

Final Rule for 49 CFR Part 270 SSP



AMERICAN
PUBLIC
TRANSPORTATION
ASSOCIATION

Hosted by the Federal Railroad Administration (FRA)
and American Public Transportation Association (APTA)

Wednesday, January 13, 2021

Moderator

Narayana Sundaram

*Sr. Director for Engineering and
Commuter Rail Operations*

American Public Transportation Association
Washington, DC



Presenters



Larry Day, Jr. CSP, SMS, NREMT
Passenger Railroad Safety Specialist
Federal Railroad Administration
Academy, CA



Michael D. Ramsey
Passenger Rail Safety Specialist
Federal Railroad Administration
Conifer, CO

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- The APTA moderator will announce you by name and unmute your audio line so you can ask your question.

System Safety Program Part 270 Regulation

*APTA
Webinar #6*

*January 13,
2021*

*System Safety
Program*

*Larry Day & Mike
Ramsev*



Agenda

Fatigue Management NPRM

Submission Date

Quick Tip

Lessons Learned

Q & A



Fatigue Management

NIDRRM



83484

Federal Register / Vol. 85, No. 246 / Tuesday, December 22, 2020 / Proposed Rules

Beneficial use, Disposal, Hazardous waste, Landfill, Surface impoundment.

Peter Wright,

Assistant Administrator, Office of Land and Emergency Management.

[FR Doc. 2020-27525 Filed 12-21-20; 8:45 am]

BILLING CODE 6560-50-P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Parts 270 and 271

[Docket No. FRA-2015-0122, Notice No. 1]

RIN 2130-AC54

Fatigue Risk Management Programs for Certain Passenger and Freight Railroads

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: Pursuant to the Rail Safety Improvement Act of 2008, FRA proposes to issue regulations requiring certain railroads to develop and

or *miriam.kloeppe@dot.gov*; Amanda K. Emo, Ph.D., Fatigue Program Manager, at 202-281-0695 or *amanda.emo@dot.gov*; or Colleen A. Brennan, Deputy Assistant Chief Counsel, at 202-493-6028 or *colleen.brennan@dot.gov*.

SUPPLEMENTARY INFORMATION:

Table of Contents for Supplementary Information

- I. Introduction and Executive Summary
 - A. Purpose of Rulemaking
 - B. Summary of Costs and Benefits
- II. Rulemaking Authority and Background
 - A. RSIA
 1. Mandate for Rulemaking on Railroad Safety Risk Reduction Programs
 2. Mandate for Rulemaking on Fatigue Management Plans
 3. Authority for Rulemaking on Information Protection
 - B. Fatigue and Fatigue Risk Management Plans
- III. Railroad Safety Advisory Committee Process
 - A. Fatigue Management Plans Working Group
 - B. Task Forces
- IV. FRMP Considerations
 - A. General Overview
 - B. Roles and Responsibilities
 - C. Components of an FRMP
 1. Identifying Safety Hazards
 2. Assessing Risks Associated With

commuter rail passenger transport to develop and implement a safety reduction program to improve the quality of their operations. The section requires a railroad's safety risk reduction program to include a "management plan" meeting certain requirements.

This proposed rule, if finalized, would fulfill RSIA's mandate for railroads to include fatigue management plans in their safety risk reduction programs by requiring railroads to develop and implement Fatigue Risk Management Programs (FRMPs). If proposed, a railroad would implement its FRMP through an FRMP plan.

Under this proposed rule, consistent with the mandate of Section 201, an FRMP is a comprehensive, system-oriented approach to safety in which a railroad determines its fatigue risk, identifies and analyzes applicable hazards and takes action to mitigate or eliminate that fatigue risk.³ If proposed, a railroad would be required to prepare a written FRMP plan and submit it to FRA for review and approval. A railroad's written FRMP plan would become part of its existing safety risk reduction program plan. A railroad would also be required to



FRA – Office of Safety

11/22/2021

For Discussion Purposes Only



U.S. Department
of Transportation
**Federal Railroad
Administration**

Key Dates

Rule Effective Date

- May 4, 2020

Plan Submission

- No later than **March 4, 2021**

50 days left





On Track

At this time there are NO plans to change the deadline for plan submission.

