

RAILROAD SAFETY ADVISORY COMMITTEE (RSAC)

Minutes of Meeting January 28, 2000

The thirteenth meeting of the RSAC was convened at 9:35 a.m., in the Monticello West Ballroom of the Wyndham Hotel (Washington, D.C.), 1400 M Street, N.W., Washington, D.C. 20005, by the RSAC Chairperson, the Federal Railroad Administration's (FRA) Associate Administrator for Safety, George Gavalla.

As RSAC members, or their alternates, assembled, attendance was recorded by sign-in log. Sign-in logs for each daily meeting are a permanent part of the RSAC Docket. Nine of the forty-eight voting RSAC members were absent: The Association of Railway Museums (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 Association of Machinists and Aerospace Workers (1 seat), The International Brotherhood of Boilermakers and Blacksmiths (1 seat), Safe Travel America (1 seat), Sheet Metal Workers International Association (1 seat), and Transportation Communications International Union/Brotherhood of Railway Clerks (2 of 3 seats absent). One of four non-voting RSAC members were absent: Secretaria de Comunicaciones y Transporte (Mexico). Total meeting attendance, including presenters and support staff, was approximately 95.

Chairperson Gavalla welcomes RSAC Members and attendees. It was in April 1996 when FRA Administrator Molitoris first called this meeting to order. After nearly 4 years, much has been accomplished. Today, we will reflect on the partnership process. FRA could have put its rulemakings out without the benefit of the RSAC collaborative process. However, FRA believes more effective rules with greater compliance have emerged as a result of the RSAC process. Mr. Gavalla asks Patricia Paoella (FRA Office of Safety) to present a safety briefing.

Ms. Paoella describes available safety exits from the Monticello West Ballroom. She asks for volunteers with knowledge of cardiopulmonary resuscitation (CPR) to be designated to perform this lifesaving function, should the need arise. Roby Brown (Association of American Railroads (AAR)-Union Pacific Railroad Representative (UP)), Bob Keane (AAR- Illinois Central Railroad Representative (IC)), and Ray Lineweber (United Transportation Union (UTU)) volunteer to perform CPR.

Chairperson Gavalla invites FRA Administrator Jolene Molitoris to make introductory remarks.

Administrator Molitoris welcomes Members to a new century of RSAC. During the past seven years, we have witnessed an evolution in railroad safety that is unprecedented in the history of this industry. For the past four years, it is hard to believe the contributions that RSAC has brought to this process. The results you achieve are continuing to ripple out—not just throughout North America, but throughout the world.

Last night, we all heard President Clinton say that the State-of-The-Union is the best in history. I can also say that this industry has a safety achievement record that is better than ever.

RSAC is part of a coalition of railroad partnerships. These include RSAC, the Safety Assurance and Compliance Program (SACP), and SOFA—Switching Operations Fatality Analysis.

Certainly one of our most revolutionary changes has been in our rulemaking process. It is hard to believe that RSAC is less than four years old, given that we have done so much through the collaborative rulemaking process. These include revised track safety standards, radio communications rules, locomotive engineer certification procedures and steam locomotive safety standards. Furthermore,

passenger equipment standards, passenger train emergency preparedness, and roadway worker protection rules were all developed through heavy reliance on the collaborative process.

This past September, RSAC approved a landmark report, *Implementation of Positive Train Control Systems*, which points the way toward advances in collision avoidance, speed control and more secure protection of roadway workers. In addition, the North American Joint Positive Train Control (PTC) Project is well underway, and it must succeed if we are to realize the potential of the railroad industry in this new century.

SACP is an evolution that takes what you do at this table to the front line. We want to continue to train and emphasize to our employees that SACP can strengthen our ties to rail labor and management. This year I want to hold another roundtable forum to discuss how we can move this process forward.

Yesterday, I spoke before the North American Rail Alertness Partnership (NARAP). Within the Department of Transportation (DOT), the Secretary has identified fatigue countermeasures as a DOT Flagship Initiative. However, the rail industry is already leading the way for its employees and is serving as the model for the other transportation modes to follow. Your work can be analyzed and quantified. For example, since 1993, the employee fatalities have declined 40 percent. However, by the end of my remaining "Web Years"—that's cyber language (i.e., a web year = 3 months)—I want that statistic to be below 50 percent. In addition, we have had a 9 percent reduction in the train accident rate, a 27 percent decline in highway-rail grade crossing collisions, accompanied by a 34 percent reduction in crossing fatalities and a 22 percent reduction in non-fatal crossing injuries, even as the exposure to this risk has increased.

RSAC Members have built bridges that are spanning the safety culture and other historic gaps between labor, management, industry and government. We have created forums for dialogue, and each of us has shown our willingness to listen. We want to keep moving. But the only way we can continue this momentum is to continue talking at the RSAC Table, the SACP Table, and the NARAP Table.

We have many important rulemakings still pending before RSAC. Last month the Standards Task Force of the PTC Working Group put together a series of tentative agreements that should permit consensus on proposed performance standards for processor-based signal and train control systems. We are also in the home stretch on proposed rules for locomotive crashworthiness. We have just completed a series of consultations on cab sanitation that should permit us to conclude a Notice of Proposed Rulemaking (NPRM) in the next few weeks, and the group is ready to return to cab noise exposure in the coming months. We expect this year to receive recommendations for proposed rules on next-generation locomotive event recorders and publish an NPRM. The Track Working Group is completing a proposed rule on Roadway Maintenance Machines and also prepared a final rule on use of the Gage Restraint Measurement System (GRMS).

Today, RSAC will be asked to consider a new task to revise and update regulations on Blue Signal Protection. In addition, we will ask you to consider a planning task regarding training and qualification of certain safety-critical personnel.

