotive crew safety, Locomotive Crashworthiness, and Locomotive Cab Working Conditions.

Task Statements, Working Group membership composition, and a brief synopsis of Working Group activities related to locomotive crew safety are part of the materials inserted at TAB 10 of Notebooks given to each RSAC member. These materials are part of the permanent RSAC Docket and are not excerpted in detail in the RSAC Minutes.

Mr. Cothen explained that the initial meeting of the Locomotive Crashworthiness Working Group was held on September 8-9, 1997. The Working Group decided to examine locomotive structure, anticlimber design, and emergency egress and lighting. A task force was established to develop issues relating to head-on and rear-end accident scenarios, and side, raking, shifted load, and grade crossing accident scenarios. The next Working Group meeting is scheduled for February 10-11, 1998.

Mr. Cothen continued that the initial meeting of the Locomotive Cab Working Conditions Working Group also met during the week of September 8, 1997, immediately following the Locomotive Crashworthiness Working Group meeting. The Locomotive Cab Working Conditions Working Group will examine noise limits, sanitary facilities, vibration, temperature, and cab ergonomics. A Noise Limits Task Force and a Temperature Task Force were established to study these specific issues. The next Working Group meeting is scheduled for October 29-30, 1997.

Mr. Lineweber asks if the sanitary facilities issue will come back to the table at the October 29-30, 1997, meeting.

Mr. Cothen anticipates that conditions will be correct for this issue to be discussed at that time.

Mr. Cothen announces that on September 23, 1997, FRA published the "Passenger Equipment Safety Standards" NPRM in the *Federal Register*. The *Federal Register* extract containing the proposed rules has been distributed to each RSAC member at today's meeting. These materials are part of the permanent RSAC Docket and are not excerpted in detail in the RSAC Minutes.

FRA WILL HOLD A PUBLIC HEARING ON THE PROPOSED "PASSENGER EQUIPMENT SAFETY STANDARDS." RSAC MEMBERS ARE REQUESTED TO NOTIFY PATRICIA PAOLELLA (VOICE (202) 632-3328 FACSIMILE (202) 632-3877), OR MR. COTHEN (VOICE (202) 632-3309), OF A DATE THAT WOULD BE CONVENIENT TO HOLD THE PUBLIC HEARING.

L U N C H B R E A K (11:30 P.M.- 12:35 P.M.)

Chairperson Schultz asks Mr. Cothen to introduce new PTC-related task statements for RSAC consideration.

Mr. Cothen describes the three PTC task statements as interrelated. Task 97-4 asks for a descriptive report on PTC technologies, definitions, and capabilities so that consistent nomenclature and assumptions are employed in reports to the Full Committee. This task asks RSAC to define what is meant by "PTC." Task 97-5 asks RSAC to address issues regarding the feasibility of implementing fully integrated PTC systems. This task asks a number of appropriate questions--how to coordinate efforts; how does the process move forward; what public/private sector actions are needed to move the process forward in a fact-based manner. Task 97-6 asks RSAC to develop Rules, Standards and Instructions to address processor-based technology and communication-based operating architectures.

Using overhead view graphs, Mr. Cothen outlines what is known about PTC systems. As background information:

- ÷ PTC systems utilize computers to control functions that historically have used relays.
- ÷ Performance advantages and growth potentials not available in relay-based systems.
- ÷ Software-driven microprocessor-based equipment designed to function in stand alone service.
- ÷ Computers function as vital controllers performing both wayside and onboard train control functions.
- ÷ Provide positive train control through use of onboard computer and communications link to a control Center.
- ÷ Systems work to process data in real time.
- ÷ Ensure error-free delivery of data.

