FOR FURTHER INFORMATION CONTACT: For further information, including a list of the exhibit objects, contact Julianne Simpson, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202/453–8049). The address is U.S. Department of State, SA–44, 301 4th Street, SW., Room 700, Washington, DC 20547–0001.

Dated: November 18, 2005.

C. Miller Crouch,

Principal Deputy Assistant, Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. E5–6519 Filed 11–23–05; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Aviation Rulemaking Advisory Committee Meeting on Transport Airplane and Engine Issues

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of public meeting.

SUMMARY: This notice announces a public meeting of the FAA's Aviation Rulemaking Advisory Committee (ARAC) to discuss transport airplane and engine (TAE) issues.

DATES: The meeting is scheduled for Monday, December 12, 2005, starting at 10:30 a.m. Eastern Standard Time. Arrange for oral presentations by December 8, 2005.

ADDRESSES: Federal Aviation Administration, 800 Independence Ave, SW., Room 810, Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: John Linsenmeyer, Office of Rulemaking, ARM–207, FAA, 800 Independence Avenue, SW., Washington, DC 20591, Telephone (202) 267–5174, FAX (202) 267–5075, or e-mail at *john.linsenmeyer@faa.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. app. III), notice is given of an ad hoc ARAC meeting to be held December 12, 2005 at the Federal Aviation Administration, 800 Independence Ave., Room 810, Washington, DC. The meeting/teleconference is being held to consider the report on recommended guidance for Aging Airplane Safety from the Airworthiness Assurance Working Group (AAWG). This ad hoc TAE meeting is necessary because the report from the AAWG is a critical part of FAA's effort to develop new guidance to support the Aging Airplane Safety Rule, issued January 25, 2005.

The agenda will include:

- Opening Remarks.
- AAWG Report.

Attendance is open to the public, but will be limited to the availability of meeting room space. Please confirm your attendance with the person listed in the **FOR FURTHER INFORMATION CONTACT** section no later than December 8, 2005. Please provide the following information: Full legal name, country of citizenship, and name of your industry association, or applicable affiliation. If you are attending as a public citizen, please indicate so.

For persons participating domestically by telephone, the call-in number is (202) 493–4180; the Passcode is ''5513.'' To insure that sufficient telephone lines are available, please notify the person listed in the **FOR FURTHER INFORMATION CONTACT** section of your intent to participate by telephone by December 8. Anyone calling from outside the Washington, DC metropolitan area will be responsible for paying long-distance charges.

The public must make arrangements by December 8, 2005, to present oral statements at the meeting. Written statements may be presented to the committee at any time by providing 25 copies to the Assistant Executive Director for Transport Airplane and Engine Issues or by providing copies at the meeting. Copies of the document to be presented to ARAC for decision by the FAA may be made available by contacting the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

If you need assistance or require a reasonable accommodation for the meeting or meeting documents, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Sign and oral interpretation, as well as a listening device, can be made available if requested 10 calendar days before the meeting.

Issued in Washington, DC, on November 17, 2005.

Brenda D. Courtney,

Acting Director, Office of Rulemaking.

[FR Doc. E5–6528 Filed 11–23–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA–2005–22796]

FRA Emergency Order No. 24, Notice No. 2; Emergency Order No. 24: Hand-Operated Main Track Switches; Amendment

SUMMARY: The Federal Railroad Administration (FRA) of the United States Department of Transportation (DOT) issues this notice to amend Emergency Order No. 24 (EO 24) in response to informal comments received from railroads and labor organizations. This amendment provides additional guidance, clarifying amendments and expanded relief from the EO.

FOR FURTHER INFORMATION CONTACT: Douglas H. Taylor, Staff Director, Operating Practices Division, Office of Safety Assurance and Compliance, FRA, 1120 Vermont Avenue, NW., RRS–11, Mail Stop 25, Washington, DC 20590 (telephone 202–493–6255); or Alan H. Nagler, Senior Trail Attorney, Office of Chief Counsel, FRA, 1120 Vermont Avenue, NW., RCC–11, Mail Stop 10, Washington, DC 20590 (telephone 202–493–6038).