Plan Submission

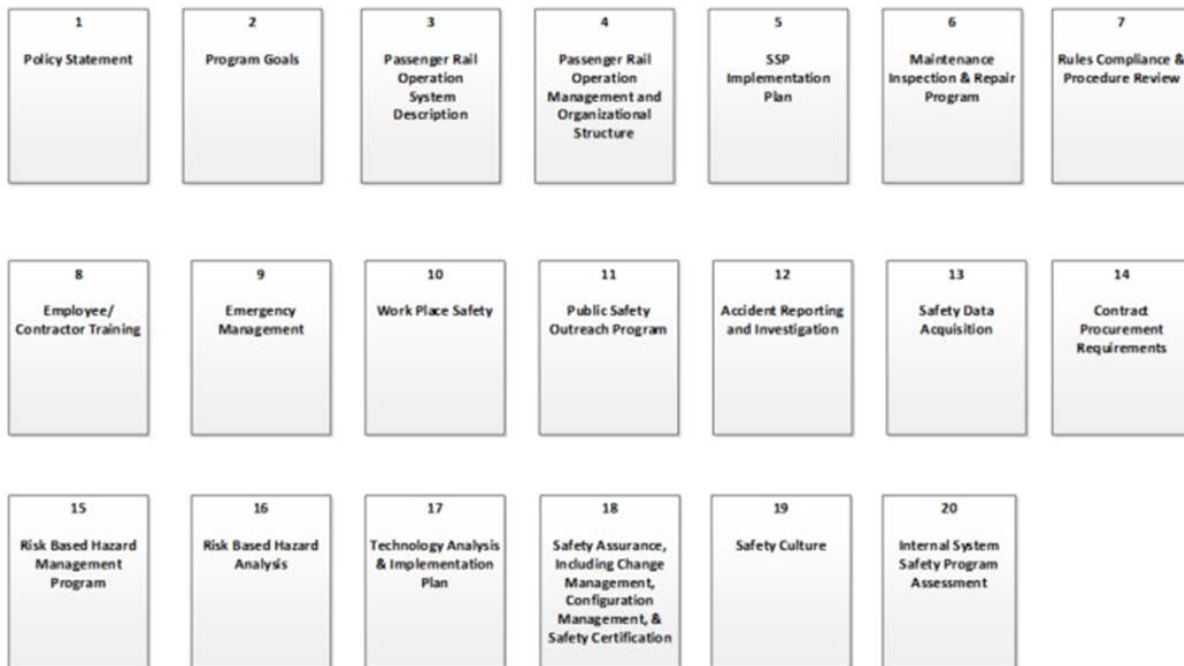
- No later than **March 4, 2021**

50 days left



FRA SYSTEM SAFETY PROGRAM PLAN

20 ELEMENTS



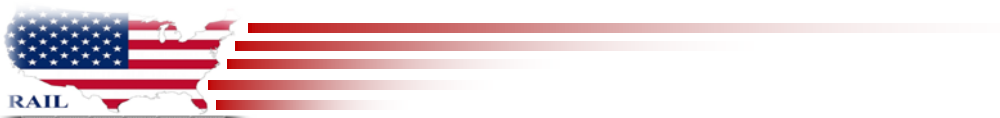
Quick Tip

When reading regulations keep an eye out for lists.

Sometimes they are very obvious:

“(k) *Workplace safety.* Each SSP plan shall contain a statement that describes the programs established to protect the safety of the passenger rail operation's employees and contractors. The statement shall include a description of:

- (1) The processes that help ensure the safety of employees and contractors while working on or in close proximity to railroad property as described in paragraph (d) of this section;
- (2) The processes that help ensure that employees and contractors understand the requirements established by the passenger rail operation pursuant to paragraph (f)(1) of this section;
- (3) Any fitness-for-duty programs or any medical monitoring programs; and
- (4) The standards for the control of alcohol and drug use in part 219 of this chapter.”



Quick Tip

When reading regulations keep an eye out for lists.

Other times they are not so obvious:

“(r) Technology analysis and implementation plan.

(3) Once FRA approves a passenger rail operation's SSP plan pursuant to §270.201(b), including the technology analysis and implementation plan, the passenger rail operation shall apply:

(i) The processes described in paragraph (r)(2)(i) of this section to identify and analyze technologies that will mitigate or eliminate the hazards and resulting risks identified by the risk-based hazard analysis pursuant to paragraph (q)(1) of this section. At a minimum, the technologies a passenger rail operation shall consider as part of its technology analysis are: Processor-based technologies, positive train control systems, electronically-controlled pneumatic brakes, rail integrity inspection systems, rail integrity warning systems, switch position monitors and indicators, trespasser prevention technology, and highway-rail grade crossing warning and protection technology; and...”