Systems Under Development include:

÷ Union Pacific/Burlington Northern Santa Fe	Positive Train Separation (PTS)
÷ Amtrak	Incremental Train Control System (ITCS)
÷ Union Pacific (formerly Southern Pacific)	Positive Train Control (PTC)
÷ Conrail/Norfolk Southern/CSX Transportation	PTC
÷ Amtrak	Advanced Civil Speed Enforcement System (ACSES)

PTC Rulemaking Goals:

- ÷ 1984 marked the last major revision of 49 CFR 236, Rules, Standards, and Instructions Governing the Installation, Inspection, Maintenance, and Repair of Signal and Train Control Systems, Devices, and Appliances.

÷ Provisions were added for microprocessor equipment using the following terminology:

“Or a device that functions as a track relay.”

“Timing devices.”

“In its most restrictive state.”

÷ The microprocessor issue was to be revisited in five years (1989), but no major revisions have been undertaken until now, 13 years later.

÷ Goal is to identify minimum standards and requirements to assure safety of train operations.

÷ Encourage the exploration and implementation of PTC technology.

÷ Impact as little as possible on various design methodologies.

÷ Strive to establish performance standards, and not set design standards.

Mr. Cothen asks for a discussion before the three task statements are presented to RSAC.

Mr. Lineweber states that the time frame of task output “target dates” is too short for all three tasks. He notes that PTC involves complex material and issues. In fairness to all parties, he suggests a “target date” extension of at least 1 month.

Mr. Dettmann supports Mr. Lineweber’s 1 month extension proposal.

Mr. Cothen summarizes that he is hearing a call for a 1 month extension of “target dates” into January 1998.

Mr. Pickett asks if meeting the “target date” is a significant part of what RSAC is trying to accomplish.

Mr. Dettmann concurs.

Mr. Itzkoff responds that by setting a “target date,” RSAC is not looking for a “final” report. The “target” date represents the goal of receiving a “progress” report.

Donald W. Mayberry (AAR) asks if the Working Group for Task 97-4 will meet a couple of times and then “sunset.”

Mr. Cothen recommends that Tasks 97-4 and 97-5 go to the same Working Group. These are definitions, cost-benefit analyses, etc. The report on definitions and nomenclature could then go to a second Working Group for Task 97-6.

Mr. Pickett replies that it would serve him better if he had the same individuals on all three tasks, 97-4, 97-5, and 97-6.

Mr. Cothen acknowledges that there will be overlap in the three PTC-related tasks. However, he envisions the background of individuals on the 97-6 Task (developing standards) will be technical, i.e., signals and train controls. The 97-6 Task may also require other experts.

Mr. Lineweber announces the proposed new target dates of November 28, 1997 (Task 97-4 Working Group report on definitions and nomenclature) and January 15, 1998 (Task 97-4 Working Group progress report; Task 97-5 Working Group progress report). He suggests that RSAC combine all three tasks as a single Working Group and that the single Working Group report output as goals are met.

Rick Inclima (Brotherhood of Maintenance of Way Employees (BMWE)) responds that Mr. Lineweber has expressed the same thoughts as he on this subject.

Mr. Mayberry believes that Tasks 97-4 and 97-5 can be combined. However, Task 97-6 is more technical.

Joseph Mattingly (Brotherhood of Railroad Signalmen) concurs with the general discussion. Tasks 97-4 and 97-5 are non-technical and Task 97-6 is technical. However, he proposes that RSAC keep the task output "target" dates as originally proposed.

Mr. Lineweber requests time for a labor organization caucus.

Chairperson Schultz authorizes a 10-minute break for a labor organization caucus. At the conclusion of the labor organization caucus, the PTC discussion continues.

Mr. Dettmann states that Task 97-6 is dependent on the output from Tasks 97-4 and 97-5. He proposes that Tasks 97-4 and 97-5 proceed. At such time that Tasks 97-4 and 97-5 are complete, Task 97-6 can begin.

Mr. Pickett concurs.

Mr. Lineweber concurs.

Mr Cothen explains that FRA is approaching deadlines regarding the technical specifications for equipment. The Agency does not want a lengthy deferral in addressing PTC issues.

