

FMCSA Response to the Comments

Although two commenters opposed granting the exemptions, FMCSA believes that granting them would achieve a level of safety equivalent to, or greater than, the level of safety that would be achieved by complying with the FMCSRs.

FMCSA has concluded that the drivers for Volvo have the knowledge and skills necessary to safely operate CMVs in the U.S. FMCSA determined that the Swedish CDLs are comparable to the CDLs issued by the various State licensing agencies, CMV drivers in both Sweden and the U.S. are given knowledge and skills tests before a CDL is issued. There is no data to suggest that familiarity with weather conditions within the U.S. provides a driver with an improved degree of safety of operation of a CMV. Swedish winter weather is at least as bad as anything in this country. These drivers have demonstrated that they can safely operate a CMV under a variety of weather conditions. There is no readily apparent reason to believe they would be less safe operating a CMV under weather conditions found in the U.S.

FMCSA does not believe granting the exemption will reduce the available employment for U.S. drivers. Volvo is requesting this exemption for engineers and technicians who are involved in developing, designing, and testing engines for CMVs that will be manufactured, assembled, sold, or primarily used in the U.S. Consequently, these individuals possess a knowledge of the vehicles that is not available to U.S. drivers. They are also able to communicate that knowledge among themselves, and with other Swedish officials of Volvo in a language not familiar to American drivers. These drivers would not transport passengers or freight, nor are they paid on a per-mile basis. Both their incentives and their opportunities to violate the Federal Motor Carrier Safety Regulations are minimal.

Drivers covered by this exemption continue to be subject to U.S. safety regulations and penalties for violating such regulations. As part of the terms and conditions of this exemption, the drivers must: (1) Comply with controlled substances and alcohol testing regulations under 49 CFR 382, (2) meet the same driver qualification and disqualification rules under 49 CFR 383 and 391 that apply to other CMV drivers in the U.S., and (3) maintain a copy of the exemption on the vehicle at all times. Volvo must notify FMCSA in writing (4) of any accident, as defined in 49 CFR 390.5, involving a driver

covered by this exemption, and (5) if any driver is convicted of disqualification offenses in 49 CFR 383.51 or 391.15. Violations observed by State or local officials may be reported directly to FMCSA. If the violations suggest that the terms and conditions of the exemption have not been satisfied FMCSA will immediately revoke the exemption as required by 49 U.S.C. 31315(b)(2). Additionally, FMCSA may revoke the exemption if the Volvo's drivers fail to comply with the terms and conditions of the exemption, or if the exemptions have resulted in a lower level of safety than was maintained by Volvo's test operations before it was granted.

Basis for FMCSAs Determination

FMCSA believes granting the exemption will likely achieve a level of safety that is equivalent to, or greater than, the level of safety that would be obtained in the absence of the exemption because the drivers hold valid Swedish CDLs issued after passing knowledge and skills tests comparable to those required of U.S. CDL holders. Volvo's drivers are required to meet all applicable FMCSRs, except for having a State-issued CDL. Drivers who meet the above license testing and driver qualification standards have the experience necessary to operate these vehicles.

Terms and Conditions for the Exemption

After considering the comments to the docket, and based upon its evaluation of the application for an exemption, FMCSA grants 11 drivers for Volvo an exemption from the Federal commercial driver's license requirement in 49 CFR 383.23: Christer Milding, Jonas Gustafsson, Sten-Ake Sandberg, Daniel Kanebratt, Urban Walter, Dennis Mattsson, Fredrik Wattwill, Jonas Nilsson, Bjorn Nyman, Lars Johansson and David Aas. They may test drive CMVs within the U.S., subject to the following terms and conditions: (1) That these drivers comply with the controlled substances and alcohol testing regulations under 49 CFR 382, (2) that these drivers meet the same driver qualification and disqualification rules under 49 CFR 383 and 391 that apply to other CMV drivers in the U.S., (3) that these drivers keep a copy of the exemption on the vehicle at all times, (4) that Volvo notify FMCSA in writing of any accident, as defined in 49 CFR 390.5, involving a driver covered by this exemption and, (5) that Volvo notify FMCSA in writing if any driver is convicted of any disqualification offenses in 49 CFR 383.51 or 391.15.