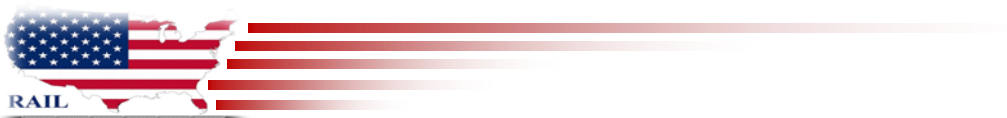


More Lessons Learned

- ✓ Thanks to those that have requested an informal review and now second reviews.
- ✓ We have more and more coming in every day.
- ✓ Streamlined our review process to provide a quicker turn around on reviews.
- ✓ Based on those recent reviews are following lessons learned.



§270.103 (a) General

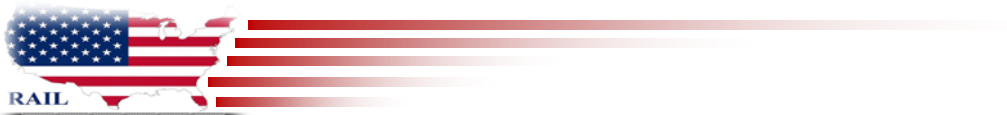


§270.103 (a) General

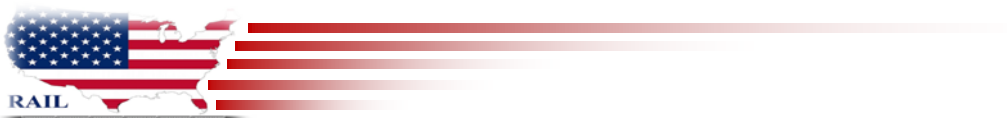
§270.201(a)(3) The SSP plan shall include: (iii) The contact information for the senior representatives of:

- Any host railroad,
- Contractor operator,
- Shared track/corridor operator, or
- Persons utilizing or providing significant safety-related services

(Don't forget your own organization's contact info)



§270.103 (c) Goals



§270.103 (c) Goals

The requirements are that any goals defined by the railroad must be—

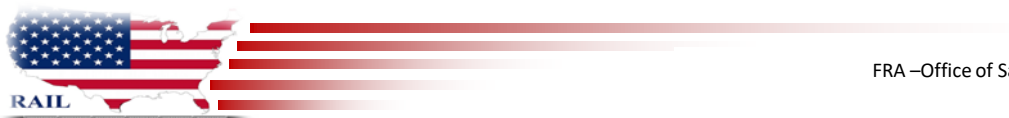
1. **Long-term** so that they are relevant to the railroad's SSP throughout the life of the railroad or system.
2. **Meaningful** so that they are not so broad that they cannot be attributed to specific aspects of the railroad's operations.
3. **Measurable** so that they are designed in such a way that it is easily determined whether each goal is achieved or at least progress is being made to achieve the goal.
4. **Consistent with the overall goal(s) of the SSP, in that they must be focused on the identification of hazards and the elimination or mitigation of the resulting risks.**



§270.103 (c) Goals

The way we look at this section—

1. **Are goals clearly defined?**
2. **Are strategies clear on how goals will be achieved and what Management responsibilities are to achieve the goals?**
3. **Are goals long term?**
4. **Are goals meaningful?**
5. **Are goals measurable?**
6. **Are goals focused on the identification of hazards and the mitigation or elimination of the resulting risks?**



Goals (Example)

Goal # 4

By May 2023 update our public web site to include the latest tools to enhance public outreach.

Strategy #1: By August 2021, the Senior Manager of Information Technology will form a team to review the current public web site and make recommendations for enhancements.

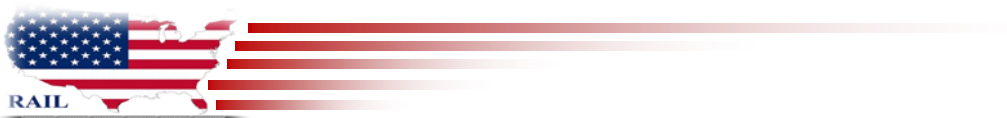
Strategy #2: By December 2021, submit the recommendations to the general manager for approval.