Mr. Itzkoff adds that for people involved in the development of PTC standards (Task 97-6), meeting the January 15, 1998 target date is remote. He will be satisfied if the standards are well underway by mid-1998.

Mr. Pickett suggests that the Working Group for Task 97-6 meet with the Working Group for Task 97-4 and 97-5. He does not believe that anyone's intention is to delay the process. However, he is not in favor of starting Task 97-6 before the completion of Tasks 97-4 and 97-5.

Mr. Dettmann proposes that a Working Group start Tasks 97-4 and 97-5. Let that Working Group determine when the Working Group for Task 97-6 can begin.

Mr. Cothen summarizes the PTC task discussion. FRA will offer the three task package. The resulting Working Group will begin as a single group, but will be permitted (self-governing) to split the function. The initial deliverables will be extended by 1 month. The progress report due-dates will be extended to the next Full RSAC Meeting.

Chairperson Schultz asks if there is a motion to accept Task Statements 97-4, 97-5 and 97-6, as amended by the discussion.

THE MOTION TO ACCEPT TASK 97-4, POSITIVE TRAIN CONTROL SYSTEMS--TECHNOLOGIES, DEFINITIONS, AND CAPABILITIES; TASK 97-5, POSITIVE TRAIN CONTROL SYSTEMS--IMPLEMENTATION ISSUES; AND TASK 97-6, STANDARDS FOR NEW TRAIN CONTROL SYSTEMS IS MADE, SECONDED, AND APPROVED BY UNANIMOUS VOICE VOTE

Mr. Itzkoff concludes the PTC discussion by saying PTC means different things to just about every RSAC member. He realizes that even with the extension of 1 month, the schedule for deliverables is very ambitious.

Chairperson Schultz asks FRA Safety Assurance and Compliance Director Edward R. English to brief RSAC on the status of Locomotive Event Recorder Task No. 97-3. Task Statements, Working Group membership composition, and a brief synopsis of Working Group activities related to locomotive event recorders are part of the materials inserted at TAB 12 of Notebooks given to each RSAC member. These materials are part of the permanent RSAC Docket and are not excerpted in detail in the RSAC Minutes.

Mr. English explained that the Working Group met on September 12 and adopted a draft Association of American Railroad's proposal for Event Recorder Crashworthiness Standards. The working Group established a Task Force to develop test criteria for fire, impact shock, immersion, and electric magnetic interference. A total of nine Action Items were assigned to various Working Group members for presentation at the next Working Group meeting, tentatively scheduled for November 12-13, 1997.

Following the progress report on Task No. 97-3, Mr. English asks RSAC to consider a proposed new task, RSAC Task No. 97-8, Revision of Railroad Freight Car Safety Standards--Requirements for Maintenance-of-Way Equipment. The proposed task statement is part of the materials inserted at TAB 17 of Notebooks given to each RSAC member. These materials are part of the permanent RSAC Docket and are not excerpted in detail in the RSAC Minutes. Mr. English explains that following the release of the NPRM on Revisions of Railroad Freight Car Safety Standards in 1994, FRA received comments which urged the inclusion of standards for maintenance-of-way equipment. To help formulate standards for maintenance-of-way equipment, so that FRA can conclude this rulemaking, the Agency requests that RSAC accept Task No. 97-8.

Mr. Dettmann responds that it is industry's position that FRA should decide this issue on the facts it already has. This is not an issue that needs to be put before RSAC. FRA should go ahead with its [Final] Rule based on the facts it already has.

Henry B. Lewin (Transportation Communications International Union/Brotherhood of Railway Carmen) requests clarification if industry is referring to information that has been presented over the past four years. Mr. Lewin believes that standards for maintenance-of-way equipment have not really been addressed in 49 CFR 215 negotiations. Nor does he believe that maintenance-of-way cars and their exemption has been a part of power brake discussions. He believes if the purpose of Task 97-8 is to look at standards for maintenance-of-way equipment, then it needs to be examined.

