



REMARKS FOR
THE HONORABLE ALLAN RUTTER
ADMINISTRATOR

AMERICAN SHORTLINE AND REGIONAL RAILROAD CONFERENCE

ORLANDO, FLORIDA
APRIL 29, 2002

Thank you for inviting me to come to sunny Florida to spend some time with ya'll today.

It sure feels great to get out of Washington and be here with you. And, I must confess, it feels pretty good to talk about something other than Amtrak for a change.

What I thought I would do during my brief time with all of you share some of where we at the FRA are going in terms of a number of significant public policy issues that no doubt have and will continue to be on your radar screens.

Direction of FRA

First, a sense of what we at FRA see as some of the challenges and opportunities facing the industry. Let's face it; everyone wants to know where the new big guy is coming from.

One of our greatest strengths has proved to be our ability to forge partnerships. If that message sounds familiar, it should.

TEA-21 Reauthorization

Secretary Mineta has made it clear in no uncertain terms that we in the Department are "***One DOT***", working together for common goals.

The Secretary's approach to TEA-21 Reauthorization is a perfect example of this approach.

What Secretary Mineta has done is set up intra-DOT teams (***say that three times fast***) representing staff from throughout DOT. These folks have been

identifying key issues and programmatic options. Over the next few months, the Department will be working with other agencies, stakeholders and Congressional committees to shape reauthorization legislation.

As for our piece of the pie, I have been meeting on a regular basis with my counterparts at the other modal administrations to discuss ways we can preserve flexibility, promote productivity, and improve the safety, security and efficiency of our surface transportation system, a system in which all of you play such an important role.

You should know that we have been meeting with representatives, and in some cases CEO's, representing some of your organizations, soliciting their input on what we should be thinking about as we move forward.

While I can't tell you the details of what will or will not be included in any proposed legislation, I can tell you that the Secretary has made it clear that he's committed to delivering a comprehensive DOT reauthorization bill to the Congress by this time next year.

Safety

That same spirit of partnership extends to FRA's safety programs.

When I was appointed last year, I was very much aware of the initiatives FRA had championed during the previous Administration, particularly the Safety Assurance and Compliance Program (SACP) and the Rail Safety Advisory Committee (RSAC).

So successful were these programs that I have no plans to do away with them – they're here to stay. From where I sit, it makes no sense to throw something out just because someone else thought of it before I got here.

Now that's not to say that we won't continue to work with all of you - rail labor, management and other industry stakeholders - to refine and improve the process. One of the hallmarks of any successful organization is a commitment to excellence – constantly striving to make things better for the organization.

So, how do I see the partnership process evolving?

SACP

With respect to SACP, we will continue to strengthen the partnerships between rail labor, rail management, FRA, and others.

We'll continue to identify the root causes of systemic safety issues and work

together to identify solutions to those problems.

None of this is new. However, we need to be more results-oriented. During the early years of SACP, much time and effort was spent in building relationships among the parties and establishing trust.

Now that those strong working relationships are in place, we must focus our energy on activities most likely to drive down the number of deaths, injuries and accidents in the railroad industry.

RSAC

The RSAC is an example of what can be done when we work together. So far, we've produced six final rules, (with a seventh on the way). While our collective effort is to be commended, we have taken way too long to reach our objectives; frankly, one could argue we took on too much.

Now we need finish what we started, addressing old issues before moving onto new ones. And we need to be very selective in taking on new work. We need to recharge our batteries, choose our objectives carefully, ensuring the industry as a whole is given the chance to absorb and implement the new regulations that will continue to emerge from now-unfinished proceedings.

Finally, as we move into a more sustainable work environment, we need to set reasonable milestones for completing our work; and we need to adhere to them rigorously. It seems we can reach consensus on 85 percent of the issues within a modest period of time. But that last 15 percent can take years to complete. Perhaps we need to rethink our approach. FRA may need to step in and resolve the few remaining issues using a more traditional rulemaking approach.

Fatigue Awareness and Prevention

A main safety challenge, which is a by-product of the ever-changing environment we find ourselves in, is fatigue.

In the last few years, we have learned an awful lot about the causes and effects of railroad worker fatigue.

Working together, rail management and labor, the NTSB and the FRA have helped make the North American Rail Alertness Partnership (NARAP) a model for dealing with this issue.

I have to tell you that I've been very impressed by the many industry-wide fatigue initiatives like controlled napping.