Strategy #3: By April 2022, prepare a contract specification and bid documents for the upgrade of the public web site and solicit bids.

Strategy #4: By July 2022, select contractor and initiate enhancements.



§270.103 (q) Risk-Based Hazard Analysis



§270.103 (q) RBH Analysis

Discussion of application of analysis on:

1. Operating rules and practices
2. Infrastructure
3. *Equipment
4. *Employee Levels & Schedules
5. *Management Structure
6. *Employee Training
7. *Other aspects that have an impact on railroad safety not covered by railroad safety regulations or other Federal regulations.

**most commonly missed*



§270.103 (q) RBH Analysis

(q) Risk-based hazard analysis. (1) Once FRA approves a passenger rail operation's SSP plan pursuant to §270.201(b), the risk-based hazard analysis methodology identified in paragraphs (p)(1)(i) through (iii) of this section shall be applied to identify and analyze hazards on the rail system and to determine the resulting risks. At a minimum, the aspects of the rail system that shall be analyzed include: Operating rules and practices, infrastructure, equipment, employee levels and schedules, management structure, employee training, and other aspects that have an impact on railroad safety not covered by railroad safety regulations or other Federal regulations.

(2) A risk-based hazard analysis shall identify specific actions that shall be implemented using the methods described in paragraph (p)(1)(iv) of this section that will mitigate or eliminate the hazards and resulting risks identified by paragraph (q)(1) of this section.

(3) A passenger rail operation shall also conduct a risk-based hazard analysis pursuant to paragraphs (q)(1) and (2) of this section when there are significant operational changes, system extensions, system modifications, or other circumstances that have a direct impact on railroad safety.



§270.103 (q) RBH Analysis

(q) Risk-based hazard analysis.

- (1) Once FRA approves a passenger rail operation's SSP plan pursuant to §270.201(b), the risk-based hazard analysis methodology identified in paragraphs (p)(1)(i) through (iii) of this section shall be applied to identify and analyze hazards on the rail system and to determine the resulting risks. At a minimum, the aspects of the rail system that shall be analyzed include:

Operating rules and practices,
infrastructure,
equipment,
employee levels and
schedules,
management structure,
employee training, and
other aspects that have an impact on railroad safety not covered by railroad safety regulations or other Federal regulations.

- (2) A risk-based hazard analysis shall identify specific actions that shall be implemented using the methods described in paragraph (p)(1)(iv) of this section that will mitigate or eliminate the hazards and resulting risks identified by paragraph (q)(1) of this section.

- (3) A passenger rail operation shall also conduct a risk-based hazard analysis pursuant to paragraphs (q)(1) and (2) of this section when there are
significant operational changes,
system extensions,
system modifications, or
other circumstances that have a direct impact on railroad safety.



§270.103 (q) RBH Analysis

The way we look at this section—

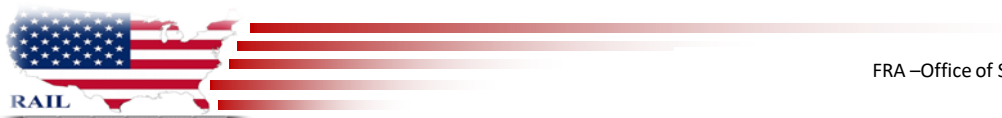
- 1. Is there a discussion of application of analysis to determine the resulting risks on:**
 - a) Operating rules and practices,
 - b) Infrastructure,
 - c) Equipment,
 - d) Employee Levels & Schedules,
 - e) Employee Training,
 - f) New Technology &
 - g) Other Aspects that have an impact on passenger rail operator safety not covered by passenger rail operator safety regulations or other Federal regulations



§270.103 (q) RBH Analysis

The way we look at this section—

2. Is there a discussion of when Hazard Analysis will be used?
3. Does the passenger rail operator risk-based hazard analysis identify and implement specific actions that will mitigate or eliminate the hazards and resulting risks that have been identified?
4. Does the passenger rail operator conduct a risk-based hazard analysis when there are significant operational changes, system extensions, system modifications, or other circumstances that have a direct impact on passenger rail operator safety?