In accordance with 49 U.S.C. 31136 and 31315(b)(1) the exemption will be valid for 2 years unless revoked earlier by FMCSA. The exemption will be revoked if: (1) The drivers for Volvo fail to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136 and 31315.

Issued on May 8, 2006.

Warren E. Hoemann,

Acting Administrator.

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DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA-2000-7257]

[Notice No. 36]; 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: The FRA is updating its announcement of RSAC's Working Group activities to reflect its current status.

FOR FURTHER INFORMATION CONTACT: Patricia Butera or Lydia Leeds, RSAC Coordinator, FRA, 1120 Vermont Avenue, NW., Mailstop 25, Washington, DC 20590, (202) 493-6212/6213 or Grady Cothen, Deputy Associate Administrator for Safety, 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 of December 6, 2005, (70 FR 73513). The 28th full Committee meeting was held February 22, 2006.

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

Open Tasks

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 regulation task. Planned future activities involve the review of other regulations for possible adaptation to the safety needs of tourist and historic railroads. Contact: Grady Cothen, (202) 493-6302.

Task 97-1—Developing crashworthiness specifications to promote the integrity of the locomotive cab in accidents resulting from collisions. This Task was accepted on June 24, 1997. On April 14, 2004, the RSAC reached consensus on the Notice of Proposed Rulemaking (NPRM). The NPRM is a new standard to increase the crashworthiness of conventional wide- and narrow-nose locomotives and codifies requirements for mono-coque locomotives. On November 2, 2004, FRA published an NPRM in the **Federal Register** (69 FR 63990) proposing to establish comprehensive, minimum standards for locomotive crashworthiness. In that NPRM, FRA established a January 3, 2005, deadline for submission of written comments. FRA received a request to extend the comment period to give interested parties additional time to review, analyze, and submit comments on the NPRM. After considering the request, FRA extended the comment period until February 3, 2005. The Working Group met to review the public comments on June 27-28, 2005, and reached consensus on July 1, 2005. The Working Group's recommendations were adopted by the full Committee, by mail ballot, on August 5, 2005. The final rule was cleared by OMB; FRA is arranging publication. Contact: Charles Bielitz, (202) 493-6314 or John Punwani (202) 493-6369.

Task 97-2—Evaluating the extent to which environmental, sanitary, and other working conditions in locomotive cabs affect the crew's health and the safe operation of locomotives, proposing standards where appropriate. This Task was accepted June 24, 1997.

(Sanitation) (Completed)

(Noise exposure) On June 27, 2003, the full RSAC gave consensus by ballot on the NPRM. The NPRM was published in the **Federal Register** on June 23, 2004. The comment period ended September 21, 2004. Task Force and Working Group meetings were held March 1, and March 2 and 3, 2005, respectively, to review the public comments and recommend a final rule. The Working Group reached agreement on all issues, and its report was presented to the full Committee on May 18, 2005. The final rule is in review and clearance.

(Cab Temperature) (Completed)

Note: Additional related topics such as vibration may be considered by the Working Group in the future.

Contact: Jeffrey Horn, (202) 493-6283.
Task 03-01—Passenger Safety. This Task was accepted on May 20, 2003, and a Working Group was established.

Prior to embarking on substantive discussions of a specific task, the Working Group set forth in writing a specific description of the task. The Working Group will report any planned activity to the full Committee at each scheduled full RSAC meeting, including milestones for completion of projects and progress toward completion. At the first meeting held September 9-10, 2003, a consolidated list of issues was completed. At the second meeting held November 6-7, 2003, five task groups were established: Crashworthiness/glazing; emergency preparedness; mechanical-general issues; mechanical-safety appliances; and track/vehicle interaction. The task groups met and reported on activities for Working Group consideration at the third meeting held May 11-12, 2004, and a fourth meeting was held October 26-27, 2004. Initial recommendations on mechanical issues (revisions to 49 CFR Part 238) were approved by the full Committee on January 26, 2005. At the Working Group meeting of March 9-10, 2005, the Working Group received and approved the consensus report of the Emergency Preparedness Task Force related to emergency egress and rescue access. These recommendations were presented to and approved by the full Committee on May 18, 2005. An NPRM is now under development. The Working Group met on September 7-8, 2005, and additional, supplementary recommendations were presented to and accepted by the full RSAC on October 11, 2005. An NPRM was published in the **Federal Register** on December 8, 2005, (70 FR 73070). Public comments were due by February 17, 2006. The Working Group met on March 21-22, 2006, and tentatively agreed to establish a task force on General Passenger Safety. Contact: Charles Bielitz, (202) 493-6314.