William E. Loftus (American Short Line Railroad Association) believes that unless there is something new, this is a mechanical issue. He believes that RSAC is already over extended. RSAC should count on the Final Rule to resolve this issue.

Mr. Inclima questions whether it would be over burdensome for RSAC to take a look at this issue. If it is far enough along, a Working Group may be able to handle it in several days.

Leroy Jones (BLE) asks if Task No. 97-8 would impact any rule already underway?

Mr. Lewin asks if industry is adverse to meeting on this issue?

Mr. Dettmann responds that industry does not think that issue will be resolved quickly. In addition, under the RSAC process, the Working Group needs to go back to “ground zero.” FRA ought to get this Rule out.

Mr. English proposes to withdraw Task No. 97-8 from RSAC consideration.

Mr. Inclima believes that RSAC can set up a Working Group and look at this task. He does not want the task to be withdrawn forever.

Mr. English requests that an RSAC member enter a “Motion,” regarding Task No. 97-8.

Mr. Inclima enters a motion the Task No. 97-8 be accepted. The motion is seconded.

C. William Autro (National Railroad Passenger Corporation) asks how Task No. 97-8 is different from Task No. 96-7, Track Motor Vehicle and Roadway Worker Equipment Standards?

Mr. Cothen announces that he is authorized to withdraw Task No. 97-8.

Mr. Pickett objects. He states there is a properly introduced motion before RSAC that needs to be voted upon.

Mr. Itzkoff states that the parties are not ready to move forward collaboratively on this task. He confirms that the task would address one area of interest to FRA. Following the Afternoon Break, the parties will be asked if there is a willingness to move forward on Task No. 97-8.

Mr. Smith offers to assist RSAC members in resolving procedural disputes concerning the introduction of Task No. 97-8 during the Afternoon Break.

Mr. English continues his presentation with a brief summary of Task No. 96-2, Revision of Track Safety Standards. The status report of the Working Group activities related to track safety standards is part of the materials inserted at TAB 6 of Notebooks given to each RSAC member. These materials are part of the permanent RSAC Docket and are not excerpted in detail in the RSAC Minutes. The Track Safety Standards Docket is closed for comments and FRA is currently reviewing submissions in response to the NPRM and the public hearing. The Final Rule will be issued shortly.

Chairperson Schultz announces that FRA received comments on the proposed Track Safety Standards from Jim Hall, Chairman, National Transportation Safety Board on September 26, 1997. These materials are inserted at TAB 6 of Notebooks given to each RSAC member, are part of the permanent RSAC Docket, and are not excerpted in detail in the RSAC Minutes.

A F T E R N O O N B R E A K (2:10 P.M.--2:30 P.M.)

Chairperson Schultz proposes that RSAC postpone a discussion on proposed Task No. 97-8 until the next Full RSAC Meeting. In the interim, all interested parties should review materials in the Revisions to Railroad Freight Car Safety Standards Docket.

Mr. Inclima announces that he withdraws his motion that RSAC accept Task No. 97-8.

Chairperson Schultz asks if the motion is seconded.

CONSIDERATION OF RSAC TASK NO. 97-8, REVISION OF RAILROAD
FREIGHT CAR SAFETY STANDARDS--REQUIREMENTS FOR
MAINTENANCE-OF-WAY EQUIPMENT, IS WITHDRAWN.

Chairperson Schultz asks FRA Systems Support Division Staff Director Robert L. Finkelstein to introduce Task No. 97-7, Definition of Reportable "Train Accident." The materials related to this task are inserted at TAB 14 of Notebooks given to each RSAC member. These materials are part of the permanent RSAC Docket and are not excerpted in detail in the RSAC Minutes.