During the last decade of the 20th Century, we began to find new ways of achieving progress through partnerships. I thank each of you for your support: railroads, labor, the American Public Transit Association (APTA), and suppliers. But as we stand at the threshold of a new century, I ask for your continued commitment, courage, and hard work.

SOFA is a new way to get to zero. Yards and switching operations are the most deadly working environment for railroad workers. Most of the solutions to this problem is common sense, not high tech. We want to send people home whole. When I hear of rail workers being impaled between two cars, I am sad. I don't enjoy writing sympathy letters—they are so inadequate. It is also disheartening to me that every death or injury that has occurred during the last 7 years has occurred on my watch. Together, we can forge the safest, most efficient, productive and profitable transportation system that the people of this

nation have ever seen. By continuing to work together in partnership, we can truly make the dream of zero deaths, zero injuries, and zero accidents a reality.

You are going to see two video presentations today. In my discussions with NARAP yesterday, FRA didn't tell our story very well. Perhaps it's because we are so eager to chase after the next safety hazard. In March, I am going to talk to the World Wide Rail Congress. I will be using these overhead video presentations that you will see today. However, I ask RSAC Members to send me one or two important ways of saving lives. The World Wide Rail Congress wants to hear how we are pushing the casualty statistics down, while rail traffic is increasing.

Once again, the FRA Administrator thanks RSAC Members for attending today's meeting.

FRA shows a video presentation of the agency's safety assurance and compliance program (SACP). The reasons behind FRA's shift from site-specific inspections to comprehensive railroad safety audits is outlined. Safety statistics are shown to demonstrate the success of the SACP approach to railroad safety inspections. Copies of the composite viewgraphs used in the SACP video presentation are part of the materials that will be filed in the RSAC Docket and are not excerpted in detail in the RSAC Minutes.

Chairperson Gavalla asks RSAC attendees Walter Carlson, representing Transport Canada, and Jerry Fisher, representing the Federal Transit Administration (FTA) to stand and be recognized. Recently, FRA and FTA put out a joint policy statement on the use of light rail passenger equipment on main line track of the general railroad system. The comment period on the joint policy statement, FRA Docket No. FRA-1999-5685, Notice No. 3) has been extended to February 14, 2000 (64 *Federal Register* 58124).

Chairperson Gavalla announces that immediately following today's RSAC Meeting, there will be a briefing in the same room on the Train Horn NPRM. All RSAC Members and attendees are invited to attend this briefing.

Chairperson Gavalla makes a presentation on SACP's role in the *Evolution of Railroad Safety Culture*, using recent changes in railroad employee discipline policies as an example. Chairperson Gavalla uses a series of overhead viewgraphs. Copies of these materials are part of the RSAC Docket and are not excerpted in detail in the RSAC Minutes.

Traditionally, railroad industry safety culture has relied heavily upon employee discipline to establish accountability for rules violations. As a result of the partnerships forged during the SACP process, railroad employee discipline policies became a targeted area for improving safety. Using the SACP partnership approach, ways are being explored to develop, or improve new discipline policies at four major railroads—Burlington Northern Santa Fe (BNSF), Union Pacific (UP), CSX Transportation (CSXT), and Norfolk Southern (NS). The partnership approach gets all the stakeholders together to help arrive at solutions. As the process moved forward, there was general agreement that these efforts were the best way to develop discipline policies. Safe work practices and accountability are being incorporated in employee discipline policies, whereby coaching, counseling, training and peer review are being promoted for occasional minor rules infractions. This process is resulting in safety culture changes. The effective date for BNSF's employee performance policy was November 1, 1996. Similar policies were instituted by CSXT on July 1, 1998, UP on October 1, 1998, and NS on January 1, 2000.

The common elements in the discipline policies of these four railroads are: (1) an emphasis on counseling, teaching, and education; (2) the agreement to a joint review by rail labor and management on the administration of discipline policies; and (3) provisions for progressive levels of discipline. Other related safety culture-related changes include: (1) elimination of supervisors accompanying employees into examination rooms during medical examinations; (2) elimination of medical cards; (3) how accidents, incidents, injuries, and occupational illnesses are reported. In addition, an employee "empowerment policy" is being instituted at BNSF and UP, and a managerial conduct policy is being instituted at UP.

POLICY FOR EMPLOYEE DISCIPLINE FOR RULES VIOLATIONS

	Burlington Northern Santa Fe	CSX Transportation	Union Pacific	Norfolk Southern
Program Name	<i>Policy for Employee Performance Accountability</i>	<i>Individual Development & Personal Accountability Policy</i>	<i>Policy and Procedures for ensuring Rules Compliance</i>	<i>System Teamwork and Responsibility Training (START) Program</i>
Effective Date	11-1-1996	7-1-1998	10-1-1998	1-1-2000
Minor	1 st offense within 3 years– Letter of Reprimand 2 nd offense within 3 years– 10 day suspension 3 rd offense within 3 years– 20 day suspension 4 th offense within 3 years– Dismissal	1 st offense– counseling Repetitive Minor Offenses–either (a) referral to incident review committee; or (b) apply terms of collective bargaining agreements	Level 1 offense– Letter of Reprimand Level 2 offense– 1 day suspension; pay in accordance with guidelines Level 3 offense– 5 day suspension without pay	1 st two offenses within 3 years, no formal discipline– counseling, training and education 3 rd offense within 3 years, handled as “Serious Offense”
Serious–i.e., speeding, rules violations resulting in revocation of locomotive engineer certification, and safety or rules violations that result in property damage that meet or exceed FRA reporting threshold.	1 st violation of Rule G, extended unauthorized absence, etc.– suspension for up to 1 year	1 st offense– either (a) referral to incident review committee; or (b) apply terms of collective bargaining agreements 2 nd offense within 3 years– minimum 30 day suspension 3 rd offense within 3 years– dismissal	Level 4 offense– 30 day suspension without pay Level 4.5 offense– 60 day suspension without pay	1 st offense, no more than 30 day suspension, which is suspended 2 nd offense–no more than 30 day actual suspension 3 rd offense– dismissal
Major (Grievous) (called 2 nd level Serious for BNSF)–assault, theft, weapons, drug and alcohol rules violations	Dismissal	Dismissal	Level 5 offense– permanent dismissal	Dismissal

Mr. Gavalla cites examples of how the new discipline policies are impacting CSXT employees. For operating rule violations, long-term dismissals have been reduced. For other offenses, i.e., theft,

dismissals have more than doubled. Mr. Gavalla commends CSXT as the only railroad of its size that has ever gone an entire year (i.e., 1999) without a single railroad employee fatality. He attributes this performance to the melding of corporate culture and safety which is reflected in the company's discipline policy. This, he exclaims, is what safety is all about.