Background

EO 24 was issued on October 19, 2005, published in the **Federal Register** on October 24, 2005 (70 FR 61496) and required that railroads modify their operating rules and take certain other actions necessary to ensure that railroad employees who dispatch trains in non-signaled territory or who operate hand-operated main track switches (switches) in non-signaled territory, ensure the switches are restored to their proper (normal) position after use.

EO 24 required that railroads ''immediately initiate steps to implement this EO * * * [and] complete implementation no later than November 22, 2005.'' 70 FR 61496, 61500. As the resulted community began implementation, practical concerns were raised with FRA regarding some aspects of the EO. In response to these informal comments, FRA has decided to provide the railroads and employees additional flexibility in complying with the EO. Because FRA is granting additional flexibility to the railroads and the employees, the November 22, 2005 effective date of the EO is not changing.

On November 4, 2005, FRA posted on its Web site at *http://www.fra.dot.gov/* an additional document, in a question and answer format, that provided timely guidance to the informal comments offered by the regulated community.

This Notice No. 2 reflects the guidance provided in that question and answer document. In addition, this Notice No. 2 specifies additional relief granted by amending the ''Relief'' section in its entirety and issues clarifying amendments to the ''Finding and Order'' section of EO 24, Notice No. 1.

I. Discussion of Comments

The comments received by FRA were informally provided by a diverse number of railroads and the following associations and labor organizations. The American Short Line & Regional Railroads Association (ASLRRA), the Association of American Railroads (AAR), the Brotherhood of Locomotive Engineers and Trainmen (BLET), the Brotherhood of Maintenance of Way Employees Division (BMWED), the Brotherhood of Railroad Signalmen (BRS) and the United Transportation Union (UTU). By discussing the comments and our responses in this notice, FRA is providing consistent information to the entire regulated community.

Jurisdiction

Some railroads, especially tourist railroads, contacted FRA regarding whether the EO applied to them. FRA responded that the EO applies to all railroads that have employees or contractor employees who operate hand-operated main track switches in non-signaled territory or dispatch trains in that type of territory unless specific relief has been granted. 70 FR 61500. Tourist railroads, or other railroads, that are unsure as to whether FRA exercises jurisdiction over them should refer to FRA's published statement on the extent and exercise of FRA's safety jurisdiction. 49 CFR Part 209, App. A. If a railroad is still unsure on this issue, please contact FRA's Office of Chief Counsel at (202) 493–6038.

Initial and Periodic Instruction

Railroads and labor organizations alike were concerned that FRA did not adequately describe the method for initial and periodic instruction. Meanwhile, FRA believes the current instruction requirement is adequate and provides the following further guidance.

Given that this is an emergency situation requiring railroads to quickly and effectively instruct employees, FRA's expectation is that the minimum initial instruction and distribution of the EO would include a face-to-face on-the-job briefing covering the requirements of this EO and the operating rules to which they relate. In order to be effective, this job briefing must include examples or real time applications of the EO, as well as a reasonable opportunity for employees to ask questions. Regarding periodic instruction, railroads will include this instruction as part of their program of instruction pursuant to 49 CFR 217.11.

Some railroads indicated that they already had operating rules that complied with this EO and had recently instructed their employees on those rules; thus, these railroads asked whether the prior training could count as the required initial training. FRA decided that any training prior to issuance of the EO was insufficient. FRA has identified an emergency situation and wants to raise the level of awareness for all employees who operate hand-operated switches in non-signaled territory or who dispatch trains in that type of territory. In addition, it is significant for affected employees to understand that the Federal government will be able to assess civil penalties of up to $27,000 for a violation of the EO by any person. That said, FRA does not expect railroads to entirely discount prior instruction. This new instruction can build upon the prior instruction—prior instruction on an unchanged operating rule does not need to be as in-depth as it would be if the employees were being instructed on the relevant operating rules for the first time.

