

can be made available if requested 10 calendar days before the meeting.

**FOR FURTHER INFORMATION CONTACT:**

Trish Butera, or Lydia Leeds, RSAC Coordinators, FRA, 1120 Vermont Avenue, NW, Stop 25, Washington, DC 20590, (202) 493-6212/6213 or Grady Cothen, Deputy Associate Administrator for Safety Standards and Program Development, FRA, 1120 Vermont Avenue, NW, Mailstop 25, Washington, DC 20590, (202) 493-6302.

**SUPPLEMENTARY INFORMATION:** Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), FRA is giving notice of a meeting of the Railroad Safety Advisory Committee ("RSAC"). The meeting is scheduled to begin at 9:30 a.m. and conclude at 4 p.m. on Wednesday, February 13, 2002. The meeting of the RSAC will be held at the Almas Temple Club, 1315 K Street, NW, Washington, DC, 20005, (202) 898-1688. All times noted are Eastern Standard Time.

RSAC was established to provide advice and recommendations to the FRA on railroad safety matters. The Committee consists of 48 individual voting representatives and five associate representatives drawn from among 32 organizations representing various rail industry perspectives, two associate representatives from the agencies with railroad safety regulatory responsibility in Canada and Mexico and other diverse groups. Staffs of the National Transportation Safety Board and Federal Transit Administration also participate in an advisory capacity.

The RSAC will receive greetings and a charge from the new FRA Administrator. The morning session will be dedicated to a discussion of security of railroad passenger and freight operations. Status briefings will be held on Locomotive Cab Working Conditions (full RSAC ballot votes on the NPRM completed by December 10th, 2001), Accident/Incident Reporting, Crashworthiness, Event Recorders and other Working Group activities. The Committee may be requested to act upon recommendations of the Accident Reports Working Group regarding estimation of railroad property damages (RSAC Task 97-7) and recommendations of the Positive Train Control Working Group for resolution of comments on the proposed rule for Processor-Based Signal and Train Control Systems (RSAC Task 97-6). The RSAC will also discuss implications of the use of prescription and over-the-counter medications by safety-sensitive employees, and a briefing on safety initiatives directed a highway-rail grade crossings will be held in the afternoon.

See the RSAC Web site for details on pending tasks at: <http://rsac.fra.dot.gov/>. Please refer to the notice published in the **Federal Register** on March 11, 1996 (61 FR 9740) for more information about the RSAC.

Issued in Washington, DC on January 11, 2002.

**George A. Gavalla,**

*Associate Administrator for Safety.*

[FR Doc. 02-1255 Filed 1-16-02; 8:45 am]

**BILLING CODE 4910-06-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

[Docket No. FRA-2001-11109]

#### Temporary Cessation of Sounding of Locomotive Horn—Yakima, Washington

**AGENCY:** Federal Railroad Administration (FRA), Department of Transportation (DOT).

**ACTION:** Notice of Interim Final Order and Request for Comments.

**SUMMARY:** FRA is issuing an Interim Final Order in which The Burlington Northern and Santa Fe Railway Company (BNSF) is ordered to temporarily cease the sounding of locomotive horns at specific crossings within the City of Yakima, Washington. As provided by statute, the Secretary of Transportation, and by delegation, the Federal Railroad Administrator, in order to promote the quiet of communities affected by rail operations and the development of innovative safety measures at highway-rail crossings, may, in connection with demonstration of proposed new supplementary safety measures, order a railroad to temporarily cease the sounding of locomotive horns at such crossings.

**DATES:** Written comments must be received by February 19, 2002. Comments received after that date will be considered to the extent possible without incurring additional delay.

**ADDRESSES:** Written comments concerning these proceedings should identify the appropriate docket number (e.g. Docket No. FRA-2001-11109) and must be submitted to the Docket Clerk, DOT Docket Management System (DMS), Room PL-401, 400 Seventh Street, SW., Washington, DC 20590-0001. All written communications concerning these proceedings are available for examination during regular business hours (9am-5 pm) at DOT Central Docket Management Facility, Room PL-401 (Plaza Level), 400 Seventh Street, SW., Washington, DC

20590. You may submit comments online through the DMS Web site at <http://dmses.dot.gov/submit>. All documents in the public docket are also available for inspection and downloading at the DMS Web site at <http://dms.dot.gov>. Internet users may also reach the Office of the Federal Register's home page at <http://www.nara.gov/fedreg> and the Government Printing Office's Web page at <http://www.access.gpo.gov/nara>.