James Stem (United Transportation Union (UTU)) thanks Chairperson Gavalla for his presentation. He asks if copies of the overhead viewgraphs used in the presentation could be photocopied and distributed.

Chairperson Gavalla responds that copies of his overhead viewgraph presentation will be distributed to RSAC Members before the meeting adjourns.

Chairperson Gavalla announces the Morning Break.

M O R N I N G B R E A K (10:38 A.M. - 11:00 A.M.)

Chairperson Gavalla reconvenes the meeting. Mr. Gavalla asks FRA Administrator Molitoris to introduce the Switching Operations Fatality Analysis (SOFA) presentation.

Administrator Molitoris recognizes members of the SOFA "working group." They are David Brickey (UTU), Raymond Holmes (Brotherhood of Locomotive Engineers (BLE)), David Skinner (Volpe National Transportation Systems Center), Sam Arrington (UTU—now retired), William M. Browder (AAR), Mike Copeland (FRA), Charles Dettmann (AAR), Joseph Gallant (FRA), Robert Harvey (BLE), George Last (BLE), Thomas J. Perkovich (BLE), Matthew Reilly (American Short Line and Regional Railroad Association (ASLRRA)), and John Smullen (UTU).

Administrator Molitoris also thanks the Norfolk Southern Railroad for being the first railroad to begin implementing the SOFA Report.

A video projector presentation is made. As the view graphs change, a narrative description is provided in succession by Charles Dettmann, Joseph Gallant, and John Smullen. Following a review of all train and engine service employee fatalities for a six year period beginning in 1992, FRA formed a team to conduct a detailed analysis of each fatality. The SOFA Team was asked to determine whether trends or patterns to the accidents could be found, to identify the "best practices" being used by railroads to avoid these accidents, and if possible, formulate recommendations for the entire industry based on the SOFA Team's analysis. The SOFA study contains five recommendations. The recommendations are: (1) Secure equipment before action is taken; (2) Communicate before action is taken; (3) Protect employees against moving equipment; (4) Discuss safety at the beginning of a job or when a project changes; and (5) Mentor less experienced employees to perform service safely.

The SOFA Report and recommendations are not a rulemaking. However, FRA hopes that the railroad industry will help put the recommendations into practice. Fatalities in yard accidents account for around 45 percent of rail employee fatalities. Copies of the view graph presentation are part of the RSAC Docket and are not excerpted in detail in the RSAC Minutes.

Administrator Molitoris appeals to the representatives of railroads—the AAR and ASLRRA to take the five recommendations of the SOFA Report and come up with an action plan on how the recommendations will be implemented. If FRA could eliminate rail yard switching fatalities from its accident statistics for the year 2000, it is an area where the agency could see real movement in its quest for zero accidents.

With no questions, Chairperson Gavalla asks the National Transportation Safety Board (NTSB) to make a presentation on Crew Resource Management. The presentation will be made by the NTSB's Dr. Stephen Jenner and Terry Doyle, an FRA inspector on detail to the NTSB.

Using overhead view graphs, Dr. Jenner begins the presentation with background and historical information. Copies of the view graph presentation are part of the RSAC Docket and are not excerpted in detail in the RSAC Minutes.

Crew Resource Management (CRM) has its origins in the airline industry, dating from the late 1970s. Several airline accident illustrations were described. An accident analysis exploring human factors, as possible underlying causes of pilot error accidents for years 1968-76 was undertaken. As a result of this analysis, problems were uncovered with decision-making, leadership, pilot judgment, communications, and crew coordination.

CRM as it relates to the airline industry is the effective utilization of all available resources—hardware, software, and “peopleware”—to achieve safe, efficient flight operations.

CRM training became mandatory in aviation after March 19, 1998.

In the marine industry, CRM started being explored in the late 1980s. Several marine accident illustrations were described. An accident analysis exploring human factors, as possible underlying causes of ship captain error accidents for years 1973-76 was undertaken. As a result of this analysis, a large percentage of marine accidents were due to human error. That analysis concluded that the “human errors” were not detected and/or not communicated early enough.

The 1995 Amendments to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers Convention require that the master and deck officers have a thorough understanding of bridge teamwork procedures.

Mr. Doyle continues the presentation. For the past three months, Mr. Doyle has been working with the NTSB on a rotational assignment. Even though the mandates of FRA and NTSB are different, both agencies have “safety” as the same common denominator.

