

In-cab audio and video policy

October 2021

Purpose

To outline the revised policy proposal for the introduction of mandatory requirements for mainline passenger and freight trains to be fitted with in-cab audio and video recorders.

Statement supporting the policy position

As the National Rail Safety Regulator I believe that the installation of in-cab audio and video recording devices in locomotives, as outlined in the policy below, would have significant safety benefits in being able to more fully understand the circumstances of an incident and then being able to learn from these and mitigate the likelihood of similar incidents occurring in the future. In a number of recent serious incidents, even though thorough investigations have been/are being undertaken, there are still gaps which would be avoided if there was in-cab video and audio footage available to the investigators. Having cameras in place will also have a safety impact by acting as a deterrence, as with drug and alcohol testing across the industry.

Revised policy proposal

The RSNL should mandate that each passenger and freight train that operates on the mainline (either urban or non-urban) and has an expected asset life of 10 years or more (from the commencement date of the legislation), must be fitted with an in-cab audio and video recorder in the driver's cab of the controlling locomotive.

Certain vehicles (such as tourist and heritage) will be exempt, and the Regulator may approve additional individual exemptions. Light rail vehicles will also be exempt.

New trains being procured after the commencement of the legislation will be required to be fitted with devices before going into commission on the mainline.

Nothing in the proposed policy and RSNL requirements would prevent or exclude rail transport operator from choosing to implement in-cab audio and/or video recorders.

However the operator must consult, no less than two months prior to the in-cab audio and video recording devices becoming operational, with the persons likely to be exposed to the in-cab cameras, health and safety representatives and unions representing any of the persons likely to be exposed to the in-cab cameras.

Compulsory access to the recordings

Access to train safety recordings after a 'notifiable occurrence' including in-cab audio and video recordings is to be legislated for:

- > ONRSR for an investigation.
- > ATSB for an investigation.
- > Police and/or Coroner as part of an investigation.

- > Operators when directed by ONRSR in accordance with s122 of the RSNL, to undertake an investigation. The period of time for which footage is able to be reviewed by the operator will be stipulated by the Regulator as part of the direction.

Note: The four above-mentioned 'compulsory access' types are not access to live feeds.

Where footage from the in-cab camera is to be accessed following a 'notifiable occurrence' the employee(s) included in the footage must be notified in writing as soon as practicable and prior to the footage being accessed.

If the recordings are used for the purposes of an investigation by the ATSB they will be classified as an *on-board recording* (OBR) and managed in accordance with Part 6 of the [Transport Safety Investigation Act 2003](#) (TSI Act) as is currently the case for existing recordings.

Other access to the recordings

Any other use of recordings will remain subject to the requirements and protections in the RSNL. The RSNL currently restricts the use and disclosure of train safety recordings to safety purposes, which is subject to penalties for non-compliance (s131) and specifies that train safety recordings are not admissible in evidence in any civil proceedings, against a rail safety worker (s132), unless directed by a Court.

As in-cab audio and video recordings are train safety recordings s131 RSNL and regulation 26 apply enabling use of train safety recordings for monitoring of railway operations and safety purposes and limitations for the use of these. To ensure the clarity of this a slight amendment to regulation 26 is also proposed - "*..the analysis or monitoring of railway operations for rail safety related matters*". It will be a matter for the operator to negotiate with workers and/or their representatives for the publication or communication of recordings in accordance with the permissions in the Law- in addition to the proposed 'Compulsory Access' provisions.

Recording requirements

- > Audio and video should be recorded continuously while the train is in operation (including when stationary but not stabled), including any railway operations within a yard or terminal.
- > The device should not obstruct the safe operation of the train.
- > The device will capture audio and video recordings with a sufficient degree of clarity to enable investigators to understand the in-cab environment, and to reconcile the recording with each part of a specific journey (eg date and time stamp). The recording quality is to be consistent with an appropriate standard (i.e. AS 4806.2-2006: Closed-Circuit Television (CCTV)—Part 2: Application Guidelines).
- > The device must ensure that the recordings are crashworthy and able to be recovered.
- > Supporting technological specifications are to be contained in a Standard to be developed by RISSB.

Additional management and control of recordings by rail transport operators

Rail transport operators are required to have systems in place to:

- > Notify employees that video cameras are in operation, including signage on the cab's door/s.
- > Advise employees (including contractors and volunteers) of the purpose for which the surveillance is conducted and how the recordings will be used.
- > Restrict access to and misuse of the recordings.

- > Keep full records of who accesses the recordings and for what purpose.
- > Ensure devices are functioning correctly at all times.
- > Advise employees if footage that they are in is to be viewed by the operator (prior to accessing that footage).

The operator will also be responsible for ensuring the functionality of the system.

When an operator tests the in-cab recording system this must occur:

- > By accessing a recording from a period during scheduled maintenance when the train is not in operation, or
- > If an issue is identified with functionality, and testing is required more urgently than at scheduled maintenance, then that testing may occur, provided:
 - all employees that will be included in the recording are to be notified of the testing prior to the recording occurring, and
 - the recording is from a time when the train is not in operation.

An operator may not use the recordings obtained during testing for other purposes than to test the system functionality.

To ensure the integrity of recordings and the privacy of workers, there will be penalties for tampering or failing to comply with these requirements.

Retention periods

Recordings must be permanently erased after 21 days unless an investigation has commenced or unless other arrangements are agreed in writing with the worker(s) involved.

Transition arrangements

Rail transport operators will be responsible for the cost of fitting and managing in-cab audio and video recording, consistent with the RSNL.

There will be a seven-year transition period for retrofitting the devices on existing rolling stock. Rolling stock with an expected asset life of 10 years or more will be required to install the devices or have an approved exemption in place by the expiry of transition.

Interaction with other State/Territory legislation

In the ACT and NSW, workplace surveillance acts¹ will still apply in conjunction with the RSNL with requirements aligning as appropriate. This will also apply for any future jurisdictional surveillance legislation.

¹Workplace Privacy Act 2011 (ACT) and the Workplace Surveillance Act 2005 (NSW)