Mr. Finkelstein suggests that the current formula for determining the monetary threshold for accident reporting may need to be changed. Under present reporting guidelines, damages from two accidents of roughly equal value can vary widely. Depending upon the age of the equipment and the depreciation method used, one accident might be reportable to FRA while the other is not. Mr. Finkelstein also noted that there are types of employee injuries occurring in which the injury is reported as a casualty, but in the absence of reaching the monetary reporting threshold, the event is not reported as either an "accident" or "incident." When railroads report "accidents and incidents" to FRA, the Agency receives detailed information about the event. Consequently, Mr. Finkelstein asks RSAC to consider developing an alternate reporting threshold for accidents and incidents, perhaps containing an "injury" component.

Mr. Loftus responds that the Task Statement is proposing a whole new definition for "accidents" and "incidents." He questions the need or value to open this issue. He has no problem with considering a revision to the monetary "threshold" for reporting an accident/incident. However, he opposes going beyond the calculation of a "threshold."

Mr. Lewin suggests that the current definition does not accurately address the reporting of an accident.

Mr. Finkelstein comments that about 75 percent of all accidents are of no consequence to the American public, or railroad employees.

Mr. Loftus reiterates that the task statement calls for information that goes beyond determining a monetary threshold for accident reporting.

Mr. Itzkoff asserts that FRA's obligation is to go beyond what is currently used. If an employee has both legs amputated, but damage does not exceed the \$6,500 threshold, the accident is not reportable.

Mr. Loftus counters that for 50 years, FRA has reported accidents one way. Now FRA is asking for a fundamental change. This is a major change in accident reporting.

Mr. Itzkoff explains that just because FRA has been doing something for the past 50 years, does not mean that the Agency cannot look at this issue.

Mr. Inclima asks how does generating a hybrid definition of a reportable accident change the whole rule. Things are still being reported to FRA.

James Johnson (Association of Railway Museums) announces that his organization is affected by this rule. He believes it is too early to re-open this rule, following the recent changes in accident/incident reporting.

Dennis Mogan (AAR) asks what is wrong with the existing Rule?

Mr. Finkelstein responds that if a damaged car is fully depreciated, there may not be a reportable accident.

Mr. Mogan asks if this problem can be fixed administratively by FRA by changing requirements in the "FRA Guide for Preparing Accidents/Incidents Reports?"

Mr. Finkelstein believes that would be rulemaking.

Chairperson Schultz responds that FRA could go through the procedures to change the "Guide." However, the Agency is allowing RSAC to help with that by accepting this task.

Mr. Mayberry indicates industry is agreeable to opening the task; however, industry is not agreeing to a hybrid definition.

Mr. Loftus adds there is agreement that there is no uniformity in the monetary level of accident threshold reporting. There is disagreement with introducing a hybrid--injury and property damage "accident." That changes what has fundamentally been done for the past 25 years.

Mr. Lewin counters that labor organizations will have heart burn if personal injury is excluded.

Mr. Loftus repeats that what is being proposed is a fundamental change in the way accidents are reported.

Vern W. Graham (AAR) asks what FRA hopes to draw-out by including personal injury in the accident definition.

Mr. Finkelstein responds that FRA looked for alternatives to property damage to try to bring uniformity to accident reporting. During this search, FRA reviewed the Occupational Safety and Health Administration's definitions, which includes a personal injury component.

Mr. Itzkoff proposes to modify Task Statement No. 97-7 by striking the final two issues under the Task Heading: Issues Requiring Specific Report. With this modification, Task Statement No. 97-7 reads as follows:

“Issue requiring specific report:

Could clarification of the means used by railroads to estimate railroad property damage improve the consistency of reporting?”

Mr. Loftus moves to accept Task No. 97-7, as modified. The motion is seconded.

Chairperson Schultz asks RSAC to accept Task No. 97-7, as modified.

RSAC ACCEPTS TASK NO. 97-7, DEFINITION OF REPORTABLE “TRAIN ACCIDENT,” AS MODIFIED BY UNANIMOUS VOICE VOTE

Mr. Lewin objects to the way the tasks are being presented--with portions deleted.