CRM is a new concept in the railroad industry. To determine its applicability, FRA undertook a historical review of CRM in the airline industry. An excellent resource is *The Evolution of CRM Training in Aviation*, by Dr. Robert L. Helmreich, Professor of Psychology, University of Texas. As mentioned by Dr. Jenner, the 1st generation of CRM was actually “cockpit resource management” within the airline industry, with emphasis on changing individual behavior relative to (1) lack of assertiveness by juniors; and (2) authoritarian behavior by captains. In the 2nd generation of CRM, the concept became more modular and team-oriented in nature with focus on: team building, briefing strategies, situation awareness, and stress management. In the 3rd generation of CRM, the scope was broadened to include technical training; focus on specific skills and behaviors that pilots could use to function more effectively; and coverage was also extended to other groups such as: flight attendants, dispatchers, and maintenance personnel. Finally, the 4th generation of CRM has a requirement for mandatory technical training in aviation, effective in 1998. Recapping the successes and failures of CRM through the first four generations indicate: CRM does not always reach everyone; not all of CRM’s principles “move” from the classroom to the field; if not practiced and reinforced, the basis concepts of CRM fade over time; and CRM is an “error management” program. The term, “error management,” means: the avoidance of errors; catching potential errors before they are committed; and mitigating the consequences of any errors which occur.

During the 1997 FRA Roundtable discussion on “intimidation and harassment,” FRA explored ways to improve the following qualities in the railroad work environment: trust, dignity, and respect. This was the first step taken to bring about meaningful change within the railroad industry’s safety culture. As a result of this Roundtable discussion, FRA established a railroad safety culture task force. Also, FRA has been addressing “intimidation and harassment” issues through SACP safety audits.

FRA acknowledges there are aspects of CRM that may be applicable to the railroad industry. At the same time, FRA recognizes the need to improve the “safety culture” within the rail industry to support the principles and objectives of CRM. FRA has been closely following the recent initiative on CSXT’s non-

punitive discipline policy. In addition, FRA's SOFA Working Group recognized the implications of CRM in the SOFA Report. FRA is incorporating CRM principles into its regulations. Examples include: the Operational Tests and Inspections Program (49 Code of Federal Regulation (CFR) Section 217.9), the Instruction on Operating Rules Program (49 CFR Section 217.11), the Qualification and Certification of Locomotive Engineers Program (49 CFR Section 240), and the Safety Training for Hazardous Materials Employees Program (49 CFR Section 172). These regulations focus on important technical training aspects involving railroad employees' abilities to perform tasks. However, FRA's regulations only partially address the topics of "situational awareness," "effective communication and teamwork," and "strategies for appropriately challenging and questioning authority."

Many railroads are going beyond the minimum standards established by regulations for CRM training. For example, CSXT, as well as other railroads, require a job briefing prior to each trip. The UP requires "Session B" training, which incorporates CRM principles. Finally, the NS has an extensive video library and requires train crews to view selected videos.

FRA believes that CRM has many benefits that may well improve railroad safety. However, these benefits are difficult to quantify. FRA also believes that CRM should be addressed through the RSAC process to fully evaluate the potential for developing and requiring its use. The use of CRM encourages the making of safe operational decisions, and provides support to those making the decisions afterwards. In conclusion, FRA believes that no railroad employees should be placed in a position where they must choose between maintaining their employment versus compromising their safety.

Mr. Doyle asks for questions on the joint NTSB/FRA presentation.

Mr. Dettmann announces that the AAR, NS, UP, and Canadian Pacific (CP) are developing a generic CRM Program. The program will be available within the next 60 days. The program will allow customization at each individual railroad.

Mr. Doyle thanks Mr. Dettmann for this announcement.

With no further comments/questions, Chairperson Gavalla thanks Dr. Jenner and Mr. Doyle for their presentation. He acknowledges that there are many avenues with which to achieve CRM objectives. If FRA can help in any way, please let the agency know.

Chairperson Gavalla welcomes Dwight Foster, Deputy Director NTSB, to today's meeting. Also recognized are Tom Jacobi (UP) and Roby Brown (UP).

Chairperson Gavalla asks Grady C. Cothen, Jr., FRA Deputy Associate Administrator for Safety Standards and Program Development for a status report on RSAC Working Group activities.

Mr. Cothen explains that the Locomotive Cab Working Conditions Working Group, RSAC Task No. 97-2, has been focussing on sanitation issues. Task Statements, Working Group membership composition, and a brief synopsis of Working Group activities related to locomotive crashworthiness 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 explains that FRA is prepared to circulate a draft rule to the working group. Assuming the draft rule on locomotive cab sanitation is approved by the Working Group, FRA would like the Committee's assent to introduce a motion to permit the agency to send a mail ballot to the Full RSAC requesting approval of the draft rule.

A MOTION IS INTRODUCED THAT ONCE APPROVED BY THE WORKING GROUP, THE DRAFT RULE ON LOCOMOTIVE CAB SANITATION WILL BE SENT TO THE FULL RSAC MEMBERSHIP, REQUESTING APPROVAL BY MAIL BALLOT.

THE MOTION IS SECONDED AND APPROVED BY VOICE VOTE.

Mr. Cothen continues. The Working Group on Locomotive Crashworthiness, RSAC Task No. 97-1, has tentatively agreed on design criteria that will meet performance standards, subject to completion of the cost-benefit study. Task Statements, Working Group membership composition, and prior synopses of Working Group activities 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. FRA will bring the Working Group's recommendations before RSAC at the next meeting.

On the topic of PTC, the rule under development is not just about PTC. It is about all processor-based signal and train control systems, including communications-based operating systems. RSAC tasks associated with PTC are Task No. 97-4, Positive Train Control (PTC) Systems Technologies, Definitions, and Capabilities, Task No. 97-5, Positive Train Control Systems Implementation Issues, and Task No. 97-6, PTC Standards. Materials related to these topics are inserted at Tab 15 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. FRA and the Standards Task Force are working on integrating various reports and regulatory language into a final document. On the prospect that the Working Group's efforts will be completed in advance of the next Full RSAC meeting, FRA would request the Committee's approval to permit the agency to send a mail ballot to the Full RSAC requesting approval of the draft rule.

Mr. Harvey (BLE) asks if there will be adequate time between circulating the draft rule and the deadline for the vote for analysis of materials?

Mr. Gavalla responds that FRA will provide adequate time for analysis.