Receipt or Acknowledgment of the EO by Employees

Some railroads, and the associations that represent them, questioned the necessity for providing a copy of the EO to each employee and the method for keeping a receipt or acknowledgment. FRA explained that because of the critical importance of this EO and the importance of individual railroad employees' compliance and accountability, FRA must be assured that employees have received their own paper copy of the EO. However, FRA did not intend to preclude the creation or retention of the receipt or keeping of the acknowledgment electronically. As long as the receipt or acknowledgment is a permanent record that is kept for each affected employee and can be searched and printed for FRA upon request, electronic recordkeeping is acceptable. The electronic recordkeeping system should have system integrity to prevent fraudulent entries, and may be added onto existing systems, e.g., those systems that already track attendance at railroad operating rules classes. If those systems do not allow employees to enter an acknowledgment, the attendance sheet at the face-to-face job briefing on the EO should indicate that the attendee's signature reflects both attendance and receipt of a copy of the EO.

A related concern is whether railroads also need to provide a copy of this Notice No. 2, to all affected employees. This Notice No. 2 provides guidance, relief and clarifying amendments from the earlier notice, but does not create additional burdens, and thus it is possible for compliance to be achieved by following Notice No. 1 only. FRA therefore is not requiring railroads to provide a copy of this Notice No. 2 to all affected employees. Certainly, any railroad amending its operating rules with regard to this Notice No. 2 will need to instruct its employees accordingly and may choose to post or distribute it.

Hand-Operated Main Track Switches—Operational Concerns

FRA received a number of inquiries requesting more information on the safety basis for certain operational requirements.

Some railroads requested eliminating the requirement that the dispatcher confirm that both the conductor and engineer have initialed the switch position awareness form (SPAF). FRA has denied this request because of the strong safety reasons for its retention. While other requirements involve intra-crew communication, the dispatcher's confirmation provides an additional level of communication so that the crewmember releasing the train's authority ensures that both the engineer and conductor have properly recorded on the SPAF the position of all switches operated and that there is no confusion among crewmembers as to the alignment of those switches.

At least one railroad wanted to do away with the requirements that the engineer initial each entry, as opposed to only the final entry; however, FRA is denying this request because the engineer's action of initialing each entry encourages intra-crew communication while employees are still at each switch.

BLET asked that FRA clarify that entry of the engineer's initials is an affirmation that the communication (representation) has been received and not that the engineer can personally vouch for the actions taken on the ground. FRA affirms that the engineer's responsibility is to acknowledge the information provided by the conductor or brakeman, not to act as a guarantor with respect to the actual position in which the switch was left.

Several concerns were raised regarding what FRA meant by the term ''releasing the limits of a main track authority.'' The term means releasing all or a portion of the limits (i.e., rolling up

the limits) of an existing main track authority.

Railroads and labor organizations alike raised concerns regarding whether a train crew that is relieved on line-of-road must take the SPAF with them or whether the SPAF could be left for the subsequent train crew. The purpose of EO 24 was to establish responsibility, shared among the crew and the dispatcher, for confirmation of switch position for all switches operated before the authority is released. A subsequent crew will not have actual knowledge of the position of switches in the track segment(s) utilized by the relieved crew. Further, the declarations made on the SPAF are personal to each employee participating, and it is not possible for subsequent crew members to verify information about which they did not have contemporaneous knowledge. Accordingly, to accomplish the purpose of EO 24, the crew being relieved should contact the dispatcher and confirm the position of switches operated, at the same time releasing (rolling up) any portion of the authority not required by the relieving crew. The crew going off duty would finalize their SPAF at that time. The relieving crew would then initiate a new SPAF. The order has been amended to so provide.

At least one request was received for clarification regarding the requirements of the EO if the limits of a main rack authority are rolled up behind a train or on-track equipment (OTE) by the dispatcher without the train crew's or OTE operator's knowledge. FRA's position is that, in addition to determining the train's or OTE's location, the dispatcher must confirm the position of all switches operated by the employees within the limits being rolled up.

There have been several concerns expressed regarding whether the EO applied in certain specific situations. For instance, FRA wants to make clear that the EO does not apply in Rule 251 or GCOR Rule 9.14 territory, i.e., current of traffic, signaled in one direction only. However, the EO is applicable if the signal system for a track segment is suspended. Furthermore, the EO is applicable if a track, or portion thereof, is out-of-service, unless the operating rules or special instructions require all trains to approach all facing point hand-operated switches prepared to stop during the entire period the track is out-of-service.