Mr Itzkoff responds that FRA wants to move forward on issues with which RSAC can reach consensus. He assures RSAC that FRA will never delete any task.

Chairperson Schultz asks FRA staff member Lisa Levine (FRA'S Office of Chief Counsel) to present a briefing on RSAC Task No. 96-5, Steam-Powered Locomotives, Revision of Inspection Standards.

Ms. Levine explains that this task is nearing completion. A draft rule text is being circulated to RSAC members today as information. The Tourist and Historic Working Group hopes to present a final NPRM at the next Full RSAC Meeting. The Steam Standards Task Force is a subgroup of The Tourist and Historic Working Group. Task Statements for this activity and the draft rule text are part of the materials inserted at

TAB 8 of Notebooks given to each RSAC member. These materials are part of the permanent RSAC Docket and are not excerpted in detail in the RSAC Minutes.

Chairperson Schultz asks FRA staff member Richard McCord (a Working Group Facilitator) to present a brief update on Task No. 96-3, Railroad Communications.

Mr. McCord explains that an NPRM was published in the *Federal Register* on June 26, 1997. The comment period closed on August 25, 1997. He proposes a motion to RSAC that the Working Group be allowed to remain together for consultation purposes should FRA require assistance in preparing the Final Rule.

RSAC APPROVES THE REQUEST OF THE WORKING GROUP FACILITATOR TO KEEP TASK NO. 96-3 OPEN FOR CONSULTATION PURPOSES SHOULD FRA REQUIRE ASSISTANCE IN PREPARING FINAL RULES BY UNANIMOUS VOICE VOTE

Chairperson Schultz asks Mark H. McKeon, Regional Administrator, FRA Region 1 to present a brief update on RSAC Task, No. 96-6, Revision of the Qualification and Certification of Locomotive Engineers Regulations.

Mr. McKeon explains that a draft of the regulatory text and regulatory preamble was sent to the Working Group on September 11, 1997. An NPRM is expected to be presented to the Full RSAC at the next meeting.

Chairperson Schultz asks RSAC members if there are any questions of FRA staff.

Kathryn D. Waters (American Public Transit Association) expresses frustration with the way in which FRA introduces tasks to RSAC. Due to limited resources, she suggests that FRA limit, or at least prioritize tasks that are brought before RSAC.

Mr. Itzkoff responds that at the next Full RSAC meeting, FRA will make a Regulatory Agenda Presentation.

William Clifford (BLE/American Train Dispatchers) asks how will the prioritization occur? Will it be made by FRA? Will it be made by RSAC?

Mr. Itzkoff responds that some of the items on FRA's Regulatory Agenda are mandated by Congress and some are the Administrator's own agenda. Everyone should know that the Track and Power Brake implementation was delayed by the Administrator so that the benefit of RSAC's collaborative input could be realized. FRA will present the regulatory agenda at the next meeting.

Chairperson Schultz asks RSAC for tentative dates to schedule the next Full RSAC Meeting. After a short discussion of member preference exclusion dates, Chairperson

Schultz agreed to try to schedule the next 1-day meeting in Washington, D.C. on either January 27, 28, or 29, 1998. RSAC members will be informed of the exact date when a meeting room is secured.

Mr. Mayberry asks for the deadline for submitting nominees for Working Groups that were created by new tasks accepted by RSAC.

Chairperson Schultz informs RSAC Members that members should express their interest to participate in any of the four new RSAC Tasks, 97-4, 97-5, 97-6, or 97-7 no later than October 14, 1997. If unable to indicate a preference today, members are requested to send preferences to FRA within the next two weeks. The preferences can be sent to the RSAC coordinator, Patricia Paoletta at (202) 632-3328 (voice), or (202) 632-3877 (facsimile).

With no other business, Chairperson Schultz requests a motion to adjourn the meeting.

M E E T I N G A D J O U R N E D (3:25 P.M.)

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

Respectively submitted by John F. Sneed, Secretary.