

MEMORANDUM OF UNDERSTANDING

BETWEEN

THE AUSTRALIAN TRANSPORT SAFETY BUREAU

AND THE

NORTHERN TERRITORY RAIL SAFETY REGULATOR

FOR

THE INVESTIGATION OF RAIL SAFETY OCCURRENCES

ON

THE DEFINED INTERSTATE RAIL NETWORK

1 BACKGROUND

- 1.1 The purpose of this Memorandum of Understanding (MoU) is to outline the respective roles and responsibilities of, and the relationship between, the Australian Transport Safety Bureau (ATSB) and the relevant State and Territory rail safety regulators in the investigation by the ATSB of rail safety matters that occur on the Defined Interstate Rail Network (DIRN).
- 1.2 The parties to the MoU desire a productive and cooperative relationship. This will be achieved through individual and organisational cooperation under the applicable laws.
- 1.3 The parties acknowledge that this MoU is not legally binding and that nothing in this MoU can legally restrict the statutory discretion and powers under relevant legislation.

2 PARTIES

- 2.1 The parties to this MoU are:
 - (a) The ATSB, hereafter referred to as the ATSB or the Bureau; and
 - (b) The rail safety regulators of New South Wales, the Northern Territory, Queensland, South Australia, Tasmania, hereafter referred to as ‘rail safety regulators’.

3 VALUES

- 3.1 The ATSB and rail safety regulators acknowledge each other’s role in conducting no-blame rail safety investigations.
- 3.2 While recognising each organisation’s mandate and independent role, the ATSB and rail safety regulators are committed to a constructive relationship based on the following values:
 - cooperation;
 - honesty;
 - trust;
 - mutual respect;
 - openness; and
 - the professional discharge of responsibilities.
- 3.3 The ATSB and rail safety regulators acknowledge that situations may arise where there are differences of opinion between the parties and these need to be managed to ensure they do not detract from the agreed safety objectives. To this end, the ATSB and rail safety regulators agree to:
 - support a systemic approach to the more significant rail safety investigations;
 - recognise each organisation’s separate and independent place in the rail transport system and, as far as is practicable, enhance each other’s reputation;
 - develop knowledge of each other’s business and the safety impact of each organisation’s actions;
 - acknowledge any errors, but seek constant improvement; and
 - facilitate strategic discussion between the parties.
- 3.4 Rail safety regulators and the ATSB agree that where differences of opinions arise between the parties, they will be dealt with in accordance with section 13 of this MoU.

4 INTERPRETATION

- 4.1 Unless otherwise expressly provided, the following terms which are defined in the Commonwealth *Transport Safety Investigation Act 2003 (TSI Act)* or the *Transport Safety Investigation Regulations 2003 (TSI Regulations)* have the same meaning when used in this MoU.

- Transport Safety
- Transport Safety Matter
- Immediately Reportable Matter
- Evidential Material
- Restricted Information
- Rail Vehicle

5 NOTIFICATION OF OCCURRENCES ON THE DIRN

- 5.1 'Occurrence' is the generic term used in this MoU to refer to a Transport Safety Matter.
- 5.2 Under the *TSI Regulations* officers of rail safety regulators are listed as Nominated Officials for receiving reports of occurrences. As Nominated Officials, officers of rail safety regulators agree to report occurrences listed as Immediately Reportable Matters under the *TSI Regulations*, of which they are made aware by Responsible Persons, to the ATSB as soon as reasonably practicable to do so.
- 5.3 Where an Immediately Reportable Matter has been reported to a rail safety regulator that does not wish to report to the ATSB in accordance with 5.2, that rail safety regulator will advise the reporter to notify the ATSB as soon as reasonably practicable to do so.
- 5.4 Where an occurrence has been reported to the ATSB by a source other than a rail safety regulator, the ATSB will notify the relevant rail safety regulator of the occurrence as soon as reasonably practicable to do so.
- 5.5 The current reporting protocols and reporting forms required by rail safety regulators are acceptable for the purpose of notifying Immediately Reportable Matters to the ATSB under sub section 19(1) of the *TSI Act*.