Finally, at least one comment was received regarding the requirement that before releasing the limits of a main track authority, the employee releasing the limits must report to the train dispatcher that all hand-operated main track switches operated have been restored to their normal position, unless the train dispatcher directs otherwise. The commenter noted that another sentence in this section regarding ''hand-operated main track switches'' permitted the normal position of a main track switch to be designated by the railroad and the switch to be lined and locked in that position when not in use, except ''when the switch is left in the charge of a crewmember of another train'' or the train dispatcher directs otherwise. Accordingly, the commenter requested a clarifying amendment so that in addition to the train dispatcher exception, the switch may be left in the charge of a crewmember of another train before releasing the limits. FRA agrees with the commenter that this exception provides at least an equivalent level of safety and a clarifying amendment has been made in this notice.

BLET asked that language in item (2) of the order be amended to delete ''except when the switch is left in the charge of a crewmember of another train or the train dispatcher directs otherwise,'' following the requirement that switches be left in normal position when not in use. BELT suggested that this would heighten the sense of individual responsibility that the order seeks to promote. FRA appreciates the suggestion and recognizes that it is thematically consistent with the general thrust of the order. However, FRA is unable to act upon it for three reasons. First, this change does not appear to be necessary to abate the emergency. Recent accidents caused by misaligned switches have generally involved error on the part of the crew initially reversing the switch, rather than than miscommunication or lapses associated with handing off responsibility for the switch. Second, such a change could expose employees to hazards unnecessarily, as when it might be necessary to cross live tracks, walk on uneven ballast, or traverse areas covered with snow or ice. Third, imposing this requirement would cause significant delay and inefficiency in railroad operation.

Line Segment Relief Versus System Basis Relief Previously Granted

Several railroads requested that the automatic relief granted to a railroad, where operating rules require trains to approach all facing point hand-operated switches prepared to stop on a system basis, be extended to a line segment basis. The request also covered the two other situations articulated in the EO; i.e., where hand-operated main track switches in non-signaled territory (unless out of service) are protected by either distant switch indicators or by switch point indicators. FRA is granting this relief although, in our opinion, this relief is a logical extrapolation from the relief previously provided. FRA will grant automatic relief on a line segment basis when the relief is predicated on a permanent application of the relevant operating rules and special instructions for the territory involved. Employees or dispatchers involved with more than one line segment may require instruction if one of the other line segments does not meet any of the conditions for relief. Distant switch indicators are arrangements that provide crews with advance indication of switch position in a manner similar to an approach signal. These arrangements are typically designed and maintained in a manner similar to technology employed under 49 CFR Part 236, the Rules, Standards and Instructions for signal and train control systems and have a well-established history of performance in the industry.

In this Notice, FRA has required specific acceptance of ''switch point indicators'' as alternative to the rule because the term does not apply to a closed set of technologies and in order to provide FRA an opportunity to evaluate whether the technology provides safety equivalently to that provided by compliance with this order by properly qualified employees. In part because of the risk to trains associated with unauthorized operation of switches by vandals, FRA is encouraging exploration and implementation of appropriate technology that can detect misaligned main track switches and provide a means of safeguarding train operations.

On-Track Safety

Many comments were received expressing concern that the EO was largely silent regarding employees involved with on-track safety such as signalmen, maintenance-of-way employees, bridge workers, and others. Some commenters were unsure of whether the EO applied to employees involved with on-track safety. When FRA explained that the EO applied to these workers, more comments were received questioning the logistics of how the EO would apply in practice. In consideration of these comments, FRA has decided to issue clarifying amendments (discussed below) that should allow for smoother operations—although the EO 24, Notice No. 1 requirement of having each employee fill out a SPAF is a feasible option as well.