That said, I'm acutely mindful of the fact that the industry still does not have a comprehensive fatigue management program that effectively addresses big picture fatigue related issues.

We watched with great interest the announcement of the National Work/Rest Agreement by the Class I railroads, the BLE and the UTU. While we thought this would make comprehensive fatigue management a reality, it has failed to live up to its billing.

Fatigue mitigation will remain a top priority while I'm at the FRA. I strongly encourage the industry to seize the opportunity to work together to implement comprehensive fatigue management programs that are based upon the latest scientific research. You know what needs to be done and many of you already have a mechanism at your disposal to accomplish the task.

Safety Enforcement

Allow me to say a few final words about our philosophy of rail safety enforcement. I feel compelled to do so, since many of you are small business owners whose entrepreneurial drive tends to lead to a mental equation of most all government regulators as equally noxious. I'd rather have FRA not be seen as functionally equivalent to the IRS.

Let me assure you that we intend to provide an equal playing field for all railroads, and treat all railroads fairly and similarly. Short line railroads may have fewer miles of track, but each mile of track must meet our safety standards, as must your all of your signal and train control systems, however much motive power and equipment you operate, the practices by which those operations take place, and the manner in which you move hazardous materials, to the extent that you do so.

We are attempting to focus our safety enforcement efforts on those things that matter most in preventing the frequency and severity of train accidents.

We will work with carriers of all sizes to share our analyses of safety trends and identify areas that need to be improved. After achieving consensus on the diagnosis of the problems, we will work together to set out safety results to be achieved in a given span of time and metrics to measure whether those results are accomplished.

While we offer our expertise, we intend to allow carriers some discretion in exactly how to achieve those results. But in return for that freedom, carriers must be responsible for producing safety results in a timely fashion.

I refuse to be a partner in the traditional regulatory dance: Step 1: we tell you you've got a problem, Step 2: you tell us you'll fix it, Step 3: we come back later to

find the same problem and then Step 4: we start the dance over again at Step 1.

Here are the new steps: If we have identified serious rail safety problems, and if you have agreed that they need to be fixed and pledge to do so, then we expect a significant, good faith effort to achieve those results. Cavalier disregard for this process will result in significant consequences, I assure you.

Many carriers have told me they want performance based regulation. If the FRA, in fact offers that, then performance must follow. Enough said.

Security

In his state State of the Union address, President Bush said that his budget will support three preeminent goals for America:

- Winning the war – at home and abroad;
- Protecting our homeland; and
- Reviving the economy.

As Secretary Mineta has stated, our transportation system is critical to the security of every American -- and to the nation's economy. Thus, the Department of Transportation will play an important role in meeting all three of the President's goals.

Secretary Mineta and I -- along with his DOT leadership team -- believe that the President's 2003 budget for DOT will clearly enhance homeland security -- significantly. More importantly, it will improve transportation safety, maintain America's critical transportation infrastructure, increase transportation capacity, protect the environment, and improve mobility. In short, it does the job.

With that as some background, I think y'all will agree that one of the greatest challenges facing today's railroaders is rail security. Security has taken on an urgency that was unheard of eight months ago. We are now in an era of what Secretary Mineta calls the "new normal".

To date, FRA's exercise of authority over security has been limited. For example, we issued rules on Passenger Train Emergency Preparedness that require passenger railroads to conduct detailed planning for emergency situations. All passenger and commuter railroads currently have these plans in place and they practice them with local emergency responders.

Prior to September 11th, FRA worked with the railroad industry and the DOT Crisis Management Center to establish a communications network and protocols to quickly disseminate security related information between the Federal government

and the railroad industry.

So, when the unthinkable happened on Sept. 11th, the industry sprang into action.

We all have our own stories about where we were and what we were doing on September 11. I was in Chicago meeting with the folks at METRA. Within minutes of the attacks, I saw first-hand how quickly and efficiently this one organization reacted to the events of that tragic day - converting from a morning rush schedule to an evening rush schedule to get people home safely to their loved ones.

You're all probably familiar with what actions we as an industry have taken since that day. On Sept. 20, I convened an industry-wide teleconference to discuss and identify what actions we needed to take to enhance security. As a result the industry formed six critical action teams:

- Physical assets including bridges and tunnels;
- Information Technology systems including dispatching systems;
- Chemical and Hazardous Materials;
- Department of Defense shipments;
- Train Operations; and,
- Rail passenger systems security and human factors

The critical action teams have presented classified reports to the Office of Homeland Security and DOT's Office of Intelligence and Security concerning both near term and long term options for enhancing the security of the U.S. railroad network. We're making sure that the work of the critical action teams is coordinated with overall DOT efforts to enhance the nation's transportation security. Finally, we have secured the services of an independent, expert consultant who is in the process of reviewing the AAR's report.