6 NOTIFICATION OF INVESTIGATION STATUS OF OCCURRENCES ON THE DIRN

- 6.1 At the time of initial notification of an occurrence, the ATSB will inform the rail safety regulator and other relevant parties whether or not the ATSB has an interest in the occurrence and may advise at that time whether it intends to investigate the occurrence.
- 6.2 Rail safety regulators acknowledge that it may not be possible for the ATSB to advise them of a decision to investigate until further information on the circumstances of the occurrence is known. The ATSB may, for example, need to discuss aspects of the occurrence with rail safety regulators or other relevant parties. Notwithstanding, the ATSB agrees to advise rail safety regulators of the decision to investigate an occurrence as soon as reasonably practicable to do so.
- 6.3 Occurrences reported to the ATSB are initially assessed using ATSB policy guidelines. A copy of those guidelines is at Attachment A. In general terms, the guidelines indicate the degree of safety value the Bureau believes the investigation of the occurrence is likely to yield, and what resources will be put into the investigation.
- 6.4 Immediate response action or remedial safety action may be taken by a rail safety regulator prior to the ATSB making a decision about whether to investigate.
- 6.5 Nothing in this MoU prevents the ATSB from reversing an initial decision not to investigate an occurrence in light of further evidence. In such cases, the ATSB will undertake to give prompt notice to the relevant rail safety regulator.
- 6.6 A rail safety regulator may request the ATSB to undertake an independent investigation on the DIRN that the ATSB previously declined to investigate.

7 NOTIFICATION AND INVESTIGATION OF NON-DIRN OCCURRENCES

- 7.1 Rail safety regulators may notify the ATSB of occurrences that have occurred on other than the DIRN.
- 7.2 A rail safety regulator may request the ATSB to lead an independent investigation into a rail safety occurrence that has occurred on other than the DIRN.
- 7.3 Where the ATSB agrees to lead such an investigation, it will do so under relevant legislation.

8 INVESTIGATION CONDUCT AND COOPERATION

Relationship of an ATSB investigation with other laws

- 8.1 The ATSB will seek to work in cooperation with other agencies that have an interest in a rail safety occurrence. The *TSI Act* does not prevent another agency from conducting a parallel investigation into a Transport Safety Matter. In accordance with Section 10 of the *TSI Act*, the Executive Director's powers of investigation under the *TSI Act* will only take precedence over the powers of any other agency to the extent of any inconsistency that hinders an ATSB investigation.
- 8.2 It is noted that in cases where there is clear evidence that the occurrence was caused by serious criminal activity the ATSB is not likely to initiate an investigation or would terminate an investigation based on evidence of serious criminal activity arising during the course of an investigation.

Minimising Duplication

- 8.3 Notwithstanding 8.1, in order to avoid duplication and unnecessary impost on the rail industry and taxpayer's money where possible, it is agreed by the parties that if the ATSB exercises its discretion to investigate under section 21(1)(a) of the *TSI Act* or is directed to investigate by the Minister under section 21(1)(b), the rail safety regulator will not normally conduct a separate no-blame investigation. However, a rail safety regulator will not be prevented from using its investigative powers to obtain information for the purpose of taking necessary safety action arising from the findings of an ATSB investigation.
- 8.4 Notwithstanding 8.1, if a rail safety regulator has decided to commence a no-blame investigation, then in order to avoid duplication and unnecessary impost on the rail industry and taxpayers money where possible, the ATSB will not normally conduct a parallel investigation.
- 8.5 The ATSB acknowledges that although the rail safety regulators agree to abide by 8.3 to the extent practicable, a State/Territory Minister may direct his/her rail safety regulator to conduct a separate no-blame investigation or similar inquiry in accordance with relevant legislation.
- 8.6 Where a rail safety regulator or the ATSB considers it necessary to conduct a parallel no-blame investigation, the parties will undertake to promptly advise each other and to discuss/resolve matters in accordance with section 14 of this MoU if necessary.

Participation in an ATSB Investigation

- 8.7 The ATSB agrees to invite a representative from the following parties, as a minimum, to participate as a team member of an ATSB investigation:
 - An officer of the rail safety regulator from the State/Territory in whose jurisdiction the relevant occurrence happened;
 - A representative from the operator/s whose Rail Vehicles were involved in the occurrence; and