**FOR FURTHER INFORMATION CONTACT:** Ron Ries, Staff Director, Highway Rail Crossing and Trespasser Programs, Office of Safety, FRA, 1120 Vermont Avenue, NW., Washington, DC 20590 (telephone: 202-493-6285); or Mark Tessler, Office of Chief Counsel, FRA, 1120 Vermont Avenue, NW., Washington, DC 20590 (telephone 202-493-6061 (e-mail address: [mark.tessler@fra.dot.gov](mailto:mark.tessler@fra.dot.gov))).

#### SUPPLEMENTARY INFORMATION:

##### Background

Section 20153 of Title 49 of the United States Code authorizes the Secretary of Transportation (and by delegation of the Secretary of Transportation, the Federal Railroad Administrator) to prescribe regulations requiring that locomotive horns be sounded while each train is approaching and entering upon each public highway-rail grade crossing. The statute also permits the Secretary to exempt from the requirement to sound the locomotive horn any category of rail operations or categories of highway-rail grade crossings for which supplementary safety measures fully compensate for the absence of the warning provided by the horn. Section 20153(e)(1) states that:

In order to promote the quiet of communities affected by rail operations and the development of innovative safety measures at highway-rail grade crossings, the Secretary may, in connection with demonstration of proposed new supplementary safety measures, order railroad carriers operating over one or more crossings to cease temporarily the sounding of locomotive horns at such crossings. Any such measures shall have been subject to testing and evaluation and deemed necessary by the Secretary prior to actual use in lieu of the locomotive horn.

FRA has been requested by representatives of the City of Yakima, Washington, to order the BNSF to temporarily cease the sounding of locomotive horns at five highway-rail grade crossings in the city in order to demonstrate new and innovative engineering solutions to prevent motorists from entering onto highway-rail grade crossings equipped with fully

functioning gated grade crossing warning devices. The crossings which are the subject of this Order are located at I Street (DOT Inventory No. 098492F), D Street (DOT Inventory No. 099162D), Lincoln Avenue (DOT Inventory No. 099163K), B Street (DOT Inventory No. 099164S), and Yakima Avenue (DOT Inventory No. 099165Y). FRA is prepared to order cessation of routine sounding of locomotive horns at the specified public highway grade crossings.

In order to institute this demonstration project as soon as possible, FRA is issuing this order on an interim basis. Upon compliance with the provisions contained in the Interim Final Order published today, BNSF will be required to cease sounding of the locomotive horn at the crossings under the terms of the order. FRA will revise the order, rescind it, or issue a final order without change, depending on information contained in any comments received.

FRA has evaluated the proposed actions in accordance with its procedures for ensuring full consideration of the environmental impact of FRA action, as required by the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*), other environmental statutes, Executive Orders, and the DOT Order 5610.1c (Procedures for Considering Environmental Impacts). It has been determined that the proposed actions will have a beneficial impact on the environment by the cessation of the sounding of locomotive horns.

This action has been evaluated in accordance with existing regulatory policies and procedures and is considered to be non-significant under DOT policies and procedures (44 FR 11304). This action will not have an impact on a substantial number of small entities.

### Federalism Implications

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 13132. Inasmuch as implementation of this order is, by its own terms, dependent on the request of the City of Yakima that such order be issued, and the purpose of the order is to enable effectuation of a quiet zone demonstration project proposed by the community and supported by the Washington Utilities and Transportation Commission, all appropriate prior consultation with state and local officials has taken place.

### Public Participation

Interested parties are invited to participate in this proceeding by submitting to the Docket Clerk at the address listed above written data, views, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify the Docket Clerk, in writing, before the end of the comment period and specify the basis for their request.

### Interim Final Order

Based on the above, FRA issues the following order:

#### U.S. Department of Transportation, Federal Railroad Administration, Interim Final Order To Temporarily Cease Sounding of Locomotive Horns

*I find that:*

1. The City of Yakima, Washington, (City) in conjunction with The Burlington Northern and Santa Fe Railway Company (BNSF), and in consultation with the Federal Railroad Administration (FRA), has instituted a demonstration of new and innovative engineering solutions to prevent motorists from entering the public highway-rail grade crossings at I Street (DOT Inventory No. 098492F), D Street (DOT Inventory No. 099162D), Lincoln Avenue (DOT Inventory No. 099163K), B Street (DOT Inventory No. 099164S), and Yakima Avenue (DOT Inventory No. 099165Y) (collectively "crossings").

