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STATEMENT OF
OLIVER W. KRUEGER, ASSOCIATE DIRECTOR
COMMUNITY AND ECONOMIC DEVELOPMENT DIVISION
BEFORE THE
HOUSE SUBCOMMITTEE ON COMMERCE,
TRANSPORTATION, AND TOURISM
OF THE
COMMITTEE ON ENERGY AND COMMERCE
ON
RAIL SAFETY INSPECTION AND ENFORCEMENT



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MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE

WE WELCOME THE OPPORTUNITY TO BE HERE TODAY TO DISCUSS OUR REPORT ENTITLED "THE FEDERAL APPROACH TO RAIL SAFETY INSPECTION AND ENFORCEMENT: TIME FOR CHANGE" (CED-82-51) AND OUR ONGOING REVIEW OF THE DEPARTMENT OF TRANSPORTATION'S (DOT) PLAN FOR IMPROVING THE MANAGEMENT OF RAILROAD SAFETY PROGRAMS. OUR REPORT, WHICH WAS ISSUED A FEW DAYS AGO, AND OUR CONTINUING REVIEW RESULTED FROM A REQUEST BY THIS SUBCOMMITTEE, AND CONGRESSMEN DAN GLICKMAN AND ROBERT T. MATSUI.

TO PLACE MY DISCUSSION TODAY IN PROPER PERSPECTIVE, I DO WANT TO STRESS THAT WHEN COMPARED WITH OTHER TRANSPORTATION

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MODES, RAILROADS HAVE A GOOD SAFETY RECORD. HOWEVER, RAIL ACCIDENTS DO OCCUR AND CAUSE FATALITIES, INJURIES, AND COSTLY LOSSES TO EQUIPMENT AND CARGO.

OVER THE PAST FEW YEARS, GAO HAS ISSUED SEVERAL REPORTS ON RAIL SAFETY WHEREIN WE QUESTIONED THE FEDERAL RAILROAD ADMINISTRATION'S (FRA) SAFETY PROGRAM AND ITS MONITORING AND INSPECTION APPROACH.

NOW, I WOULD LIKE TO DISCUSS SOME OBSERVATIONS FROM OUR RECENTLY ISSUED REPORT AND OUR ONGOING REVIEW OF THE SYSTEMS SAFETY PLAN.

FRA'S MONITORING PROGRAM NEEDS
REFOCUSING

FRA ENCOURAGES RAILROAD COMPLIANCE WITH FEDERAL SAFETY STANDARDS BY USING THREE APPROACHES TO MONITORING THE RAILROADS' OPERATIONS: (1) INDIVIDUAL, ROUTINE INSPECTIONS; (2) SYSTEM ASSESSMENTS; AND (3) SPECIAL TASK FORCE ASSESSMENTS. THE PRIMARY ASPECT OF FRA'S SAFETY ENFORCEMENT PROGRAM INVOLVES MAKING INDIVIDUAL, ROUTINE INSPECTIONS OF TRACK OR RAILCARS. THESE INSPECTIONS OFTEN RESULT IN IDENTIFYING NUMEROUS SAFETY DEFECTS AND VIOLATIONS OF SAFETY STANDARDS. HOWEVER, THE NARROW FOCUS OF THIS APPROACH, RESULTS IN INDIVIDUAL DEFECTS BEING CORRECTED, BUT DOES NOT RESULT IN RAILROADS IMPROVING THEIR OVERALL SAFETY PROGRAMS.

UNDER FRA'S INDIVIDUAL, ROUTINE INSPECTION APPROACH MANY INSPECTORS ARE UNABLE TO EFFECTIVELY COVER THEIR ASSIGNED TERRITORIES AND CONDUCT SCHEDULED INSPECTIONS. IN 1981 ALONE, OVER 900,000 INDIVIDUAL UNITS WERE SCHEDULED FOR INSPECTION. FRA HAS 221 FEDERAL INSPECTORS AUGMENTED BY 94 STATE INSPECTORS. NEARLY ONE-HALF THE 62 FEDERAL MANAGEMENT AND INSPECTOR PERSONNEL WE

INTERVIEWED ARE GENERALLY NOT ABLE TO COVER THEIR TERRITORIES. SOME INSPECTORS BELIEVED IT WOULD TAKE THEM 3 TO 5 YEARS TO COVER THEIR TERRITORIES, AND OTHERS ACKNOWLEDGED THAT SOME MAJOR FACILITIES AND INSPECTION POINTS HAD NOT BEEN INSPECTED IN YEARS. FACTORS CONTRIBUTING TO THE INSPECTOR'S INABILITY TO COVER THEIR TERRITORIES, IN ADDITION TO THE VAST MAGNITUDE OF THE JOB, INCLUDE:

- LACK OF CONSISTENCY IN THE SIZE OF INSPECTORS' TERRITORIES,
- VACANT INSPECTOR POSITIONS,
- TRAVEL FUND LIMITATIONS, AND
- UNRELIABLE RAILROAD INSPECTION RECORDS.