- A representative from the track access provider on whose track the relevant occurrence happened.
- 8.8 Participation will be to the extent necessary to enable all the underlying factors of a Transport Safety occurrence being investigated by the ATSB to be determined in accordance with the *TSI Act*.
- 8.9 It is noted that the rail safety regulator, the operator/s and/or the track access provider may decline to be involved as team members if they so choose.
- 8.10 Participation by other parties as a team member in an ATSB investigation will be considered on a case by case basis, taking into consideration the nature and circumstances of the occurrence. For example, it might be appropriate to invite a rail safety regulator from the jurisdiction of accreditation when the occurrence happened in a State/Territory other than the State/Territory of accreditation.
- 8.11 From time to time, rail safety regulators other than those referred to in 8.7 or 8.10 may request to participate as a team member in an ATSB investigation.
- 8.12 From time to time, the ATSB may request that a rail safety regulator participates as a team member in an ATSB investigation other than as invited in accordance with 8.7 or 8.10.
- 8.13 Parties who participate as team members in an ATSB investigation will be provided with relevant delegations and must comply with all lawful directions given to them by the lead investigator of the Bureau's investigation. All participants will be required to abide by ATSB investigation protocols, sign a "External investigator" agreement form, and must be prepared to maintain an ongoing commitment to the investigation (unless otherwise as agreed between the rail safety regulator, or other party, and the Executive Director), including both the on-site and post on-site phases of the investigation. This ongoing commitment must be considered carefully by the individual and the organisation when initially determining whether to participate as a team member. This commitment also means that whilst the individual represents his/her organisation and has obligations in respect of their organisation, that person must be able to act independently of their organisation in relation to their input to the ATSB investigation.
- 8.14 Where an officer of a rail safety regulator is a team member of an ATSB investigation, the officer must report to the Executive Director any conflict of interest or perceived conflict of interest that officer may have in relation to the investigation. The ATSB may exercise discretion to alter the arrangements involving the officer's participation in the ATSB's investigation or to exclude the officer from the investigation if necessary.
- 8.15 Similarly, in accordance with the ATSB's *Standards of conduct for ATSB transport safety investigators* ATSB investigators will declare any real or perceived conflict of interest they may have in relation to their involvement in the investigation of a rail safety occurrence.

ATSB participation in an independent State/Territory rail safety investigation

- 8.16 The ATSB may request participation in any independent rail safety investigation under State/Territory legislation.
- 8.17 From time to time, a rail safety regulator may invite the ATSB to participate in an independent rail safety investigation under State/Territory legislation.
- 8.18 A rail safety regulator may request investigators from the ATSB to be team members of an independent investigation under State/Territory legislation.
- 8.19 ATSB officers who participate as team members in such investigations must comply with any lawful direction given to them by the lead investigator of that investigation.

ATSB Investigation report

8.20 While it is considered that in most cases a consensus view by all team members will be reached on the findings and recommended safety actions of any particular investigation, there will be provision for dissenting comments in the final report where necessary. It is noted, however, that this is a different arrangement from the Directly Involved Party process (refer to section 11 of this MoU), which covers the protocols to be followed regarding submissions by Directly Involved Parties in relation to a draft ATSB investigation report.

Exchange of information

8.21 The ATSB may from time to time for the purposes of a Bureau investigation, request in writing from a State or Territory rail regulator, information or documents held by that regulator. To the extent that it is legally entitled to do so, the rail safety regulator agrees to promptly provide the ATSB with the information or documents.

8.22 Similarly, rail safety regulators may from time to time for the purposes of a rail safety investigation, request in writing from the ATSB, information or documents held by the ATSB. To the extent that it is legally entitled to do so, the ATSB agrees to promptly provide the rail safety regulator with the information or documents.

Comment on practices of State/Territory rail regulators

8.23 State/Territory rail safety regulators acknowledge that the ATSB may make formal comment on organisational and management issues of rail safety regulators and their perceived relationship to an occurrence. When such comment is considered appropriate, the ATSB will raise the matter with the relevant rail safety regulators prior to the release of a draft report to Directly Involved Parties.

Occurrence site matters

8.24 A proper understanding of the underlying factors of rail safety occurrences is critical in the interest of Transport Safety, including for those operators whose services may be affected by a rail safety occurrence but who were not directly involved. However, while the ATSB is cognisant that rail safety occurrences have the potential to significantly interrupt other commercial services, it does not wish the investigation process itself to be responsible for any unnecessary delay to the restoration of normal services. Therefore, where the ATSB has elected to investigate a rail safety occurrence, the ATSB and rail safety regulators agree to the following protocols:

(a) Advice of key personnel

At the time the ATSB confirms with the rail safety regulator its intention to investigate, it will advise the regulator of:

- the ATSB Lead Investigator; and
- other proposed ATSB investigation team members.