Task 05-01—Review of Roadway Worker Protection issues. This Task was accepted on January 26, 2005, to review 49 CFR 214, Subpart C, Roadway Worker Protection, and related sections of Subpart A; recommend consideration of specific actions to advance the on-track safety of railroad employees and contractors engaged in maintenance-of-way activities throughout the general system of railroad transportation, including clarification of existing

requirements. A Working Group has been established and will report to the RSAC any specific actions identified as appropriate. The first meeting of the Working Group was held on April 12-14, 2005. The Working Group will report planned activity to the full Committee at each scheduled Committee meeting, including milestones for completion of projects and progress toward completion. The Working Group met on June 22-24, 2005, August 8-11, 2005, September 20-22, 2005, November 8-9, 2005, January 10-11, 2006, February 1-2, 2006, and March 15-16, 2006. The Working Group met on April 11-12, 2006, to prepare the proposed amendments in regulatory format for review by the Working Group in August 2006. Contact: Christopher Schulte, (202) 493-6251.

Task 05-02—Reduce Human Factor-Caused Train Accident/Incidents. This Task was accepted on May 18, 2005, to reduce the number of human factor-caused train accidents/incidents and related employee injuries. A Working Group has been established. The Working Group will report any planned activity to the full Committee at each scheduled full RSAC meeting, including milestones for completion of projects and progress toward completion. The Working Group met on July 12-13, 2005, August 31-September 1, 2005, September 28-29, 2005, October 25-26, 2005, November 16-17, 2005, and December 6-7, 2005. The final Working Group meeting devoted to developing a proposed rule was held February 8-9, 2006. The Working Group was not able to deliver a consensus regulatory proposal, but did recommend that it be used to review comments on FRA's forthcoming NPRM, which is under development with the Working Group's discussion draft as its basis with a deadline of September 30, 2006, for publication. Contact: Douglas Taylor, (202) 493-6255.

Task 06-01—Locomotive Safety Standards. This task was accepted on February 22, 2006, to review Title 49 CFR Part 229, Railroad Locomotive Safety Standards, and revise as appropriate. A Working Group has been established. The Working Group will report any planned activity to the full Committee at each scheduled full RSAC meeting, including milestones for completion of projects and progress toward completion. The first Working Group meeting is scheduled for May 8-10, 2006. Contact: George Scerbo, (202) 493-6249.

Task 06-02—Track Safety Standards and Continuous Welded Rail. Section 9005 of the Safe, Accountable, Flexible,

Efficient Transportation Equity Act: A Legacy for Users (Pub. L. 109-59, "SAFETEA-LU"), the 2005 surface transportation authorization act, requires FRA to issue requirements for inspection of joint bars in continuous welded rail (CWR) to detect cracks that could affect the integrity of the track structure. 49 U.S.C. 20142(e). FRA published an Interim Final Rule establishing new requirements for inspections on November 2, 2005, (70 FR 66288). On October 11, 2005, FRA offered the RSAC a task to review comments on this IFR, but the conditions could not be established under which the Committee could have undertaken this with a view toward consensus. Comments on the IFR were received through December 19, 2005. FRA is reviewing the comments. On February 22, 2006, the RSAC accepted this task to review and revise the CWR related to provisions of the Track Safety Standards, with particular emphasis on reduction of derailments and consequent injuries and damage caused by defective conditions, including joint failures, in track using CWR. A Working Group has been established. The Working Group will report any planned activity to the full Committee at each scheduled full RSAC meeting, including milestones for completion of projects and progress toward completion. The first Working Group meeting was held April 3-4, 2006, at which time the Working Group reviewed comments on the IFR. The second Working Group meeting was held April 26-28, 2006. Contact: Ken Rusk, (202) 493-6236.