A MOTION IS INTRODUCED THAT ONCE APPROVED BY THE WORKING GROUP, THE DRAFT RULE ON PROCESSOR-BASED SIGNAL AND TRAIN CONTROL TECHNOLOGIES WILL BE SENT TO THE FULL RSAC MEMBERSHIP, REQUESTING APPROVAL BY MAIL BALLOT.

THE MOTION IS SECONDED AND APPROVED BY VOICE VOTE.

Mr. Cothen resumes. On the RSAC Task involving the Definition of Reportable "Train Accident," work continues on how railroads estimate railroad property damage and how to improve the consistency of reporting. Materials related to Task No. 97-7, Definition of Reportable "Train Accident" 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.

On the RSAC Track Task, work on draft rules changes for roadway maintenance machines and the use of Gauge Restraint Measurement System (GRMS) technology is nearing completion. Materials related to these items are inserted at TAB 6 of materials given to each RSAC Member, under RSAC Task Number 96-2, Revisions to Track Safety Standards. These materials are part of the permanent RSAC Docket and are not excerpted in detail in the RSAC Minutes. Mr. Cothen requests the Committee's approval to permit the agency to send a mail ballot to the Full RSAC requesting approval of the draft rule.

Mr. Dettmann notes that for administrative purposes, it would be helpful if the draft rule on roadway maintenance machines (once approved by the track working group) and rules for the use of gauge restraint measurement system technology were sent to the Full RSAC membership for approval by a single mail ballot.

Rick Inclima (BMW) seconds the motion.

Chairperson Gavalla asks if there could be a motion to combine the two issues into a single mail ballot?

Mr. Inclima moves that once approved by the track working group, the draft rule on roadway maintenance machines and draft rule for the use of gauge restraint measurement system technology will be combined onto a single ballot. The Full RSAC membership, will be requested to approve the draft rules by mail ballot.

Mr. Dettmann seconds the motion.

THE MOTION THAT ONCE THE PROPOSED RULE ON ROADWAY MAINTENANCE MACHINES AND FINAL RULE FOR THE USE OF GAUGE RESTRAINT MEASUREMENT SYSTEM TECHNOLOGY IS APPROVED BY THE WORKING GROUP, THEY WILL BE COMBINED ONTO A SINGLE BALLOT AND SENT TO THE FULL RSAC MEMBERSHIP, REQUESTING APPROVAL MAIL BALLOT IS CARRIED BY UNANIMOUS VOICE VOTE.

Following some housekeeping and administrative announcements, Chairperson Gavalla announces the Lunch Break at 12:10 p.m.

L U N C H B R E A K (12:10 P.M. - 1:15 P.M.)

Chairperson Gavalla reconvenes the meeting. He introduces two people who are providing contract work on FRA's RSAC Internet Web Site. They are Masoud Deljoubar of Mori Associates (Bethesda, Maryland) and Mickey Grackin, McLean Research Corporation (Bethesda, Maryland).

Chairperson Gavalla asks Mr. Cothen to make remarks about the Northeast Corridor Safety Committee (NECSC).

Mr. Cothen explains that the Rail Safety Improvement Act of 1988 (Act) required the establishment of this committee. The NECSC has met a number of times and is a useful forum for labor and management to discuss various safety issues related to that unique operating environment. The results of the Committee's work have been significant. For instance, Amtrak is currently implementing lessons from a study regarding the aerodynamic effects of high speed trains passing through stations. Pending legislation proposed by The Department of Transportation is proposing language in the Department's surface transportation safety bill which would stiffen penalties for railroad vandalism, based on initial ideas generated by the Committee. The Committee also served as a sounding board for development of the Advanced Civil Speed Enforcement System that Amtrak is currently deploying on the North End (although it was not formally involved in the proposed or final order requiring its use). While the committee has not met since 1996, FRA has met with individual operators within the Northeast Corridor.

FRA would like to continue this effort. However, there is "zero" funding allocated within the Department's Federal Advisory Committee funding ceiling for this group. FRA has the authority under the 1992 amendments to the Act to retire the NECSC. FRA would like to roll the functions of this committee into an RSAC Working Group. Due to the lateness of this proposal, FRA would like for RSAC Members to consider this proposal. Specifics will be presented and members will be asked to vote to continue NECSC functions as an RSAC function at the next full RSAC Meeting.

Mr. Inclima (BMW) asks if an NECSC group has already been designated and will this group simply be rolled over into RSAC?

Mr. Cothen responds "yes."

Fred Ohly (Amtrak) asks if there will be additional information?

Mr. Cothen responds that operators in the Northeast Corridor have System Safety Plans which the group will need to review to ascertain that they are well integrated.

Mr. Lineweber (UTU) asks if FRA wants a motion on this now?

Mr. Cothen replies no, just think about it now.

Fran Hooper (American Public Transit Association (APTA)) reacts that this proposal is very difficult to take to APTA members. She needs more information.

Mr. Ohly (Amtrak) adds that he would like the owners and operators to discuss this topic before it is put before RSAC.

Chairperson Gavalla responds that FRA will agree to discuss this topic with Northeast Corridor owners and operators before putting this topic before RSAC.

Mr. Cothen continues. RSAC must be re-chartered. This is a routine, administrative process. To proceed, FRA needs help from RSAC Members. FRA must provide a current list of RSAC participants. In addition, new participants have expressed interest in joining. However, FRA feels that it would not want to expand the organization beyond 48 voting members.

FRA REQUESTS EACH RSAC ORGANIZATION TO IDENTIFY A CONTACT WITH WHOM RE-CHARTERING CAN BE DISCUSSED.