\$270.103 (q) RBH Analysis (Example)

Hazard identification is initiated by many different activities and sources, which include, but is not limited to, the following:

Evaluation of:

- operating rules and practices
- infrastructure and equipment
- employee levels and schedules
- management structure
- employee training
- Other aspects that have an impact on railroad safety not covered by railroad safety regulations or other Federal regulations

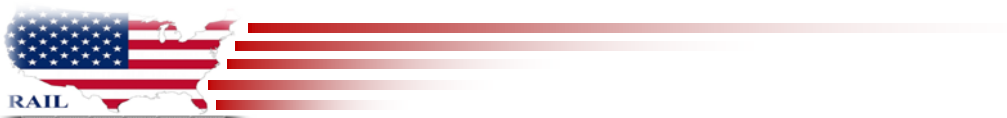
Employee fatigue and new technology
Infrastructure inspections
External safety audits
Employee observations
System modification proposals
Accident/incident investigations

Various safety committees
Internal safety audits
FRA inspections
Emergency preparedness debriefings and critiques
Customer service reports
Analysis of accident/incident data

In addition to the above, proposed changes in future operations will be assessed to assure that no new hazards are introduced into the system. These include significant operational changes, system extensions, system modifications, or other circumstances that have a direct impact on passenger rail operator safety.



§270.103 (s) Safety Assurance



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§270.103 (s) Safety Assurance

Safety Assurance—

(1) Change management.

Each passenger rail operation shall establish and set forth a statement in its SSP plan describing the processes and procedures used to manage:

- Significant operational changes,
- System extensions,
- System modifications, or
- Other significant changes that will have a direct impact on railroad safety.

(2) Configuration management.

Each passenger rail operation shall establish a configuration management program and describe the program in its SSP plan. The configuration management program shall:

- (i) Identify who has authority to make configuration changes;
- (ii) Establish processes to make configuration changes to the rail system; and
- (iii) Establish processes to ensure that all departments of the system affected by the configuration changes are formally notified and approve of the change.



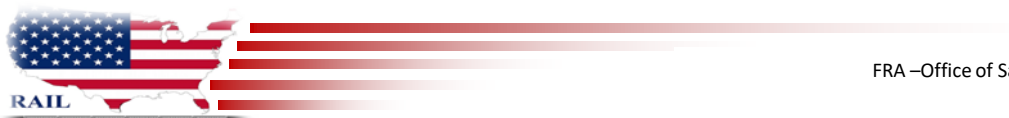
§270.103 (s) Safety Assurance

Safety Assurance

(3) **Safety certification.**

Each passenger rail operation shall establish and set forth a statement in its SSP plan that describes the certification process used to help ensure that safety concerns and hazards are adequately addressed before:

- The initiation of operations or
- Major projects to extend,
- Rehabilitate, or
- Modify an existing system or
- Replace vehicles and equipment.



§270.103 (s) Safety Assurance

Discussion of process for formal
notifications

Include the processes to make system
modifications and the processes to
ensure that all departments affected
are notified and approve the change.



§270.103 (s) Safety Assurance

(continued)
Description of certification process to ensure that safety concerns are addressed prior to initiation of operations, extensions, vehicle replacements, etc.

Safety Certification: Fully describe the processes used in conjunction with the risk based hazard management process, which formalize the management of risk acceptance, identify and document the safety critical elements, tracking, and final certification of the safety critical elements prior to operation.



Assurance

(Example)

The **Safety Certification Process** is utilized by the FRA to ensure that safety concerns and hazards are adequately addressed prior to the initiation of passenger operations for new starts and subsequent major projects to extend, rehabilitate, or modify an existing system or to replace vehicles and equipment. Safety Certification will be utilized for any project over \$25 million and projects under that amount will be analyzed to determine if Safety Certification is necessary to ensure safety compliance.

The RRX Safety Certification Program has the following goals: verify that acceptable safety levels are met or exceeded; document the verification of safety standards; and provide consistency for project certification. The objectives of the program include: identify and verify safety requirements of the system design; identify and verify safety for construction and system equipment installation; identify and verify that safety requirements are met or exceeded for system testing; and identify and verify that safety requirements are met for changes or modifications to standard operating procedures, training manuals, rule books, and system elements. Under the direction of the Manager of Safety, each project manager, in coordination with the appropriate department head is responsible for the management of the program.