DURING 1979 AND 1980 FRA SUCCESSFULLY PERFORMED BROAD-BASED COMPREHENSIVE ASSESSMENTS OF THREE RAILROADS' ENTIRE OPERATIONS AND SYSTEMS. THESE ASSESSMENTS TOOK EXTENSIVE TIME TO PLAN AND TYPICALLY USED 40 OR MORE INSPECTORS TO ACCOMPLISH. THROUGH THESE ASSESSMENTS FRA DETERMINED THE ADEQUACY AND EFFECTIVENESS OF THE RAILROADS' SAFETY PROGRAMS. WHILE THE RESOURCES NECESSARY FOR SUCH ASSESSMENTS ARE SUBSTANTIAL, WE IDENTIFIED SIGNIFICANT POSITIVE RESULTS FROM USING THIS APPROACH.

- ACCIDENTS DECREASED ON THE THREE RAILROADS ASSESSED,
- FRA WAS ABLE TO CONVINCINGLY PRESENT ITS CONCLUSIONS AND RECOMMENDATIONS TO RAILROADS' TOP MANAGEMENT,
- THESE ASSESSMENTS WERE EFFECTIVE IN EVALUATING THE RAILROADS' TRAINING PROGRAMS, AND OVERALL COMMITMENT TO SAFETY, AND
- RAILROADS POSITIVELY RESPONDED TO FRA'S FINDINGS, INCLUDING TAKING ACTION AGAINST PERSONNEL AT FAULT.

FRA HAS ALSO TRIED A DIFFERENT MONITORING APPROACH CALLED SPECIAL TASK FORCE ASSESSMENTS. WHILE THESE ARE LESS EXTENSIVE THAN SYSTEM-WIDE ASSESSMENTS, THEY DO PROVIDE MORE INTENSIVE MONITORING OF A RAILROAD SPECIALTY AREA, THAT IS, TRACK, SIGNAL EQUIPMENT, ETC, OR PORTION OF A RAILROAD'S OPERATIONS THAN THE NORMAL INDIVIDUAL, ROUTINE INSPECTIONS. IN THE FIRST 10 MONTHS OF 1981, FRA COMPLETED 46 OF THESE SPECIAL TASK FORCE ASSESSMENTS. THOUGH IT IS TOO SOON TO EVALUATE THE EFFECTIVENESS OF THESE ASSESSMENTS, THERE ARE INDICATIONS THAT THE RAILROADS WERE INITIATING POSITIVE ACTIONS IN RESPONSE TO OVER 50 PERCENT OF THESE CASES.

SPECIAL TASK FORCE ASSESSMENTS, WHILE NOT AS ENCOMPASSING AS SYSTEM ASSESSMENTS, SERVE A USEFUL FUNCTION. WHEN A RAILROAD'S PROBLEMS ARE LOCALIZED OR RELATE TO ONLY ONE SPECIALTY AREA, THIS TYPE OF ASSESSMENT IS EFFECTIVE IN DEFINING THE CONDITION AND BRINGING IT TO THE ATTENTION OF RAILROAD MANAGEMENT.

WE BELIEVE FRA SHOULD REDUCE ITS EMPHASIS ON INDIVIDUAL, ROUTINE INSPECTIONS AND GRADUALLY UNDERTAKE MORE COMPREHENSIVE SYSTEM-WIDE ASSESSMENTS AND SPECIAL TASK FORCE ASSESSMENTS.

VIOLATIONS REPORTING
NEEDS PROCEDURAL IMPROVEMENTS

EVEN IF FRA SHIFTS ITS EMPHASIS TO BROAD-BASED SYSTEM AND SPECIAL ASSESSMENTS, AN EFFECTIVE CIVIL PENALTY PROCESS WILL BE NECESSARY. THE DETERRENT VALUE OF FRA'S CURRENT VIOLATIONS PROCESS IS QUESTIONABLE. IT CURRENTLY TAKES ABOUT 20 MONTHS--25 PERCENT LONGER THAN 4 YEARS AGO--TO SETTLE A SAFETY VIOLATION. WE BELIEVE ONE OF THE CONTRIBUTING FACTORS TO THIS EXTENSIVE TIMEFRAME IS THE LACK OF GOALS FOR EACH PHASE OF THE PROCESS.