Whistle Ban

As you all know, FRA began a rulemaking procedure on the sounding of train horns in January of 2000. While proposing to require the use of train horns at all public highway-rail crossings, the notice also proposed alternatives that could be implemented by local communities that would reduce the safety risk incurred by silencing horns or whistles. As part of the process, we sought comment on options for reducing community impacts while preserving safety. Twelve public hearings in nine states were held and almost 3,000 written comments were received. At present, we are in the process of finalizing the rule. It's my hope that we will be able to issue the final rule in before the end of the year. We believe that our final rule will provide communities needed flexibility in silencing locomotive horns while assuring safety.

AMTRAK

Of course, as I said earlier, I can't go anywhere these days without being asked about Amtrak.....so here it goes.

Amtrak is facing its most significant financial challenge in its 30-year history.

What is clear is that in order for rail to remain a viable means of passenger transportation, fundamental changes in the way Amtrak is structured and conducts business are necessary.

To that end, a great deal of planning has already taken place within the Administration.

The Administration is firmly committed to the Amtrak debate and is equally committed to working with the Congress in developing a long-term plan that addresses the concerns of all those involved in Amtrak's future.

RRIF

Before I wrap up, I want to talk about two other issues that are near and dear to everyone in this room. First the RRIF program. Yes, there is a program and yes money will soon flow. In fact, we're in final negotiations with one railroad for an \$11 million loan with to be used for track rehabilitation and acquisition. And yet another is in the final stage of the approval process. That would bring to 3 the total number of loans that have been approved, though the first one, while already approved, is being held up due to a situation outside of the Federal government's control.

People have asked me what I think about the program. I honestly think it's a neat tool for all of you to have in your financial arsenal. You can use the program for all sorts of things like acquiring or improving intermodal terminals, rail facilities, track, bridges, buildings and shops. That said, as with any new program, particularly one

involving the Federal government, there are bound to be growing pains. And RRIF is no exception.

Congress has told me to make it work, and make it work I will. But I need some help from all of you in the form of self-education. I challenge ASLRRA to begin a program of self-education that makes member railroads aware of the immense opportunities available through RRIF.

Part of the problem behind why people aren't knocking the doors down for loans is that they don't know enough about the program, or what they think they know or have heard has turned them off.

This is your program and it is your membership that will benefit from the program. So like I said, start spreading the word and help us educate your folks.

We'll work with you to that end but we need you guys and gals to step up to the plate and help educate the masses.

Severity Index

Finally, I would like to publicly commend this group for its foresight and leadership in being the first organization to devise a safety awards program that uses a severity index in evaluating the success of rail safety programs.

You may be aware that, a while back, FRA convened a working group to develop an injury severity index that could be used by the Harriman Awards Committee for selecting winners.

This group worked for more than a year to develop recommendations for the establishment of an injury severity index, recognizing that such an index would better reflect the safety of the industry. Despite the group's efforts, a new index has yet to be adopted by the Class I's.

Now even though I'm a political appointee, I'd like to think that I'm entitled to have a few ideas of my own.

While awards programs are important, it would seem to me that prevention is far more important than what some might view under the current standard as nothing more than a numbers game.

While there may be different opinions on the subject, it seems to me that differentiating injuries by severity more accurately reflects safety performance and better enables the industry to direct investments to those areas that would have the greatest impact on safety.

The efforts of the working group have provided us with valuable insights, which we believe can help us craft a meaningful, realistic injury severity index. It is my opinion that such an index should rely on existing FRA data and not place any additional reporting burden on the industry. I further believe that such an index must be developed in a way that clearly distinguishes between the various types of injuries.

So now for my second challenge of the day – this time to the Class I's. I urge you follow the lead of the short line and regional folks and develop and adopt a meaningful and comprehensive severity index.

If we are truly committed to creating an even safer work environment for our folks in the field, we must have the foresight – and some might say courage – to challenge the status quo. We must be willing to look at old problems in new ways.

Close

Again, thank you for allowing me the opportunity to escape Washington for a day.

I look forward to spending more time with you today and in the future.