2. As part of the demonstration, and preliminary to the temporary cessation of the sounding of locomotive horns at the crossing, the City has tested median barriers to prevent motorists from entering public highway-rail grade crossings when warning gates and lights are activated. The tested median barrier consists of an 18-inch wide, one-foot high, raised concrete barrier placed along the centerline of the roadway and consisting of various lengths. Reflective, flexible, three-inch diameter tubular shaped cones are mounted on top of the barrier, spaced five feet apart. This study will provide information on the effectiveness of medians in relationship to both heavy commercial motor vehicles and heavy motor vehicle traffic and the maintenance issues that may arise from these types of traffic.

3. The demonstration project has been designed with three distinct phases. "Phase 1" entails studying driver behavior at three of the crossings without medians for four months. "Phase 2" of the project, lasting four

months, includes studying driver behavior at those crossings with medians installed but with locomotive horns routinely sounded. Driver behavior was compared with the results of the first phase in order to determine the effectiveness of the supplementary safety devices. "Phase 3" of the project includes studying driver behavior at the crossings with medians installed and routine sounding of locomotive horns prohibited. As an integral part of this demonstration data has been gathered during Phases 1 and 2 concerning base line safety risk and the impact on risk of installing these proposed new supplementary safety measures. Data concerning responses to the automated warning system by motor vehicle drivers was gathered by means of video monitoring of driver behavior. FRA will gather further data to determine the long-term effect on motorist behavior of the new engineering improvements at these crossings combined with cessation of routine use of locomotive horns.

4. All engineering improvements comprising the demonstration have been tested and evaluated and are deemed necessary in lieu of the locomotive horn.

5. City officials have expressed a strong interest in establishing quiet zones at these crossings, which are placed within a segment of railroad exceeding one-half mile in length, making establishment of a quiet zone clearly practicable.

6. Issuance of this order will assist the FRA in gathering information and data useful to development of innovative supplementary safety devices.

7. At the request of the City and the FRA, the BNSF has fully cooperated in the exploration of options for safety improvements at the crossings but considers that the company is not able to unilaterally cease use of the train horn at the crossings, absent issuance of this order.

Accordingly, pursuant to 49 U.S.C. 20153(e)(1), and in order to promote the quiet of the City, and to promote the development of innovative safety measures at highway-rail crossings, *I hereby order* the BNSF, to cease the routine sounding of locomotive horns on approaches to and at the above crossings beginning on such date as the City may determine, subject to the following conditions:

(a) Once every crossing configuration, including all signage, median design, and delineator design and spacing, is approved by necessary state and local governmental entities, and every crossing is so configured, the City, through an authorized officer, shall inform BNSF in writing that the routine

sounding of the locomotive horn shall cease pursuant to the terms of this order and shall serve such notice on the BNSF with a copy sent to the Associate Administrator for Safety, FRA, at least 14 days prior to the date on which cessation is planned;

(b) All highway-rail grade crossing warning devices installed at the crossing shall operate properly and in accordance with the provisions of 49 CFR part 234. In the event of a warning system malfunction as defined in 49 CFR 234.5, an engineer operating a train through the crossing is not responsible for sounding the locomotive horn until he or she has been informed of the warning system malfunction; and

(c) Advance warning signs, as approved by the Washington Utilities and Transportation Commissioner and in conformance with the Manual on Uniform Traffic Control Devices issued by the Federal Highway Administration, shall be posted and maintained by the City advising motorists that locomotive horns will not be sounded.

Unless rescinded by the FRA Associate Administrator for Safety at an earlier date, this order is in effect until the effective date of a final rule issued pursuant to 49 U.S.C. 20153, provided that the Associate Administrator for Safety determines that data developed during the initial demonstration period confirms the effectiveness of the subject engineering improvements and periodic monitoring continues to confirm this effectiveness.

Nothing in this order is intended to prohibit an engineer from sounding the locomotive horn to provide a warning to vehicle operators, pedestrians, trespassers or crews on other trains in an emergency situation if, in the engineer's sole judgment, such action is appropriate in order to prevent imminent injury, death or property damage. This order does not require that such warnings be provided nor does it impose a legal duty to sound the locomotive horn in such situations.

Nothing in this order excuses compliance with sections 214.339, 234.105, 234.106, and 234.107 of title 49, Code of Federal Regulations, concerning use of the locomotive horn under circumstances therein described. Nothing in this order is intended to prohibit an engineer from sounding the locomotive horn or whistle to provide necessary communication with other trains and train crew members if other means of communication are unavailable.

