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**MATTERS TO BE DISCUSSED AT THE REGIONAL
MEETINGS**

I. CURRENT PENDING RULEMAKINGS AT FRA

1. Two Person Crew

As the result of the above Canadian accident, in 2015 the FRA issued a Notice of Proposed Rulemaking, which would require two person crews on trains operating on main lines and mainline sidings.

In addition, FRA issued an Emergency Order on December 3, 2013 requiring the New York's Metropolitan Transit Authority to provide two qualified railroad employees to operate trains where speed restrictions are in place until its signal system is updated.

There are bills pending in both houses of Congress which would require two person crew members.

2. Automation in the Railroad Industry

On March 29, 2018, the FRA issued a notice seeking the potential benefits, costs, risks, and challenges to implementing automated railroad operations. FRA wants to know how it can best support the industry's development and implementation of new and emerging technologies in automation that could lead to safety improvements and increased efficiencies in railroad operations.

3. System Safety Plan and Risk Reduction Program

The FRA has issued a regulation covering a System Safety Plan(for passenger service). There is pending proposals for a Risk Reduction Plan(freight).Both are similar. In general, the railroads will be required to identify all risks and present a plan to address the risk. Each of the crafts will be permitted to comment on the railroads' proposals before being implemented.

As a part of these programs, the railroad is required to create a Fatigue Management Plan. It will include how medical conditions affect alertness and fatigue. Also, innovative scheduling practices in the reduction of employee fatigue will be considered.

4. Emergency Escape Breathing Apparatus

The 2008 law required FRA to adopt a rule requiring emergency breathing apparatus for employees who might be exposed to a hazardous materials accident. A Notice of Proposed Rulemaking was issued in 2010, but FRA issued only a Guidance Document covering this safety device.

5. Passenger Equipment

There are several rulemakings pending to improve passenger equipment. One deals with collision survivability; another concerns train door operation and door safety. On December 7, 2015, FRA issued a final rule on passenger train exterior side door safety. It establishes new requirements to improve the integrity of passenger train exterior side door safety systems and promote passenger train safety overall through new safety standards for the safe operation and use of passenger train exterior side doors.

6. Operations in Dark Territory

The 2008 law required regulations covering safety of operations in dark territory. This was submitted to RSAC for a determination. Because of opposition from the carriers, no agreement was reached. FRA announced that it intends to wait for the Risk Reduction Final Rule is issued before proceeding further.

7. Engineer Certification

Now that the conductor certification regulation has been finalized, FRA is proposing changes in the engineer certification rule in order to make both regulations similar.

8. Safety Glazing

There are a number of proposed changes to the glazing regulation, which are mostly technical. New standards are being proposed for high speed rail equipment

9. Horns and Highway-Rail Grade Crossing

On April 27, 2005, the FRA issued a final rule requiring that horns be sounded at public grade crossings. The regulation sets a maximum sound level for locomotive horn, limits the sound directed to the site, prescribes when and how to sound the horn, and offers any community the opportunity to obtain a waiver from the requirement, if it establishes a quiet zone.

On March 7, 2016, FRA issued a Notice of Safety Inquiry to conduct a review of the horn regulations to determine whether FRA should amend the regulations. Changes are proposed to address pedestrian crossings, and alternatives to train horns in unique situations.

To date nothing further has been issued by FRA.

10. Medical Standards

For several years the RSAC working group has considered whether FRA should issue regulations requiring employees to meet specific medical standards. No consensus could be reached, and FRA has issued informational guidelines for a limited number of medical conditions, including cardiovascular disease, diabetes, sleep apnea and vision. On December 5, 2016, FRA issued Safety Advisory 2016-03 requesting the following:

- a. Establish training and educational programs to inform employees of the potential for performance impairment as a result of fatigue, sleep loss, sleep deprivation, inadequate sleep quality, and working at odd hours, and document when employees have received the training. Incorporate elements that encourage self-assessment, peer-to-peer communication, and co-worker identification accompanied by policies consistent with these recommendations. The Railroaders' Guide to Healthy Sleep website (<http://www.railroaderssleep.org>) has several educational resources to assist railroaders in improving their sleep health including an anonymous tool for self-screening for sleep disorders including OSA. This website is set up to disseminate educational information to railroad employees and their families about sleep disorders, the relevance of healthy sleep to railroad safety, and provide information about improving the quality of the railroaders' sleep. The website was developed in conjunction with the Division of Sleep Medicine at Harvard Medical School, WGBH Educational Foundation, and Volpe—The National Transportation Systems Center.
- b. Ensure that employees' medical examinations include assessment and screening for possible sleep disorders and other associated medical conditions (including use of appropriate checklists and records). Develop standardized screening tools, or a good practices guide, for the diagnosis, referral and treatment of sleep disorders (especially OSA) and other related medical conditions to be used by company paid or recommended physicians during routine medical examinations; and provide an appropriate list of certified sleep disorder centers and related specialists for referral when necessary.
- c. Develop and implement rules that request employees in safety-sensitive positions to voluntarily report any sleep disorder that could incapacitate, or seriously impair, their performance.
- d. Develop and implement policies such that, when a railroad becomes aware that an employee in a safety-sensitive position has an incapacitating or performance-impairing medical condition related to sleep, the railroad prohibits that employee from performing any safety-sensitive duties until that medical condition appropriately responds to treatment.
- e. Implement policies, procedures, and any necessary agreements to (1) Promote self-reporting of sleep-related medical conditions by protecting the medical confidentiality of that information and protecting the employment relationship, provided that the employee complies with the recommended course of treatment; (2) Encourage employees with diagnosed sleep disorders to participate in recommended evaluation and treatment; and (3) Establish dispute resolution

mechanisms that rapidly resolve any issues regarding the current fitness of employees who have reported sleep-related medical conditions and have cooperated in evaluation and prescribed treatment.

11. Stub End Tracks

As the result of an incident on New Jersey Transit in 2016, FRA issued a Safety Advisory which requested railroads to adopt procedures requiring communication between crew members and the locomotive engineer before and during operation into a station or terminal and/or implement technology to appropriately control and/or stop the train short of the stub end track. These actions could include:

a. Making modifications to automatic train control (ATC), cab signal, or other signal systems capable of providing warning and enforcement to ensure trains comply with applicable speed limits and stop short of stub end tracks.

b. If a railroad does not utilize an ATC, cab signal, or other signal system capable of providing warning and enforcement at applicable passenger terminals and stations with stub end tracks platforms (or if a signal system modification would interfere with the implementation of PTC or is otherwise not viable), making all passenger train movements at the identified locations while in communication with a second qualified crew member. This will provide constant communication with the locomotive engineer and allow the second crewmember to take immediate appropriate action if the locomotive engineer is not responding or is unable to stop short of stub end tracks. This could also include making a safety stop at predetermined location and if the locomotive engineer does not make an appropriate safety stop the second qualified crew member can take appropriate action to stop the train.

12. Speed Limits

FRA Safety Advisory December 5, 2016 requested railroads to instruct their employees during training classes and safety briefings on the importance of compliance with maximum authorized train speed limits and other speed restrictions when entering passenger stations and terminals.

13. Tank Car Safety

As the result of a catastrophic accident in Canada during the summer of 2013, the Pipeline and Hazardous Materials Safety Administration issued regulatory improvements in the construction of type 111 tank cars. These tank cars transport products such as crude oil, ethanol, acetone, isopropyl, and benzene. Also, this included the retirement of the older 111 tank cars.

On February 20, 2014, PHMSA and the rail industry entered into an agreement for voluntary safety improvements for trains with at least 20 carloads of crude oil. This went into effect July 1, 2014. They include 8 measures, including lowering speed limits to 40 mph with at least one older car traveling in high risk urban areas (as determined by 27 factors in a risk-management system), increasing the frequency of track inspections, hot box detectors will be placed every 40 miles, improving the brakes so that crews can apply emergency brakes from both ends of the train, improved training of emergency response personnel.

On February 25, 2014, DOT issued an emergency order requiring all shippers to test the crude oil being shipped from the Bakken region to ensure proper classification, and prohibiting the shipment of crude oil in the lowest-strength packing group. Prior to this order, crude oil was shipped in a Class III Packing Group. Now, such shipments must be designated as Group I or II, thereby requiring the use of a more robust tank car.

On May 9, 2014, DOT issued an Emergency Order requiring each operating trains containing more than 1 million gallons of Bakken crude oil (approximately 35 tank cars) in a particular state to provide State Emergency Response Commission notification regarding expected movement of such trains through counties in that state.

On May 1, 2015, PHMSA and FRA issued a final rule for enhanced tank car standards and operational controls for High-Hazard Flammable Trains (HHFT). The provisions include:

A. Scope of Rulemaking

- Unless stated otherwise, the rule applies to “High-hazard flammable trains” (HHFT) which means “a continuous block of 20 or more tank cars loaded with a flammable liquid or 35 or more tank cars loaded with a flammable liquid dispersed through a train.”