FRA is issuing a clarifying amendment to allow an employee

responsible for on-track safety, such as an employee in charge (EIC), to complete the SPAF for all employees working under the EIC's jurisdiction. The employee responsible for on-track safety pursuant to 49 CFR 214, Subpart C, may maintain the SPAF in lieu of the individual worker(s) operating switches. Likewise, FRA is amenable to issuing a clarifying amendment so that each railroad could choose whether to create a SPAF specifically tailored to the communications among employees involved with on-track safety. Of course, if a worker operates a switch, that worker must still be qualified, i.e., instructed on, the relevant operating rules for operating a switch, even if they are not the employee completing a SPAF.

Additionally, FRA is clarifying that if an EIC of on-track safety permits a train into the EIC's authority limits and there are switches operated by that train crew, both the EIC and the train crew must complete a SPAF. This clarification does not require an amendment to the EO.

Some commenters did not understand whether the EO required the EIC to complete the SPAF in a situation when trains are operating through the limits of an EIC's authority and the EIC instructs all trains to operate at restricted speed. FRA explained that the EO does not need amending as this is a temporary application of the relevant operating rules for the territory involved and thus the EIC in that situation must complete a SPAF.

Another concern regarding OTE was a request for clarification on the SPAF requirements when an OTE is moving to a work location. FRA's expectation is that the employee that receives the authority will complete the SPAF for all switches operated while under that authority.

Furthermore, a SPAF is still required if an employee operates a switch when it is not necessary to receive permission from a dispatcher.

Switch Position Awareness Form (SPAF)

Some commenters were confused as to how the EO applied to an employee, other than a crewmember, who lines a switch for a train. FRA believes the EO clearly conveys that each employee, other than a crewmember, operating a switch for a train must complete a SPAF for all switches operated.

The SPAF's content was also criticized as being too specific to train crews, rather than more general in nature so as to apply to any employee handling a switch. By requiring both the engineer's and conductor's names, the engineer's initials for each entry, and the conductor's signature when the form is completed, FRA addressed the common situation of a two-person crew in which the conductor is operating the switches. The commenters explained that there may be regular circumstances in which someone other than the conductor is operating a switch and therefore that person's initials must appear on the SPAF instead of the conductor's. One commenter asked whether a SPAF can provide spaces for the engineer and the person handling the switch to initial, and a space for the conductor to sign when the form is completed. FRA finds that such a SPAF would be in compliance with the EO.

A question was raised regarding the requirement that the date be entered on the SPAF when an employee's tour of duty spans two calendar days. FRA's requirement is fulfilled as long as the date entered is the date that the tour of duty began. Of course, this is a minimum requirement and railroads are permitted to require multiple dates. For example, a railroad would be in compliance with the EO if it chooses to require the date for each switch entry instead of the date the crew started its tour of duty. Furthermore, FRA would certainly not find fault with an employee who chose to be more exacting than FRA has required—even if not required by railroad operating rules.

Some railroads raised concerns that the SPAF was too specific in requiring employees to identify the track segment by a ''subdivision'' entry in that some railroads do not have subdivisions. FRA understands that some railroads do not have subdivisions and that instead of ''subdividion'' the SPAF may be filled out to include branch, secondary track, or some other appropriate designation. FRA has added a clarifying amendment to address this issue.

Communication

A concern shared by many commenters was that the EO was written in such a way as to indicate that unless radio communication was inoperable, no alternative method of communication among crewmembers would be acceptable to indicate a switch position. Some railroads requested an amendment because they preferred to use a method of communication other than radio as their primary method, such as hand or whistle signals. FRA has issued a clarifying amendment to indicate that it will accept alternate methods of intra-crew communication when they afford an equivalent level of communication integrity relevant to the prevailing operating conditions. FRA agrees with a comment from BLET that there will be situations where hand signals do not provide unambiguous information, as where a ground employee is expected to restore a switch behind a movement that will not be using the switch to exit the area. In those cases, radio communications or face-to-face communication will be required.

An Exception to Initialing the SPAF Prior to Leaving a Switch

Several commenters raised concerns regarding the requirement that before employees leave the location of a switch, they must make the required entries on the SPAF ''as soon as practicable.'' Some commenters did not understand what the phrase ''as soon as practicable'' meant, and asked for clarification. Other commenters requested an amendment because there could be situations in which all involved employees might find it impracticable to initial the SPAF prior to leaving the switch.