The relevant rail safety regulator will advise the ATSB of safety investigation personnel appointed by the rail safety regulator.

As soon as is reasonably practicable, the full membership of the ATSB investigation team will be discussed/determined.

(b) Preservation, collection and continuity of evidence

Prior to the arrival of ATSB investigators, initial preservation and collection of evidence may be carried out under the guidance of the locally appointed accident site manager and/or representative, or the relevant rail safety regulator or other appropriate personnel as agreed between the parties. The ATSB will communicate

with those persons to ensure that all relevant perishable evidence is recorded/collected.

(c) Control of the accident site

The current accident site arrangements that are part of the accredited Safety Management System of the track manager will generally be acceptable for the purposes of an ATSB investigation. The ATSB will liaise with the accident site manager and advise if particular site access issues arise that may compromise the investigation and which need to be resolved, for example, media access to the site or early restoration of services when all perishable evidence has not yet been recorded/collected.

(d) On-site ‘arrival’ briefing to ATSB

The accident site manager will provide an initial briefing to ATSB investigators following their arrival on site. Briefing would include such matters as:

- events leading up to the occurrence as are known at that time;
- evidence recorded/collected;
- initial response activities;
- any witnesses interviewed;
- key personnel on site;
- on-site safety issues;
- on-site support issues such as first aid, rest/meal area, catering, communications etc; and
- intended commencement of restoration activities.

ATSB investigators agree to be escorted by suitably qualified personnel while on site unless otherwise agreed by the site manager.

(e) Witness interviewing

Rail safety regulators or other persons assigned to the initial response phase of the occurrence agree to provide to the ATSB investigators after their arrival on site, the names and contact details of witnesses that have been interviewed and any other witnesses known but not yet interviewed.

9 COST RECOVERY

- 9.1 When the ATSB conducts a rail safety investigation of an occurrence on the DIRN, it will pay the cost of its own involvement in that investigation. Rail safety regulators who are invited to participate as team members in accordance with 8.7, 8.10 or section 8.11 of this MoU, agree to pay the cost of their own involvement. Where the ATSB specifically requests the participation of a rail safety regulator in accordance with 8.12 of this MoU, the ATSB will pay the cost of the rail safety regulator’s involvement.
- 9.2 When a rail safety regulator requests the ATSB to lead an independent investigation under State/Territory legislation (7.2) or specifically requests that an officer of the ATSB participates as a team member in an independent rail safety investigation under State/Territory legislation (8.18), the rail safety regulator will pay the cost of the ATSB’s involvement. However, when the ATSB requests to be involved in a rail safety regulator’s independent investigation (8.16) or where the rail safety regulator invites the ATSB to participate (8.17), the ATSB will pay the cost of its own involvement.
- 9.3 Notwithstanding the above, both parties undertake to encourage the exchange of views and technical information without being inhibited by cost recovery considerations.

9.4 It is noted that ‘cost’ includes:

- a daily (or part thereof) salary allowance, including overheads;
- travel associated with the investigation;
- accommodation and meals associated with the investigation; and
- other expenses associated with the investigation as agreed by the parties on a case by case basis.

10 RELEASE OF INFORMATION AND OTHER EVIDENTIAL MATERIAL

- 10.1 Evidential Material including information obtained by the ATSB under the *TSI Act* may be released in accordance with Division 2 of Part 4 (‘Investigation Reports’), through the provisions under Part 6 that relate to the release of OBR or Restricted Information, or section 45 which covers releasing Evidential Material that is not OBR or Restricted Information.
- 10.2 Information classified as Restricted Information under section 60 of the *TSI Act* may be disclosed under section 61 if the Executive Director considers that the disclosure is necessary or desirable for the purposes of Transport Safety. As a matter of policy, however, the ATSB will not release information classified as Restricted Information which constitutes:
- (a) Statements (whether oral or in writing) obtained from persons by a staff member (as defined by the *TSI Act*) in the course of an investigation (including any record of such statement).
 - (b) Information that is contained in a document that is produced to a staff member under sections 32(1)(b) or 36(3)(a) or 4(a).
- 10.3 The ATSB will advise rail safety regulators of the progress of serious or high profile occurrence investigations and provide advance briefing to rail safety regulators whenever it makes recommendations, circulates investigation reports, or proposes to release a media statement. In releasing such material, the ATSB will have regard to the balance between releasing the material for the purpose of Transport Safety and the potential legal impact, including legal processes that may be impending or underway.
- 10.4 During an ATSB investigation, the Bureau will be responsible for initial contact with the media and subsequent briefing on information regarding the ATSB’s investigation. The relevant rail safety regulator will initially refer media inquiries on the investigation to the contact officer nominated by ATSB. However, the rail safety regulator may comment on matters arising from the investigation but in so doing, will seek to avoid prejudging the results of an ATSB investigation.
- 10.5 Nothing in this MoU prevents public comments being made by rail safety regulators or other parties, about a State/Territory investigation.
- 10.6 Similarly, nothing in this MoU prevents the Director-General (or equivalent) or Minister of the relevant jurisdiction from making comments to the media or to Parliament in relation to any safety or other issues arising from the ATSB’s investigation of a rail safety occurrence.
- 10.7 Section 45 of the *TSI Act* allows rail safety regulators, upon written request, to obtain Evidential Material that is not OBR or Restricted Information (for example, components of Rail Vehicles) and which is in the possession or of the ATSB at the time of the request. The ATSB will keep rail safety regulators informed of the types of Evidential Material that are in its possession in order for rail safety regulators to make an informed