VIOLATIONS ARE USUALLY ACCUMULATED OVER A PERIOD OF TIME AND ARE NEGOTIATED WITH THE RAILROADS IN LARGE BATCHES. IN MOST CASES PENALTIES ARE NEGOTIATED DOWN TO ONE-HALF OR TWO-THIRDS OF THE ORIGINAL ASSESSMENT. BETWEEN FISCAL YEARS 1978 AND 1981, FRA SETTLED OVER \$52 MILLION IN CLAIMS FOR ABOUT \$26 MILLION. BECAUSE VIOLATIONS ARE NOT SETTLED IN A TIMELY MANNER UNDER THIS APPROACH, PENALTIES HAVE LITTLE DETERRENT VALUE.

STATE PARTICIPATION PROGRAM
NEEDS IMPROVEMENT

UNDER THE STATE PARTICIPATION PROGRAM FRA REIMBURSES STATE GOVERNMENTS FOR UP TO 50 PERCENT OF THE EXPENSES OF QUALIFIED STATE RAILROAD INSPECTORS.

ALTHOUGH THE STATE PARTICIPATION PROGRAM HAS NOT ACHIEVED ITS ANTICIPATED GROWTH, IT HAS HAD A POSITIVE EFFECT ON RAIL SAFETY ENFORCEMENT, MAINLY BY SUPPLEMENTING FRA'S INSPECTORS. HOWEVER, CERTAIN ASPECTS OF THE PROGRAM NEED TO BE IMPROVED AND SUCH IMPROVEMENTS NEED TO TAKE PRIORITY OVER PROGRAM GROWTH. FRA (1) SHOULD CONSIDER IMPORTANT FACTORS SUCH AS RAIL TRAFFIC DENSITY AND HAZARDOUS MATERIALS FLOW IN DETERMINING THE NUMBER OF STATE INSPECTORS IT WILL PAY FOR, (2) SHOULD CONSIDER CHANGES IN THE NUMBER OF STATE INSPECTORS AVAILABLE WHEN ASSIGNING FEDERAL INSPECTORS, AND (3) SHOULD EVALUATE THE STATE PROGRAMS AS TO THEIR UNIFORMITY IN ENFORCEMENT AND PROGRAM GUIDANCE PROVIDED.

AGENCY COMMENTS

IN COMMENTING ON OUR REPORT, DOT AGREED THAT A REDIRECTION OF FRA'S MONITORING PROGRAM IS NEEDED AND THAT SUCH A REORIENTATION HAS BEEN UNDERWAY FOR OVER A YEAR. HOWEVER, WE SAW ONLY A LIMITED USE OF BROAD-BASED, COMPREHENSIVE ASSESSMENTS--THREE IN THE 1979-1980 TIMEFRAME AND NONE IN 1981. DOT ALSO STATED THAT FRA

HAS INITIATED A PROGRAM OF CONFERENCES WITH RAILROADS. WE BELIEVE THIS METHOD OF PRESENTING FINDINGS AND CONCLUSIONS TO RAILROAD TOP MANAGEMENT CAN BE EFFECTIVE AS LONG AS THE FINDINGS ARE ADEQUATELY SUPPORTED BY STATISTICALLY VALID WORK PERFORMED DURING BROAD-BASED COMPREHENSIVE ASSESSMENTS. DOT DID NOT AGREE THAT TIME GOALS FOR PROCESSING VIOLATIONS WERE NECESSARY. FRA DID, HOWEVER, ESTABLISH SUCH TIME GOALS FOR ITS FIELD INSPECTION STAFF BUT NOT FOR ITS HEADQUARTERS ACTIVITIES. WE CONTINUE TO BELIEVE THAT SOUND MANAGEMENT PRACTICE AND THE IMPORTANCE OF THE CIVIL PENALTY AS AN ENFORCEMENT TOOL DICTATE THAT ALL CASES BE EXPEDITIOUSLY SETTLED. DOT DID NOT ADDRESS OUR PROPOSALS ON THE STATE PARTICIPATION PROGRAM. THIS PROGRAM HAS SUPPLEMENTED THE FEDERAL MONITORING PROGRAM AND WE BELIEVE THAT IF FRA SHIFTS RESOURCES TO BROAD-BASED, COMPREHENSIVE ASSESSMENTS, THE STATE PROGRAM WILL PLAY AN EVEN MORE VITAL ROLE IN RAILROAD SAFETY.

SYSTEMS SAFETY PLAN

UNDER THE FEDERAL RAILROAD SAFETY AUTHORIZATION ACT OF 1980, DOT WAS REQUIRED TO DEVELOP AND ISSUE BY JANUARY 31, 1981, A SYSTEMS SAFETY PLAN FOR IMPROVING THE MANAGEMENT OF RAILROAD SAFETY PROGRAMS. THE SAFETY PLAN WAS NOT ISSUED UNTIL DECEMBER 1981. OUR REVIEW OF THE PLAN HAS BEEN DELAYED BY FRA'S NOT PROVIDING SOME OF THE DOCUMENTATION NEEDED BY US IN A TIMELY MANNER. SOME IMPORTANT DOCUMENTS WERE PROVIDED TO US ONLY IN THE LAST WEEK OR TWO, EVEN THOUGH THEY HAD BEEN REQUESTED MONTHS EARLIER.