Chairperson Gavalla asks Thomas Keane (FRA Office of Safety) to present RSAC Task No.: 2000-1, *Railroad Operating Practices-Blue Signal Protection of Workmen*. Materials related to this topic are inserted at TAB 13 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. Keane explains that FRA has been briefing RSAC on this topic at a number of meetings. At the October 31, 1996, RSAC Meeting, Doug Taylor, (FRA's Office of Safety Operating Practices Division Staff Director), first presented a discussion on Blue Signal Issues. Blue Signal is one of the most important safety assurances for the railroad worker engaged in the inspection, testing, repair and servicing of rolling equipment. While FRA has developed minimum standards deemed essential for protection of these workers, there are areas of this regulation that need to be revisited. The task was to have been presented for vote at the September 8, 1999, Full RSAC meeting. However, the vote on this task was deferred until this meeting.

Reading from the proposed RSAC Task Statement, Task No.: 2000-1, *Railroad Operating Practices-Blue Signal Protection of Workmen*, the Working Group will review and propose any appropriate amendments or revisions to title Subpart B of Part 218, and Section 221.16 of Part 221, Title 49 CFR, including associated definitions and any other directly related matters. Provide advice to FRA concerning disposition of any issues that may arise during rulemaking, through issuance of a final rule.

If accepted by RSAC, FRA seeks the committee's advise on the following issues affecting blue signal protection of workmen: (1) Inclusion of contractors (on and off railroad property); (2) Visibility of blue signal; (3) One person crew protection; (4) Locomotive servicing area; (5) Remote control derails; and radio activated switches; (6) Inspection/placement/removal of Rear End Markers; (7) Utility employees; (8) Impacts of current rule and proposed changes on small entities; and (9) Feasibility of sunseting existing waivers in favor of permanent regulatory changes. After its initial meeting, the Working Group will be requested to provide a timetable for resolution of the issues and preparation of proposed rules changes, as appropriate.

Mr. Keane asks for questions.

Mr. Dettmann (AAR) objects to the Task Statement. He says the Task Statement predisposes that something needs to be done. He believes that the Task Statement should include the following language: "Investigate available safety data to determine whether there is a need to propose any appropriate amendments to"

Chairperson Gavalla agrees that RSAC represents a fact-based process. FRA apologizes if the language predisposes that there should be rules changes. FRA has no problem in changing the language in the Task Statement.

Mr. Lineweber (UTU) is not certain that the data exists to make a determination on any of the proposed Task Statement issues. In addition, the reference to "utility employees" gives the impression that we are dealing with a 1-person crew.

Chairperson Gavalla asks if RSAC Members would prefer the use of the term, hostler or helper?

Mr. Lineweber (UTU) responds that probably will not help us. We need to look at the utility person without reference to a 1-person crew.

Chairperson Gavalla reminds the discussion that the issue is: Do we have adequate Blue Signal Protection. The task does not address whether 1-person crews are appropriate. If accepted by RSAC, the Working Group can sort through when is Blue Signal protection necessary, who should be required to use the protection, and why. FRA has not involved itself in issues of crew size and has no plans to do so.

Mr. Lineweber (UTU) requests a "Labor Conference" for 10 minutes.

With no objections, Chairperson Gavalla announces a 10 minute recess.

Chairperson Gavalla reconvenes the meeting.

Mr. Lineweber (UTU) ask Mr. Dettmann (AAR) or Pat Ameen (AAR) if the AAR has data for the proposed blue signal protection issues that will be investigated by the Working Group?

Mr. Ameen (AAR) responds that the AAR does not have data on all the topics.

Mr. Lineweber (UTU) asks if FRA has data for the proposed blue signal protection issues that will be investigated by the Working Group?

Chairperson Gavalla responds that an RSAC Working Group is not limited to the data found in FRA's data and file systems. FRA can seek out data on the issues to be examined. It is part of FRA's responsibilities to periodically review its programs and collect data during this process.

Mr. Lineweber (UTU) responds that the Task Statement for Blue Signal Protection needs to be re-drafted. Chairperson Gavalla asks if the issue, "1-person crew," is inappropriate? If so, FRA can change that terminology in the Task Statement.

Mr. Lineweber (UTU) responds that FRA does not have jurisdiction over "1-person crews."

Chairperson Gavalla states that to move this topic forward, proposed changes in the Task Statement will be reflected in the RSAC Meeting Minutes.

Mr. Harvey (BLE) defines a utility worker, under these rules, as one who operates around moving rail equipment.

Mr. Cothen responds that currently, utility workers are "excepted," as long as they are associated with a crew. We wanted the RSAC Working Group to review whether there is a need to reverse this exception.

Gary Maslanka (Transport Workers Union of America (TWUA)) states that it will be difficult to examine the proposed issues without data. He continues, there is very little available data on these issues.

Chairperson Gavalla reminds members that there is a whole range of "data" and "facts" that can be examined beyond mere safety statistics.

Mr. Maslanka (TWUA) responds that he does not want a Task Statement where a Working Group is limited to available “data.”

Mr. Dettmann (AAR) asks RSAC to look back at the SOFA study. The SOFA group had data that showed what some, but not all, workers were doing at the time of their accidents. Nevertheless, the SOFA group was able to reach consensus on “things,” resulting in the report’s recommendations. In the current task before RSAC, if the Working Group can not agree on certain topics, it can say so, and move on to issues upon which it can agree.

Mr. Reilly (ASLRRA) agrees with Mr. Dettmann. However, he asserts that the Task Statement does not show there is a “safety issue.” If there is a problem, FRA should make that information available to us. Our “plate” is very full now.

Chairperson Gavalla reiterates that FRA is required to periodically review its regulations. Blue signal protections for workers is an ideal candidate for review under the RSAC umbrella. We have discussed assigning this task at past meetings. May I please have a motion that this task be accepted by RSAC using the revised Task Statement Description?