decision about the need to request such material. The ATSB will normally undertake to either:

- (a) provide the material upon request when no longer required by the ATSB; or
- (b) provide access to the material for observation/evaluation by the regulator under the supervision of the ATSB, including providing opportunities for regulators to view testing and examinations conducted by or coordinated through the ATSB; or
- (c) Provide access to Evidential Material in accordance with 10.7 (b) followed by provision of the material to the rail safety regulator in accordance with 10.7 (a).

11 DIRECTLY INVOLVED PARTY PROCESS

- 11.1 In accordance with ATSB policy, Directly Involved Parties are those individuals or organisations that were directly involved in a Transport Safety occurrence or may have influenced the circumstances that led to an occurrence and whose reputations are likely to be affected following the release of the investigation report. Directly Involved Parties may include, for example, the train crew, the train operator, the infrastructure owner, or the maintenance provider.
- 11.2 The ATSB's Directly Involved Party process helps to ensure the accuracy of a report and to provide a measure of natural justice.
- 11.3 The rail safety regulator in whose jurisdiction the relevant occurrence happened, as well as the jurisdiction of accreditation if relevant, will be included as Directly Involved Parties in relation to an ATSB investigation.
- 11.4 The ATSB will provide to the relevant rail safety regulator for review and comment a draft report in relation to any rail investigation conducted by the ATSB.
- 11.5 The ATSB will document on its files its response to any written comments provided by rail safety regulators and other Directly Involved Parties. That response will indicate whether the ATSB has accepted, partly accepted or rejected the comments provided, particularly having regard to supporting evidence, and will outline any proposed changes to the investigation report as a result of that evidence. In addition, where appropriate, the response may also contain an indication of any further inquiries the ATSB intends to make as a result of new evidence provided in those comments. In considering the written comments, the ATSB may need to seek clarification or further evidence from the relevant party in order to make an informed decision on those comments.
- 11.6 The ATSB will ensure that relevant rail safety regulators and other Directly Involved Parties are aware of the content of the final report prior to its public release.

12 SAFETY DEFICIENCIES AND RECOMMENDATIONS

- 12.1 The ATSB will acknowledge safety actions taken or intended to be taken by rail safety regulators and other parties in response to safety deficiencies identified during the course of an ATSB investigation and will include this information in investigation reports to the extent possible.
- 12.2 The ATSB may make formal written recommendations at any time during an investigation to organisations or individuals that are considered to be in the best position to respond to and act upon those recommendations. Depending on the nature of the rail safety issue, recommendations may be directed to, for example, rail operators, rail infrastructure owners or rail safety regulators. Each recommendation will be accompanied by a written statement of the associated safety deficiency identified and supporting information that led to the recommendation being made. This information will normally form part of an investigation report but may be issued separately. The

ATSB will consult with the relevant organisation or individual prior to a recommendation being made.