Regarding the phrase ''as soon as practicable,'' FRA's expectations are that when employees are in close prosimity, the required SPAF entries will be personally completed by the individual employees before they actually leave the location of the switch. FRA is not concerned if there is some delay in filling out the entries on the SPAF if other duties would normally, logically, or operationally be performed first. Of course, if the SPAF is readily available to the employee, it is a best practice for the employee to fill out the form first lest the employee forget either to fill it out or record exactly how the switch was last positioned.

FRA recognizes that there are operating conditions, such as extreme physical separation, which would make recording the required entries on the SPAF before employees leave a location of a switch impracticable. In circumstances such as this, where it is logistically unfeasible, and in some situations unsafe, to record the required entries on the SPAF before leaving the location of a switch, FRA is issuing a clarifying amendment so that the crewmember completing the SPAF may make an appropriate entry on the SPAF. An appropriate entry would state that the necessary radio job briefing concerning the switch position was accomplished. Furthermore, the crewmember completing the SPAF should then enter the required employee's initials for that employee, clearly reflecting who made the entry (e.g., ''AD for CS''). FRA will consider the entries on teh SPAF for that switch to be complete at that time.

For example, a conductor reverses a main switch for an intended 100-car

shoving movement into a 2-mile industrial lead. After lining the switch, the conductor begins the shoving movement, remaining on the leading end to protect the movement. When the engine clears the switch, the movement stops, and the brakeman lines the main track switch to its normal position, and the shoving movement resumes, with the conductor still protecting the lending end of the movement. In this case, it would be impracticable to require the conductor to talk back 100 car-lengths to the engine in order to obtain the brakeman's initials on the SPAF, and then walk back 100 car-lenghts to the lending end to continue protecting the movement. Thus, the clarifying amendment would allow the conductor to complete the SPAF by (1) noting that the brakeman confirmed that the switch was normalized by radio, or other acceptable communication, and (2) entering the brakeman's name or initials.

Application of the Hours of Service Laws

Some comments regarding the application of the hours of service laws in conjunction with the EO. One question was whether the act of filling out a SPAF is itself covered service. This issue raised the beggest concern for maintenance-of-way employees because they are not otherwise typically performing work that is considered covered service under the hours of service laws. FRA wants to be clear that the act of filling out any portion of a SPAF does not by itself trigger covered service.

Meanwhile, for employees that are covered by the hours of service laws, the act of filling out a SPAF is commingled service that should be performed within the statutory period. Railroads and employees are responsible for completing all activities required of them within that period. A railroad that requires an employee to perform a task in the last few minutes of a tour of duty must be mindful of whether it is possible to complete all required tasks within the allotted time. Meanwhile, employees should be mindful that many of the accidents that led to FRA issuing this EO could have been prevented if the employees had been more diligent about complying with railroad operating rules regarding the alignment of hand-operated main track switches in non-signaled territory at the end of their tours of duty. Thus, regardless of the hours of service implications, employees should not hastily fill out a SPAF at the end of a tour of duty, with disregard to its accuracy, or release or roll up their limits without conferring that the entries on the SPAF have been completed, as these actions require the type of communication among employees that can prevent life-threatening accidents.

At least one commenter was concerned about the legistical issue of how the time associated with completion of the SPAF should be recorded on the time return or in the hours of service electronic system. For employees otherwise subject to the hours of service laws, there is no requirement to make a separate entry of the time associated with completion of the form. It is intended that completion of the form be integral to the accomplishment of the work, so it may be considered as part of covered service for hours of service recordkeeping purposes.

II. Amendment to Emergency Order No. 24

The ''Finding and Order'' section of EO 24 is amended by adding the following clarifying amendments.