A MOTION IS READ FOR RSAC TO ACCEPT TASK NO.: 2000–1, *RAILROAD OPERATING PRACTICES–BLUE SIGNAL PROTECTION OF WORKMEN*, TO INVESTIGATE AVAILABLE SAFETY DATA AND FACTS TO DETERMINE WHETHER THERE IS A NEED TO AMEND AND, IF SO, TO PROPOSE ANY APPROPRIATE AMENDMENTS OR REVISIONS TO TITLE SUBPART B OF PART 218, AND SECTION 221.16 OF PART 221, TITLE 49, CODE OF FEDERAL REGULATIONS, INCLUDING ASSOCIATED DEFINITIONS AND ANY OTHER DIRECTLY RELATED MATTERS. PROVIDE ADVICE TO FRA CONCERNING DISPOSITION OF ANY ISSUES THAT MAY ARISE DURING RULEMAKING, THROUGH ISSUANCE OF A FINAL RULE.

Mr. Lineweber (UTU) asks if the task will apply to Blue Signal Regulations only? He does not want UTU participation in this task to be viewed as concurring with the idea that single person crews are acceptable.

Chairperson Gavalla states that the record will reflect that the sole purpose and intent of this task statement is to revise the Blue Signal Regulations, and that any organization’s participation in this task is without prejudice to that organization’s position on the issue of single person crews.

Chairperson Gavalla requests that an RSAC Member enter the motion for consideration.

Mr. Lineweber (UTU) moves that RSAC accept Task No.: 2000–1, as read.

Mr. Maslanka (TWUA) seconds the motion.

THE MOTION FOR RSAC TO ACCEPT TASK NO.: 2000–1, *RAILROAD OPERATING PRACTICES–BLUE SIGNAL PROTECTION OF WORKMEN*, IS APPROVED BY VOICE VOTE.

Chairperson Gavalla thanks Vicky McCully (FRA RSAC Coordinator), Patricia Paoella (FRA Office of Safety), Luwan Jones (FRA Office of Safety student intern), and Cindy Gross (RSAC facilitator) for their efforts in arranging today’s meeting.

Chairperson Gavalla introduces the next order of business. FRA would like RSAC to consider proposed Task No.: 2000–3, a “planning” task for the *Training and Qualifications of Safety-Critical Personnel*. If the planning task is accepted, FRA wants the Working Group of look at current training practices—what is out there now—and how the gaps should be filled. Materials related to this item are inserted at TAB 19 of materials given to each RSAC Member. These materials are part of the permanent RSAC Docket and are not excerpted in detail in the RSAC Minutes.

James Nelson (National Conference of Firemen & Oilers) asks what crafts will be involved?

Chairperson Gavalla responds that once the Task is accepted, FRA will ask any craft interested in joining the Working Group to come forward.

Mr. Harvey (BLE) notes on the second page of the task statement a reference to “qualification or certification requirements.” To locomotive engineers, the term, “certification” is meaningful and has implications.

Chairperson Gavalla notes that this is a “planning” task. The Working Group will report back to the Full RSAC on whether this topic should move forward and how.

James Stem (UTU) believes, in light of the discussions here today, this task should be deferred to another time.

Mr. Harvey (BLE) agrees.

Mr. Dettmann agrees, saying this issue should wait until the next Full RSAC meeting.

Mr. Inclima (BMWE) protests that action in this area should not be postponed because of organizations who are concerned by “certification.” The “training” and “qualifications” issues are separate, but equally important.

Chairperson Gavalla observes that this issue needs further discussion. He tables consideration of Task No.: 2000–3 until the next Full RSAC meeting.

Mr. Dettmann (AAR) requests that any facts that FRA has as to why RSAC needs to address this issue should be given to members.

Chairperson Gavalla responds that there is a body of data. However, FRA will provide a snapshot of what is out there—NTSB data and others.

Ms. Hooper (APTA) asks that APTA and the passenger industry be included in the discussions and information dissemination on this topic.

Chairperson Gavalla concludes that this discussion will continue at the next Full RSAC meeting.

Chairperson Gavalla announces the Afternoon Break.

A F T E R N O O N B R E A K (2:45 P.M. - 3:00 P.M.)

Chairperson Gavalla reconvenes the meeting. Mr. Gavalla asks Lamar Allen (FRA Office of Safety) to make a presentation on changes to the Department of Transportation’s (DOT) Drug and Alcohol Testing Procedures (49 CFR Part 40).

Tim DePaepe (Brotherhood of Railroad Signalmen (BRS)) requests confirmation that consideration of Training and Qualification of Safety-Critical Personnel has been tabled until the next Full RSAC meeting.

Chairperson Gavalla responds yes.

Mr. DePaepe continues that Dan Pickett (BLS), who is absent today will want to participate.

Chairperson Gavalla responds that FRA will want everyone to participate in this important safety area.

Using overhead viewgraphs and handouts, Mr. Allen explains that on December 8, 1999, DOT published an NPRM in the *Federal Register* (FR) (64 FR 69076), designed to strengthen and clarify standards and procedures required in the Departments Alcohol and Drug Program Regulations. Copies of the viewgraphs and handouts are part of the RSAC Docket and are not excerpted in detail in the RSAC Minutes.

The NPRM incorporates previous guidance and provides additional guidance for third party service providers which perform functions required in implementing Part 40. FRA is bringing the NPRM before RSAC so that Members can participate in the rule making process and offer suggestions to the FRA and to DOT. FRA will incorporate any appropriate suggestions it receives from RSAC Members with its own during the 120-day comment period of the NPRM (Docket due to close April 7, 2000).

Briefly, this is a DOT Rule. The testing procedures are the same for all transportation modes. FRA started its own drug and alcohol testing procedures in 1986. DOT used FRA's procedures as the basis for putting out the first set of Departmental rules in 1989. The proposed rule changes for Part 40 are a "How To." It is not Rail Industry policy which remains in Part 219. The proposed rules are written in "plain" English, having vocabulary at an 8th grade level. They are in the popular "question and answer" format. Finally, the regulation itself is orchestrated to follow the sequence of the process—the drug or alcohol testing procedures.