B. Enhanced Braking¹

- Require HHFTs to have in place a functioning two-way end-of-train (EOT) device or a distributive power (DP) braking system.
- Require any high-hazard flammable unit train (HHFUT) – a train comprised of 70 or more loaded tank cars containing Class 3 flammable liquids traveling at greater than 30 mph – transporting at least one packing group I flammable liquid be operated with an electronically controlled pneumatic (ECP) braking system by January 1, 2021.
- Require all other HHFUTs be operated with an ECP braking system by May 1, 2023.

¹ As part of the FAST Act (Pub. L. 114-94, Sec. 7311), Congress required an independent study and issue an updated Regulatory Impact Analysis. As a result of the studies, the requirement for ECP brakes was rescinded in Dec. 13, 2017. DOT determined that the brake requirements were not economically justified.

C. Enhanced Standards for New and Existing Tank Cars Used in HHFTs

- New tank cars constructed after October 1, 2015 are required to meet enhanced DOT Specification 117 design or performance criteria for use in an HHFT.
- Existing tank cars must be retrofitted in accordance with the DOT-prescribed retrofit design or performance standard for use in an HHFT.
- Retrofits must be completed based on a prescriptive retrofit schedule. The retrofit timeline focuses on two risk factors, the packing group and differing types of DOT-111 and CPC-1232 tank car.
- A retrofit reporting requirement is triggered if consignees owning or leasing tank cars covered under this rulemaking do not meet the initial retrofit milestone.

D. Reduced Operating Speeds

- Restrict all HHFTs to 50-mph in all areas.
- Require HHFTs that contain any tank cars not meeting the enhanced tank car standards required by this rule operate at a 40-mph speed restriction in high-threat urban areas defined the Transportation Security Administration's regulations at 49 CFR 1580.3.

E. More Accurate Classification of Unrefined Petroleum-Based Products

- Document sampling and testing program for all unrefined petroleum-based products, such as crude oil.
- Certify that programs are in place, document the testing and sampling program outcomes, and make information available to DOT personnel upon request.

F. Rail routing - Risk Assessment

- Railroads operating HHFTs would be required to perform a routing analysis that considers, at a minimum, 27 safety and security factors and select a route based on its findings. These planning requirements are prescribed in 49 CFR § 172.820.

G. Rail routing – Information Access

Ensures that railroads notify State and/or regional fusion centers, and that State, local and tribal officials who contact a railroad to discuss routing decisions are provided appropriate contact information for the railroad in order to request information related to the routing of hazardous materials through their jurisdictions.

DOT-117 Tank Car

In the aftermath of the Lac-Mégantic rail disaster of 2013 in an effort to upgrade the specifications of the DOT-111 and CPC-1232 designs, FRA and Transport Canada has issued a

new design requirement for tank cars. The specifications require that the tank shells be constructed out of 9/16" steel, with 11-gauge sheet metal jackets, 1/2" thick head shields on the ends of the tanks, and improved valves over previous designs. In order to implement the DOT-117 standard, the FRA and TC required that all new tank cars constructed after October 1, 2015 be built to the specification. The agencies also imposed a retrofit schedule to bring in-service cars up to DOT-117 standards. Depending on the volatility of the cargo carried, DOT-111 and CPC-1232 cars would be banned in certain services in a series of cut-off dates, with all such cars required to be out of service or rebuilt by May 1, 2025.

One Time Movement Authority

Movement approvals are required for certain types of hazardous material shipments, such as a one time shipment of hazardous material carrying tank cars for repair and other non-conforming packagings designed, marked or otherwise represented for the transportation of hazardous material. On January 31, 2012, FRA issued HMG-127 and implemented a 4-tier approval process for such movements. HMG-127 was revised on March 27, 2012, resulting in a 3-tier approval process. The most recent version of HM-127 was issued October 7, 2014 and should be followed when applying for a one-time movement approval in accordance with 49 CFR § 174.50.

A RSAC Working Group was created to address further changes in the OTMA. A consensus has been reached, and a formal rulemaking is imminent.

14.Inward and Outward Facing Cameras in Locomotives.

In March, 2014, RSAC accepted a task to develop a regulation addressing the installation and use of recording devices in controlling locomotives, including inward and outward facing cameras.