Clarifying Amendments

Instruction

- Given that this is an emergency situation requiring railroads to quickly and effectively instruct employees, the minimum initial instruction and distribution of the EO would include a face-to-face on-the-job briefing covering the requirements of this EO and the operating rules to which they relate. In order to be effective, this job briefing must include examples or real time applications of the EO, as well as a reasonable opportunity for employees to ask questions. Regarding periodic instruction, railroads will include this instruction as part of their program of instruction pursuant to 49 CFR 217.11.
- Any instruction completed prior to issuance of the EO is sufficient to meet the instruction requirements. However, FRA does not expect railroads to entirely discount prior to instruction as this new instruction can build upon the prior instruction. Thus, prior instruction on an unchanged operating rule does not need to be as in-depth as it would be if the employees were being instructed on the relevant operating rules for the first time.

Hand-Operating Main Track Switches

- EO 24 contains a requirement that before releasing the limits of a main track authority, the employee releasing the limits must report to the train dispatcher that all hand-operated main track switches operated have been restored to their normal position, unless the train dispatcher directs otherwise. This requirements remains in effect except that FRA will also permit the employee releasing the limits to report to the train dispatcher the switches that were left in the charge of a crewmember of another train before releasing the limits, if left in other than normal position.
- The EO does not apply in Rule 251 or GCOR Rule 9.14 territory, i.e., current traffic, signaled in one direction only. However, the EO is applicable if the signal system for a track segment is suspended or a track is out-of-service, unless the operating rules or special instructions require trains to approach all facing point hand-operated switches prepared to stop during the entire period the signal system is suspended or the track is out of service.

Switch Position Awareness Form (SPAF)

- FRA specifically amending the requirement that an employee operating a hand-operated main track switch in non-signaled territory shall be the employee to complete a SPAF. As an alternative, FRA will allow an employee responsible for on-track safety, such as an employee in charge (EIC), to complete a SPAF for all employees working under the EIC's jurisdiction. An employee responsible for on-track safety pursuant to 49 CFR Part 214, Subpart C, may maintain a SPAF in lieu of the individual worker(s) operating switches.
- In conjunction with the above clarifying amendment for on-track safety, FRA is clarifying the requirement in EO 24 that the SPAF must contain the engineer's initials for each entry and the conductor's signature when the form is completed because those SPAF requirements would not be applicable to an on-track safety situation. Each railroad may continue to use the train crew oriented SPAF, as described in EO 24, Notice 1, for its on-track safety situations. Similarly, a railroad may permit its employees involved in on-track safety the discretion to make notes or modify the SPAF so that it both contains the mandatory information and is understandable in the context of an on-track safety situation. Alternatively, FRA has no objection to railroads exceeding the EO's requirements by creating a SPAF that is tailored to communications among employees involved with on-track safety.
- FRA is amending the requirement that each SPAF must identify the track segment by a ''subdivision'' entry as not every railroad has subdivisions. Employees cannot be expected to provide a subdivision designation when no such designation exists. However, a railroad that does not have subdivisions should instruct its employees to provide

some other appropriate designation, such as branch or secondary track, for the ''subdivision'' entry. To facilitate the appropriate designation entry, a railroad that does not have subdivisions is encouraged to amend its SPAF by replacing the ''subdivision'' entry with a more suitable entry. If the exact name and location of a main track switch to be operated by an employee is identified, but there is no suitable entry for subdivision, branch, secondary track, etc., an employee may leave that entry blank or identify that entry as not applicable.

• EO 24 requires that entries made with respect to a specific hand-operated main track switch is non-signaled territory must be recorded as soon as practicable after the switch is reversed, and as soon as practicable after the switch is returned to its normal position before leaving the location. FRA recognizes that there are operating conditions which would make recording the required entries on the SPAF before employees leave a location of a switch impracticable due to extreme physical separation. Thus, in circumstances in which it is logistically unfeasible or unsafe to record the required entries on the SPAF before leaving the location of a switch, FRA will allow the crewmember completing the SPAF to make an appropriate entry on the SPAF. Such entry would stat that the necessary radio job briefing concerning the switch position was accomplished. Furthermore, the crewmember completing the SPAF should then enter the required employee's initials for that employee. FRA will consider the entries on the SPAF for that switch complete at that time.