Completed Tasks

Task 96-1—(Completed) Revising the Freight Power Brake Regulations.

Task 96-2—(Completed) Reviewing and recommending revisions to the Track Safety Standards (49 CFR Part 213).

Task 96-3—(Completed) Reviewing and recommending revisions to the Radio Standards and Procedures (49 CFR Part 220).

Task 96-5—(Completed) Reviewing and recommending revisions to Steam Locomotive Inspection Standards (49 CFR Part 230).

Task 96-6—(Completed) Reviewing and recommending revisions to miscellaneous aspects of the regulations addressing Locomotive Engineer Certification (49 CFR Part 240).

Task 96-7—(Completed) Developing Roadway Maintenance Machines (On-Track Equipment) Safety Standards.

Task 96-8—(Completed) This Planning Task evaluated the need for action responsive to recommendations contained in a report to Congress

entitled, *Locomotive Crashworthiness & Working Conditions*.

Task 97-3—(Completed) Developing event recorder data survivability standards.

Task 97-4 and *Task 97-5*—(Completed) Defining Positive Train Control (PTC) functionalities, describing available technologies, evaluating costs and benefits of potential systems, and considering implementation opportunities and challenges, including demonstration and deployment.

Task 97-6—(Completed) Revising various regulations to address the safety implications of processor-based signal and train control technologies, including communications-based operating systems.

Task 97-7—(Completed) Determining damages qualifying an event as a reportable train accident.

Task 00-1—(Completed—task withdrawn) Determining the need to amend regulations protecting persons who work on, under, or between rolling equipment and persons applying, removing or inspecting rear end marking devices (Blue Signal Protection).

Task 01-1—(Completed) Developing conformity of FRA's regulations for accident/incident reporting (49 CFR Part 225) to revised regulations of the Occupational Safety and Health Administration (OSHA), U.S. Department of Labor, and to make appropriate revisions to the *FRA Guide for Preparing Accident/Incident Reports* (Reporting Guide).

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 May 9, 2006.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

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DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System or Relief From the Requirements of Title 49 Code of Federal Regulations Part 236

Pursuant to Title 49 Code of Federal Regulations (CFR) part 235 and 49 U.S.C. 20502(a), the following railroad has petitioned the Federal Railroad Administration (FRA) seeking approval for the discontinuance or modification of the signal system or relief from the

requirements of 49 CFR part 236 as detailed below.

Docket No. FRA-2006-24528

Applicant: CSX Transportation, Incorporated, Mr. C.M. King, Chief Engineer, Communications and Signals, 500 Water Street, SC J-350, Jacksonville, Florida 32202.

CSX Transportation, Incorporated (CSXT) seeks approval of the proposed modification of the traffic control system on the single main track, at milepost BE 65.65, near Vandalia, Ohio, and milepost BE 87.26, near Piqua, Ohio, on the Toledo Subdivision, Louisville Division. The proposed changes consist of the discontinuance and removal of the electric locks from the two independently operated derails, and are associated with the installation of shunt and break type circuits to open the signal control circuits when the derails are not in the derailing position.

The reason given for the proposed changes is that the modification will allow these locations to comply with present CSXT standards for independently operated derails. Any interested party desiring to protest the granting of an application shall set forth specifically the grounds upon which the protest is made, and include a concise statement of the interest of the party in the proceeding. Additionally, one copy of the protest shall be furnished to the applicant at the address listed above.

All communications concerning this proceeding should be identified by the docket number and must be submitted to the Docket Clerk, DOT Central Docket Management Facility, Room PL-401 (Plaza Level), 400 7th Street, SW., Washington, DC 20590-0001.

Communications received within 45 days of the date of this notice will be considered by the FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.-5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at <http://dms.dot.gov>.

FRA wishes to inform all potential commenters that anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000