IN ADDITION, BY LETTER DATED MARCH 16, 1982, FRA DENIED US ACCESS TO CERTAIN DOCUMENTS ON THE GROUNDS THAT THEY REPRESENTED ATTORNEY-CLIENT INFORMATION. WE REJECTED THIS

ASSERTION AND, UNDER OUR AUTHORITY IN 31 U.S.C. 54(a), WE WERE PREPARED TO ISSUE A LETTER TO THE SECRETARY OF TRANSPORTATION DEMANDING FULL ACCESS TO THE DENIED DOCUMENTS. HOWEVER, THE AGENCY SUBSEQUENTLY RELENTED AND ON APRIL 7TH PROVIDED THESE DOCUMENTS TO US.

IN VIEW OF THE DELAYS IN OBTAINING INFORMATION, WE HAVE BEEN UNABLE TO THOROUGHLY REVIEW THE SAFETY PLAN AS REQUESTED BY THE SUBCOMMITTEE. WE DO, HOWEVER, HAVE SOME OBSERVATIONS THAT WE WOULD LIKE TO MAKE AT THIS TIME.

- THE FIRST DRAFT OF THE PLAN WAS PREPARED IN NOVEMBER 1980, OVER A YEAR BEFORE THE FINAL PLAN WAS ISSUED.
- THERE WAS NO INDUSTRY OR LABOR INPUT INTO THE DEVELOPMENT OR REVIEW OF THE PLAN.
- THE PLAN IS A VERY GENERAL DOCUMENT THAT DOES NOT
 - (1) PROPOSE WHAT ACTION IS TO BE TAKEN, (2) PROVIDE THE REASONS FOR THE ACTIONS, (3) EXPLAIN HOW SAFETY OBJECTIVES ARE TO BE CARRIED OUT, AND (4) IDENTIFY HOW PROGRESS TOWARD ACHIEVEMENT IS TO BE EVALUATED.
- A NUMBER OF LARGE AND COSTLY STUDIES TOTALING ABOUT \$4 MILLION WERE PERFORMED IN CONJUNCTION WITH THE DEVELOPMENT OF THE PLAN. HOWEVER, THERE IS LITTLE OR NO INFORMATION IN THE PLAN DERIVED FROM THESE STUDIES.
- THE FINAL PLAN DIFFERS SIGNIFICANTLY FROM PRIOR DRAFTS OF THE PLAN. FOR EXAMPLE, EARLIER DRAFTS OF THE PLAN WERE PRECISE AND HIGHLY DETAILED DOCUMENTS EXPLICITLY STATING HOW FRA COULD IMPROVE RAIL SAFETY. THESE DRAFTS INDICATED HOW FRA COULD ACHIEVE RAILROAD COMPLIANCE WITH SAFETY REGULATIONS THROUGH AN ENFORCEMENT PROGRAM THAT

STRESSED CIVIL PENALTIES AND OTHER ENFORCEMENT TOOLS. IN CONTRAST, THE FINAL PLAN IS GENERALLY AN IMPRECISE AND INADEQUATELY SUPPORTED DOCUMENT THAT MAKES LITTLE MENTION OF HOW FRA WILL IMPROVE RAIL SAFETY.

--THE FINAL PLAN ESTABLISHED 20 PERCENT IMPROVEMENT GOALS FOR RAILROAD SAFETY OVER THE NEXT 5 YEARS. THESE GOALS DIFFER SIGNIFICANTLY FROM PRIOR DRAFT PLANS AND ARE INADEQUATELY SUPPORTED. FURTHER, THE PLAN DOES NOT SPECIFY HOW THESE GOALS WILL BE REALIZED.

IN ADDITION TO OUR CONCERNS ABOUT THE PLAN, WE REVIEWED COMMENTS PREPARED BY HIGH LEVEL DOT OFFICIALS QUESTIONING SUPPORT FOR THE LOGIC AND ANALYSIS IN THE PLAN, AND DATA INCONSISTENCIES. WE NOTED THAT SELECTED MINOR COMMENTS WERE INCORPORATED; HOWEVER, MAJOR CONCERNS DID NOT RESULT IN CHANGES TO THE FINAL PLAN.

WE WILL CONTINUE OUR REVIEW OF THE SAFETY PLAN AND REPORT THE RESULTS TO THIS SUBCOMMITTEE AS EXPEDITIOUSLY AS POSSIBLE.

MR. CHAIRMAN, THIS CONCLUDES MY STATEMENT. WE WILL BE GLAD TO RESPOND TO ANY QUESTIONS YOU MAY HAVE.