

INDUSTRY RAIL SAFETY ADVISORY COMMITTEE

MEETING AGENDA

Information of Meeting

Date: Tuesday, November 12, 2024

Time: 11:00 am - 12:30 pm

Location: Virtual via Zoom

Facilitator: Sheryl Trent

Join Zoom Meeting

<https://us06web.zoom.us/j/89316636194?pwd=930M7hCz7sbYHAFmOff9Dj26BCcdw.1>

Meeting ID: 893 1663 6194

Passcode: 283851

Agenda

- 11:00 am Welcome
- 11:02 am Housekeeping/Administrative Items (*Information*)
- Joint Committee Minutes from 11.7.24
- 11:05 am List of Final Language in Document (as of Friday 11/8 at noon)
(*Information*)
- 11:15 am **Section IX (A)**, A Legislative Proposal Concerning the Creation of a Fee Structure or other Revenue Source, An Assessment, And A Governance Body and An Office of Rail Safety to Address the Needs Described in Subsections (13) (a) (I) to (13) (a) (III) of This Section, Which Fee Structure, Assessment, And Governance Body can Be Introduced As Legislation As Soon As The 2025 Regular Legislative Session and Begin Operating No Later than January 1, 2027. (*Presentation, Discussion and Direction on Fee Structure or Other Revenue Source*)
- 11:40 am **Section VII**, An Assessment of Best Practices for Ensuring Financial Responsibility for Response, Cleanup, And Damages From Major Rail Events, Which Assessment Reviews Best Practices From Other States;

Language pulled from Google Drive as of Friday (11/8) at noon MT

The current structure is sufficient to address most scenarios for possible rail-event incidents consistent with the existing federal common carrier obligation for railroads to accept offered hazardous or non-hazardous cargoes. Railroads can be responsible for events if they have culpability, and

there may be multiple responsible parties, such as shippers, consignees, and car owners (or lessors or lessees) that would also have financial responsibility. Class I railroads are self-insured for financial responsibility for a large range of events and may have access to their own or other responsible parties' insurance or self-insurance resources. However, this issue is complex especially with consideration to environmental impacts that may have legal delays in determination of responsibility. The FRA has a structure in place that the state could defer to and there are tools for making resources available that the Committees can continue to explore and understand.

Existing legislation is in place through C.R.S. 29-22-104 that addresses financial responsibility for the emergency response to a hazardous materials incident and the Committee recommends those statutes are followed. Financial responsibility related to the cleanup and repair extending beyond the initial emergency response to a hazardous materials incident and other types of incidents may need to be handled through other existing or forthcoming statutes and rules, as discussed above.

Alternate Language emailed to Sheryl:

This issue is complex, especially with consideration about environmental and other impacts that may cause legal delays in determination of responsibility. Railroads can be responsible for events if they have culpability, and there may be multiple responsible parties, such as shippers, consignees, and car owners (or lessors or lessees) that would also have financial responsibility. Additionally, Class I railroads are self-insured for financial responsibility for a large range of events and may have access to their own or other responsible parties' insurance. However, the FRA has a structure in place that the state could defer to and there are tools for making resources available that the Committees can continue to explore and understand. The Committee believes that the current structure, including C.R.S. 29-22-104 that addresses financial responsibility for the emergency response to a hazardous materials incident, is sufficient to address most scenarios for possible incidents consistent with the existing federal common carrier obligation.

11:50 am **Section III**, An Assessment of Data Collection and Reporting Needs To Ensure Annual Reporting on Rail Safety, Including Train Length, For Covered Railroads Facilities. (*Presentation, Discussion and Direction on Final Language*)

12:00 pm **Section IX (B)**, The Report Must Include a Recommendation As To Which State Agency Would Host the Proposed Governance Body To Ensure Proper Compliance with State and Federal Law, Equitable Access To Community and Worker Organizations, and Enforcement of Safety Requirements.
Language pulled from the Google Drive as of Friday (11/8) at noon MT

The Office of Rail Safety should be hosted within the Public Utilities Commission and the necessary steps taken to allow the Committees to provide advice to the Commission on rulemakings.

12:15 pm

Next Steps

Need for an additional meeting before report deadline.

12:20 pm

Open Discussion