The NPRM addresses the following substantive issues. There are provisions for:

(1) public interest exclusions—removing a service agent's authorization to perform a function governed by Part 40 for failure to follow Part 40 procedures; (2) stand down—presently, an employee cannot be taken out of a "covered" position pending a drug test verification decision by the Medical Review Officer (MRO). Under the NPRM, employees can be taken out of "covered" positions by the employer pending the final verification decision; (3) adulteration/split specimen testing—if a facility wants to do DOT testing work, it has to meet new adulteration testing standards; (4) fatal flaws/ correctable flaws are clearly explained; (5) sending positive results to multiple employers is allowed; (6) blind specimen requirements are reduced; and (6) training requirements are increased.

Over the next 120-day period, DOT will conduct listening sessions/public hearings. These will be held at the Ronald Regan Building here in Washington, D.C. on March 20-21, 2000. Hearings will also be held in Los Angeles, California on March 28, 2000, and in Dallas, Texas on March 30, 2000. For additional information, please contact Marty Bloodsworth at the Transportation Safety Institute: (800) 862-4832, Ext. 323.

Thomas Leopold (AAR-Kansas City Southern) asks what Marty Bloodsworth could provide.

Mr. Allen responds hotel availability, costs, etc.

Mr. Allen continues. There are several NTSB Recommendations, issued January 13, 2000, regarding "Licit" Drug Use And Driving. For the railroad industry, the implication of this recommendation would mostly be centered on locomotive engineers. The NTSB has asked DOT to develop a program to educate, control the use and to post-accident test for these licit drugs. DOT will respond to the NTSB recommendation. Individual agencies will partner with the DOT and each other Operating Agency (OA) in developing the OA response.

Mr. Allen asks if there are any questions?

Mr. Inclima (BMW) inquires if the information that has been presented is in the *Federal Register*?

Mr. Allen responds yes, the *Federal Register* dated January 18, 1999.

Mr. Lineweber (UTU) asks if FRA could undertake any pilot studies on the issue?

Mr. Allen responds that FRA can not do any studies on "live" employee's specimens. FRA has offered-up its contract laboratory for future studies if DOT is interested.

Ms. Hooper (APTA) hopes that Mr. Dettmann (AAR) noted the size of the number of passenger transit employees versus railroad employees covered by these regulations, i.e., 214,00 versus 97,000.

Chairperson George Gavalla welcomes two additional attendees at today's meeting. They are the National Association of Regulatory Utility Commissioners' alternate member, Ira P. Baldwin, and former FRA Associate Administrator for Safety and RSAC Chairperson, Bruce Fine.

Chairperson Gavalla asks Christine Beyer, FRA Deputy Assistant Chief Counsel for Safety, to describe how Executive Order (E.O.) No. 13132, *Federalism* (64 *Federal Register* 153, Page 43255, dated 8-10-99) will affect FRA's rulemaking processes. A copy of the order and Ms. Beyer's talking points were included in materials given to each RSAC Member. These materials are part of the RSAC Docket and are not excerpted in detail in the RSAC Minutes.

Ms. Beyer explains that E.O. No. 13132 was signed by President Clinton on August 4, 1999, and became effective on November 2, 1999. E.O. No. 13132 seeks to ensure that federal agencies will undertake meaningful and timely consultation with state and local governments if an agency's rules, legislation, and other policy statements or actions have federalism implications. Actions with federalism implications are those that have substantial direct effects on states, the relationship between the states and federal government, or on the distribution of power among levels of government.

Due to the Railroad Safety Act of 1970, as amended, nearly all FRA safety rules preempt state rules on the same subject matter unless: (1) the state rule addresses a local safety hazard; (2) is not inconsistent with federal law; and (3) does not burden interstate commerce.

If FRA issues a rule with federalism implications, or preempts state law, E.O. No. 13132 requires FRA to: (1) consult with state officials; (2) prepare a "Federalism Summary Impact Statement" in the preamble of the rule; and (3) certify that E.O. 13132 requirements are met.

Typically, FRA will accomplish consultation through participation of the American Association of State Highway and Transportation Officials and the National Association of Regulatory Utility Commissioners in the RSAC process. Where FRA action has unique or profound state/local impact, FRA will do extensive outreach to affected governmental units.

Ms. Beyer asks if there are any questions.

With no questions of Ms. Beyer, Chairperson Gavalla continues with some housekeeping items. He asks RSAC members to suggest a date for the next full RSAC meeting. He suggests sometime in the month of May, perhaps the week of May 15-19, or the week of May 22-26.

Mr. Inclima (BMW) states that his organization will be holding meetings the week of May 15-19.

Mr. DePaepe (BRS) states that his organization will be holding meetings the week of May 22-26.

Mr. Inclima explains that May 15th might be a possibility, when he could attend.

With no mutually-agreeable date, Chairperson Gavalla explains that FRA will try to reserve a room for the meeting during the last two weeks in May and will advise members of the meeting date.

Chairperson Gavalla asks for a motion to accept the Minutes from the 12th RSAC Meeting.

MR. BALDWIN (NARUC) MOVES THAT THE MINUTES FROM THE 12TH RSAC MEETING BE APPROVED.

Mr. Mogan (AAR) seconds the motion.

BY UNANIMOUS VOICE VOTE, THE MINUTES OF THE 12TH RSAC MEETING ARE APPROVED.

Chairperson Gavalla again reminds attendees that immediately following today's RSAC Meeting, there will be a briefing in the same room on the Train Horn NPRM.

With no further business, Chairperson Gavalla adjourns the 13th RSAC Meeting at 3:35 p.m.

MEETING ADJOURNED 3:35 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.