Any violation of this order shall subject the person committing the violation to a civil penalty of up to \$22,000. 49 U.S.C. 21301. FRA, may

through the Attorney General, also seek injunctive relief to enforce this order. 49 U.S.C. 20112.

Issued in Washington, DC on January 10, 2002.

Allan Rutter,

Federal Railroad Administrator.

[FR Doc. 02-1254 Filed 1-16-02; 8:45 am]

BILLING CODE 4910-06-P

## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

[Docket No. FRA-2000-7257; Notice No. 26]

#### Railroad Safety Advisory Committee ("RSAC"); Working Group Activity Update

**AGENCY:** Federal Railroad Administration (FRA), Department of Transportation (DOT).

**ACTION:** Announcement of Railroad Safety Advisory Committee (RSAC) working group activities.

**SUMMARY:** FRA is updating its announcement of RSAC's working group activities to reflect their current status.

**FOR FURTHER INFORMATION CONTACT:**

Trish Butera or Lydia Leeds, RSAC Coordinators, FRA, 1120 Vermont Avenue, NW., Mailstop 25, Washington, DC 20590, (202) 493-6213 or Grady Cothen, Deputy Associate Administrator for Safety Standards and Program Development, FRA, 1120 Vermont Avenue, NW., Mailstop 25, Washington, DC 20590, (202) 493-6302.

**SUPPLEMENTARY INFORMATION:** This notice serves to update FRA's last announcement of working group activities and status reports on April 6, 2001, (66 FR 18352). The seventeenth full Committee meeting was held April 23, 2001, at the Mayflower Hotel in the Colonial Ballroom in Washington, DC. The eighteenth meeting is scheduled for February 13, 2002.

Since its first meeting in April of 1996, the RSAC has accepted seventeen tasks. Status for each of the tasks is provided below:

*Task 96-1—Revising the Freight Power Brake Regulations.* This Task was formally withdrawn from the RSAC on June 24, 1997. FRA published an NPRM on September 9, 1998, reflective of what FRA had learned through the collaborative process. Two public hearings were conducted and a technical conference was held. The date for submission of written comments was extended to March 1, 1999. The final rule was published on January 17, 2001 (66 FR 4104). An amendment extending

the effective date of the final rule until May 31, 2001 was published on February 12, 2001, (66 FR 9905). In addition, the FRA is reviewing petitions for reconsideration of the final rule and has published amendments to Subpart D of the final rule (66 FR 36983; 8/1/01). Contact: Thomas Hermann (202) 493-6036.

*Task 96-2—(Completed) Reviewing and recommending revisions to the Track Safety Standards (49 CFR Part 213).* This task was accepted April 2, 1996, and a Working Group was established. Consensus was reached on recommended revisions and an NPRM incorporating these recommendations was published in the **Federal Register** on July 3, 1997, (62 FR 36138). The final rule was published in the **Federal Register** on June 22, 1998 (63 FR 33991). The effective date of the rule was September 21, 1998. A task force was established to address Gage Restraint Measurement System (GRMS) technology applicability to the Track Safety Standards. A GRMS amendment to the Track Safety Standards was approved by the full RSAC in a mail ballot during August 2000. The GRMS final rule amendment was published January 10, 2001 (66 FR 1894) and the Roadway Maintenance Machines NPRM was published January 10, 2001 (66 FR 1930). On January 31, 2001, FRA published a notice extending the effective date of the GRMS amendment to April 10, 2001 (66 FR 8372). On February 8, 2001, FRA published a notice delaying the effective date until June 9, 2001 in accordance with the Regulatory Review Plan (66 FR 9676). Contact: Al MacDowell (202) 493-6236.

*Task 96-3—(Completed) Reviewing and recommending revisions to the Radio Standards and Procedures (49 CFR Part 220).* This Task was accepted on April 2, 1996, and a Working Group was established. Consensus was reached on recommended revisions and an NPRM incorporating these recommendations was published in the **Federal Register** on June 26, 1997 (62 FR 34544). The final rule was published on September 4, 1998 (63 FR 47182), and was effective on January 2, 1999. Contact: Gene Cox (202) 493-6319.

*Task 96-4—Reviewing the appropriateness of the agency's current policy regarding the applicability of existing and proposed regulations to tourist, excursion, scenic, and historic railroads.* This Task was accepted on April 2, 1996, and a Working Group was established. The Working Group monitored the steam locomotive regulations task. Planned future activities involve the review of other regulations for possible adaptation to