Railroads have begun installing cameras on locomotives. This is the result of a NTSB recommendation in 2010. The NTSB said that this would be "for use by management in carrying out efficiency testing and system-wide performance monitoring programs."

In 2015 Congress required the FRA to issue regulations requiring each railroad which provides regularly scheduled intercity or commuter rail passenger transportation to install inward-and outward facing cameras in all controlling locomotives traveling over 30 mph. The recording device cannot be used to retaliate against an employee. 49 U.S.C. §20168. On December 5, 2016, FRA issued Safety Advisory 2016-03 which, among other things, requested the railroads to : "Accelerate the installation of inward- and outward-facing cameras in passenger trains in the cab of the controlling locomotive or cab car operating compartment per the FAST Act. FRA notes that the FAST Act includes provisions on standards for the cameras, use of the cameras, and preservation and protection of data from the cameras."

It is important to note that a camera is not a safety device, and therefore is not a FRA violation for disabling or tampering with the camera. The problem, however, is that if the railroad will discipline you.

II. MISCELLANEOUS ISSUES AT FRA

1. EXTRA LONG TRAINS

A number of railroads have begun operating very long trains exceeding even two miles. John Risch in April, 2017 sent a letter to FRA asking for an Emergency Order to end the unsafe practice. This was denied, but FRA stated that it would investigate the matter. In the meantime, the House Committee on Transportation and Infrastructure in November, 2017, requested the U.S. Government Accountability Office to investigate the safety risks to the crews and the public involved in such operations. The GAO is investigating, and SMART presented its views to them on April 12, 2018. We are awaiting the results of the study.

2. USE OF ELECTRONIC DEVICES

It is illegal to use electronic devices while on duty. There are a few exceptions, such as to report an emergency, to document a safety hazard, or a violation of a law or regulation, after an accident. Also, cell phone use is permitted if allowed by a railroad in writing. If you are deadheading, the regulation will allow use so long as it does not interfere with any safety performance.

Some carriers have additional requirements. For example, NS does not allow an employee to use a cell phone with crew members in a crew room, or in the back of a van while deadheading.

Keep in mind that it is a violation just by having a phone on, even though it never rings or makes a noise.

3. HIGH SPEED RAIL^{2/}

In 2009, the FRA published the "High Speed Rail Strategic Plan" and launched the high speed rail program. Congress has appropriated \$10.1 billion to fund the program. The objectives are to build new high speed rail corridors to improve passenger rail transportation; upgrade existing intercity passenger corridors to improve service; and set the groundwork for future high speed services through corridor and state planning efforts.

A three tiered network is proposed: The **Core Express** will connect large urban areas up to 500 miles apart within 2-3 hours on dedicated track at 125-250 mph; **Regional** will connect mid-sized urban areas up to 500 miles apart on dedicated and shared track(90-125 mph); and **Emerging** will connect smaller communities on shared track(up to 90 mph). Currently the Core Express consists of the Northeast corridor, California and Las Vegas. This tier will not contain

^{2/} FRA is currently considering technical regulations for the construction of track, equipment, and signaling on the corridors.

any rail-highway grade crossings. The Regional tier will be a contained corridor with PTC protection.

4. HUMAN FACTORS

The FRA has stated that human factors constitute the largest category of train accident causes. In order to address this issue, FRA has issued regulations intended to place accountability on railroad management, supervisors, in addition to employees.

The major provisions are:

Each railroad shall be required to have an operating rule requiring equipment to be left in the clear so that it cannot be struck by movements on adjacent track.

Each railroad will be required to have operating rules requiring certain basic provisions for positioning and locking hand-operated switches and fixed derails.

Employees will be required to conduct job briefings at specific intervals to ensure accurate communication of switch positions and proper handling of main track switches, and also prior to and during pushing or shoving movements.

In non-signaled territory, employees shall report to the train dispatcher that a hand-operated main track switch (that is used to clear the main track) has been restored to its normal position and locked (unless the dispatcher directs otherwise). This is to occur only after conducting a job briefing, and before departing the switch's location. If the report of the switch position is correct, the dispatcher shall repeat the reported switch position to the employee and ask whether it is correct, after which the employee must confirm that the information is correct.

Amendment to 49 CFR Part 217: Railroad Operating Rules

Freight and passenger railroads are required to conduct quarterly reviews of employee testing, inspection, and accident data in order to focus existing internal procedures and protocols toward reducing accidents and non-compliance.