• When a train crew is relieved on line-of-road, a member of the train crew, typically the conductor, shall either retain the SPAF for the required five days or turn it in to the designated railroad official who shall retain it for the required period. A SPAF should not be left for the subsequent train crew unless the relieved crew purposely makes an extra copy for the benefit of the relieving crew. The purpose of EO 24 was to establish responsibility, shared among the crew and the dispatcher, for confirmation of switch position for all switches operated before the authority is released. A subsequent crew will not have actual knowledge of the position of switches in the track segment(s) utilized by the relieved crew. Further, the declarations made on the SPAF are personal to each employee participating, and it is not possible for subsequent crew members to verify information about which they did not have contemporaneous knowledge. Accordingly, to accomplish the purpose of EO 24, the crew being relieved must contact the dispatcher and confirm the position of switches operated, at the same time releasing (rolling up) any portion of the authority not required by the relieving crew and closing out the SPAF. The crew going off duty would finalize its SPAF at that time. The relieving crew would then initiate a new SPAF.

Radio Communication

• EO 24 requires that train crewmembers shall communicate by radio unless the radio is inoperable. FRA amends the EO so that alternate methods of intra-crew communication will be acceptable, regardless of whether the radios are operable, when they afford an equivalent level of communication integrity relevant to the prevailing operating conditions. Hand or whistle signals are examples of acceptable methods of alternate intra-crew communications.

Distribution of Emergency Order

• A railroad may retain an electronic receipt or acknowledgment, as an alternative to a written receipt or acknowledgment, for each employee affected by the EO that indicates that the employee was provided with a copy of EO 24, Notice No. 1. As long as the receipt or acknowledgment is a permanent record that is kept for each affected employee and can be searched and printed for FRA upon request, electronic recordkeeping is acceptable. The electronic recordkeeping system should have system integrity, to prevent fraudulent entries, and may be added onto existing systems, e.g., those systems that already track attendance at railroad operating rules classes. If those systems do not allow employees to enter an acknowledgment, the attendance sheet at the face-to-face job briefing on the EO should reflect that the attendee's signature reflects both attendance and receipt of a copy of the EO.

• FRA is not requiring railroads to provide a copy of this Notice No. 2 to all affected employees. Certainly, any railroad that amends its operating rules with regard to Notice No. 2 will need to instruct its employees accordingly and may choose to post or distribute this notice.

The ''Relief'' section of Emergency Order No. 24 is amended in its entirety to read as follows:

Relief

Petitions for special approval to take action not in accordance with EO 24 may be submitted to the Associate Administrator for Safety, who shall be authorized to dispose of those requests without the necessity of amending this EO. In reviewing any petition for special review, the Associate Administrator for Safety shall only grant petitions in which a petitioner has clearly articulated an alternative action that will provide, in the Associate Administrator for Safety's judgment, at least an equivalent level of safety as this EO provides. A copy of this petition should be submitted to the Docket Clerk, Department of Transportation Central Docket Management System, Nassif Building, Room PL–401, 400 Seventh St., SW., Washington, DC 20590. Such request may be in written or electronic form consistent with the standards and requirements established by the Central Docket Management System and posted on its Web site at *http://dms.dot.gov.*

FRA recognizes that certain railroad operating rules or equipment used by some railroads already provide a level of safety equivalent to this EO. If all of a railroad's hand-operated main track switches in non-signaled territory are covered by one or more of the protective measures identified below, a railroad need not apply for relief from this EO as relief shall be deemed automatically granted. FRA also grants automatic relief on a line segment basis when the relief is predicated on a permanent application of the relevant operating rules and special instructions for the territory involved. Relief from this EO is automatically granted when:

• Operating rules require trains to approach all facing point hand-operated switches in non-signaled territory prepared to stop;

• Hand-operated main track switches in non-signaled territory (unless out of service) are protected by distant switch indicators; or

• Hand-operated main track switches in non-signaled territory are protected by switch point indicators accepted by the Associate Administrator as providing safety equivalent to that provided by positioning and securing of switches in compliance with this order.

This amendment is effective from the date of issue of this notice.

Issued in Washington, DC, on November 18, 2005.

Joseph H. Boardman,

Administrator.

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