- 12.3 The ATSB agrees that where it becomes aware of a potentially significant time-critical safety issue, it will immediately advise the relevant rail safety regulator and other relevant parties so that timely safety action may be taken.
- 12.4 The ATSB recognises that it is the relevant rail organisation and/or rail safety regulator's responsibility to determine any specific remedial action required. Such action may often involve full consultation with other members of the rail industry. Therefore, in making recommendations for action, the ATSB will normally identify the desired outcome rather than providing a prescriptive solution to the safety deficiency. This also ensures that the ATSB does not become a pseudo-regulator, thus creating a potential conflict of interest in future investigations.
- 12.5 Where an ATSB recommendation is directed to a rail safety regulator, a written response from the regulator should reasonably be expected as soon as practicable. The written response is to contain clear statements of acceptance, partial acceptance or rejection of the recommendation. Where the regulator accepts or partly accepts the recommendation, the response will also contain information detailing the timetable and procedures for addressing the recommendation. Where the relevant State/Territory rail safety regulator rejects the recommendation, the response will advise why it rejects the recommendation or part of the recommendation.
- 12.6 As a minimum, all recommendations and responses will be published on the Bureau's web site.

13 SAFETY PROMOTION AND RESEARCH

- 13.1 The parties acknowledge that both the ATSB and rail safety regulators have a role in rail safety promotion, education and research and agree to identify any potential for mutual cooperation with regard to those matters.
- 13.2 Before commencing a research project arising from an ATSB investigation that directly involves the operations of a rail safety regulator, the ATSB will consult with the regulator and identify the research topic and the potential for mutual cooperation on the project. This will include consultation on any terms of reference for the research project.

14 FORMAL CONTACT POINTS

- 14.1 The ATSB's Executive Director and the relevant heads of rail safety regulators may communicate with each other at any time regarding matters considered to be of mutual interest.
- 14.2 Where an issue arises between the ATSB and a rail safety regulator regarding either party's ability to meet the intent of this MoU, the ATSB's Deputy Director of Surface Safety or Team Leader of Rail Safety will, as soon as possible, discuss the matter with relevant rail safety regulator personnel. If the matter is not able to be resolved at that level, the ATSB's Executive Director and the relevant heads of rail safety regulation will, as soon as possible, discuss the matter. The parties will seek to reach consensus.
- 14.3 If issues arise that affect all the parties to the MoU, the rail safety regulators agree to discuss the matters with the ATSB at the next rail safety regulator meeting or at an alternative time as agreed by the parties.
- 14.4 The ATSB and rail safety regulators agree to have regular contact at intervals of not more than 12 months (as an agenda item of a scheduled rail regulator meeting) to:
 - (a) report on the progress of investigations including safety issues arising from the investigations;

MoU – ATSB and State/Territory Rail Safety Regulators

- (b) discuss matters relating to this MoU; and
- (c) discuss other safety investigation matters as agreed.

15 DURATION AND VARIATIONS TO THIS MEMORANDUM

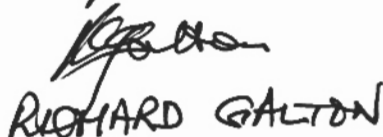
- 15.1 Any party may withdraw from this MoU by advice in writing to the other parties.
- 15.2 It is noted that one or more rail safety regulators may withdraw from this MoU, while leaving the arrangements in tact for the other rail safety regulators.
- 15.3 This MoU will be formally reviewed after three years from the date of signature by all parties to the existing MoU.

Dated this

11th day of September 2003



KYM BILLS
Executive Director
Australian Transport Safety Bureau



~~BARRY CHAMBERS~~
*/ Chief Executive
Department of Infrastructure,
Planning and Environment
Northern Territory

ATTACHMENT A

**ATSB GUIDELINES FOR THE INVESTIGATION OF RAIL SAFETY
OCCURRENCES ON THE DEFINED INTERSTATE RAIL NETWORK**

In assessing whether to investigate a rail safety occurrence, including the resource allocation that should be assigned to that occurrence, priority shall be given to occurrences that are perceived to present a threat to public safety and are the subject of widespread public interest. In general, the priority for the decision to investigate and the allocation of resources is:

- #1 - Passenger operations
- #2 - Freight and other commercial operations
- #3 - Non-commercial operations

Note: In assessing whether to investigate, the ATSB will also take into consideration any independent investigation that may have already been commenced by a rail safety regulator.

The level of response will be determined by such factors as the:

- existence of fatalities and/or serious injuries;
- extent of damage;
- anticipated safety value, for example, scope or impact of any systemic failures or potential for the consequences to have been much more serious;
- extent of public, media or political interest;
- supporting evidence to conduct a special investigation based on trends, safety analysis or an identified targeted program; and
- training benefit for ATSB investigators.