Each railroad must designate a fully qualified officer who will oversee such programs and ensure their validity. On larger railroads, such oversight will be performed at both the system and division level. While railroads will not be required to submit operating rule programs for approval, FRA has the authority to disapprove the program in whole or in part should serious deficiencies be discerned during audits and investigations. In such cases, railroads may avail themselves of an appeal process.

Additionally, Safety Advisory 2016-03 deals with operational training and instructs railroads as follows: "Not less than once every six months evaluate operational testing data as required by 49 CFR 217.9. A railroad should consider increasing the frequency of operational testing where its reviews show any non-compliance with maximum authorized train speeds in

passenger stations or terminals. Railroads should conduct a significant number of operational tests on trains required to operate into a station or terminal with stub end tracks."

Amendment to 49 CFR Part 218: Railroad Operating Practices Addition of Subpart F – Handling, Equipment, Switches and Fixed Derails

Each railroad must instruct, train, test and qualify all employees on the operating rules that are required by this new subpart.

Each railroad is required to adopt and implement "good faith challenge procedures" by which an employee is provided a prompt opportunity to question whether an order to perform work violates one of the operating rules covered in this subpart. Employees are free to raise challenges without fear of discharge or discrimination due to recently enacted statutory protections.

Shoving or Pushing Movements

Shoving or pushing movements will be made safer by: (1) requiring job briefings; (2) requiring that an employee directing such movements not engage in any task unrelated to overseeing the operation; and (3) point protection will be provided only by qualified employees who make certain by confirmed visual means that the "track is clear" and the intended move can be made safely.

Remote Control Locomotive Operations (RCOs)

All RCO switching movements will be considered shoving movements, unless the operator controlling the movement rides the front end of the lead locomotive; and when starting such movements, either the operator or another crewmember must visually observe the direction the equipment moves.

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RCO zones will continue to be permitted in lieu of point protection but only on the end where the locomotive is located. Any technology used for that purpose shall be demonstrated to be failsafe or it must provide redundancy to prevent unsafe failure.

As railroads have ventured into allowing RCOs to utilize technology, such as camera/monitor setups, to aid in providing point protection at highway-rail crossings, pedestrian crossings, and yard access crossings, FRA has established requirements for ensuring that those operations provide an equivalent level of protection to that of a direct visual determination.

5. SAFETY INTEGRATION PLANS

On March 2, 2002 the FRA and the Surface Transportation Board issued a rule governing mergers, consolidations, and acquisitions, which required the railroads to file Safety Integration Plans. The plans had to include, among other things, the safety impact of such transactions and how the railroads would deal with any safety problems.

6. CLOSE CALL REPORTING

FRA has instituted a Confidential Close Call Reporting System(C3RS). It is a voluntary, confidential 5 year demonstration project to report close calls without employees receiving disciplinary action. It was developed with the participation of rail labor and the railroads. The current participant railroads are the Union Pacific(North Platte Service Unit), New Jersey Transit, and Amtrak(which was included in September, 2013).

On December 3, 2013, FRA mandated that New York's Metropolitan Transit Authority immediately implement a C3RS program. This action resulted from a catastrophic accident which occurred on December 3, 2013 in New York on a Metro-North passenger train.

The confidential information submitted by an employee is protected by the Privacy Act of 1974.

On November 25, 2013, FRA requested comments on ways to enhance the quality, utility, and clarity of the information collections. In addition, FRA is implementing an evaluation by asking the two groups currently in the program various questions in order to determine whether the program is succeeding, how it can be improved, and what is needed to spread the program throughout the industry.

7. TRAIN DISPATCHER TRAINING

FRA submitted a report to the Congress on 01/5/95 regarding the functions of contemporary train dispatching offices. The report noted that traditional pools of candidates for recruitment of train dispatchers are no longer adequate to the need. In partnership with the American Train Dispatchers Department/BLE (ATDD), FRA identified the need for a model train dispatcher training program. Experts from Amtrak, the ATDD, the Burlington Northern/Santa Fe Railroad and FRA developed a list of elements for dispatcher training programs. Required competencies and training program elements have been abstracted from this effort for a model program.

In 5/01, the FRA Office of Research and Development published *Understanding How Train Dispatchers Manage and Control Trains* (DOT/FRA/ORD-01/02), which is available at <http://www.fra.dot.gov/downloads/Research/ord0102.pdf> .

8. POSITIVE TRAIN CONTROL

Congress has extended the PTC regulation until December 31, 2018. A number of passenger railroads have stated that they will not be able to comply. The President of Amtrak testified before Congress that Amtrak will not operate over a line which has not complied.