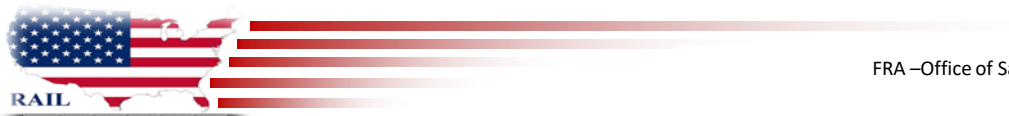
The RRX Safety Certification Procedure (SCP) is detailed in a section of the RRX Safety Assurance Manual (RRX SAM-01).



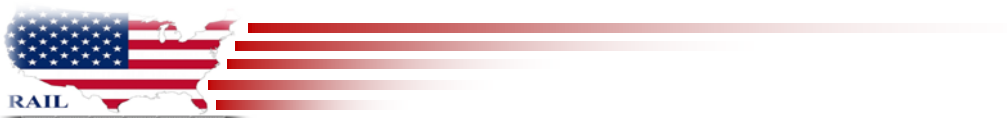
§270.103 (s) Safety Assurance

The way we look at this section –

1. **Change Management:** Is there a description of processes to manage operational changes, system extensions, system modifications, other significant changes that have a direct impact on railroad safety?
2. **Configuration Management:** Is there a discussion of configuration management program?
3. Is there a discussion of who has authority to make changes?
4. Is there a discussion of process for formal notifications?
5. **Safety Certification:** Is there a description of certification process to ensure that safety concerns are addressed prior to initiation of operations, extensions, vehicle replacements, etc.?



§270.107 Consultation Requirements



Plan Amendments and Consultation

The way we look at this section –

1. Is there a description of the Consultation process for amendments included?

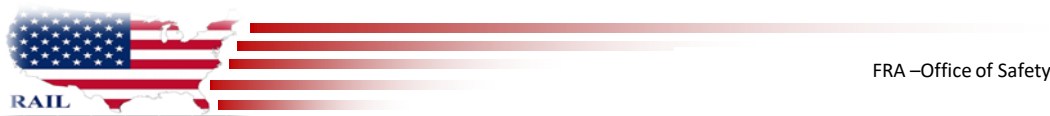


§ 270.107 Consultation Requirements

270.103(b) Consultation statements.

A passenger rail operation required to submit an SSP plan under §270.201 must also submit, together with the plan, a consultation statement that **includes the following** information:

- (1) **A detailed description of the process** utilized to consult with directly affected employees;
- * (2) If the passenger rail operation could **not reach agreement** with its directly affected employees on the contents of its SSP plan, identification of any known areas of disagreement and an explanation of why it believes agreement was not reached; and



§ 270.107 Consultation Requirements

270.103(b) Consultation statements.

A passenger rail operation required to submit an SSP plan under §270.201 must also submit, together with the plan, a consultation statement that **includes the following** information:

(3) A **service list** containing the **name and contact information** for either each international/national president and general chairperson of any non-profit employee labor organization representing a class or craft of the passenger rail operation's directly affected employees, The service list must also contain the **name and contact information** for any **directly affected employee who significantly participated** in the consultation process independently of a non-profit employee labor organization. When a passenger rail operation submits its SSP plan and consultation statement to FRA pursuant to §270.201, it must also simultaneously **send a copy of these documents to all individuals identified in the service list.**



APPENDIX B TO PART 270—FEDERAL RAILROAD ADMINISTRATION GUIDANCE ON THE SYSTEM SAFETY PROGRAM CONSULTATION PROCESS

APPENDIX B TO PART 270—FEDERAL RAILROAD ADMINISTRATION GUIDANCE ON THE SYSTEM SAFETY PROGRAM CONSULTATION PROCESS

...

THE MEANING OF “GOOD FAITH” AND “BEST EFFORTS”

...

GUIDANCE ON HOW A PASSENGER RAIL OPERATION MAY CONSULT WITH DIRECTLY AFFECTED EMPLOYEES

...

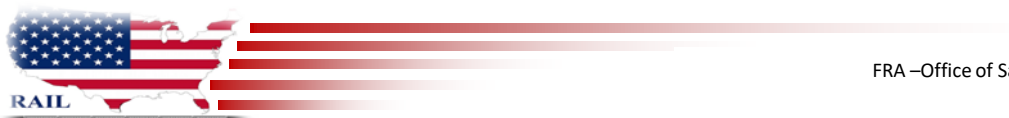
Employees Represented by a Non-Profit Employee Labor Organization

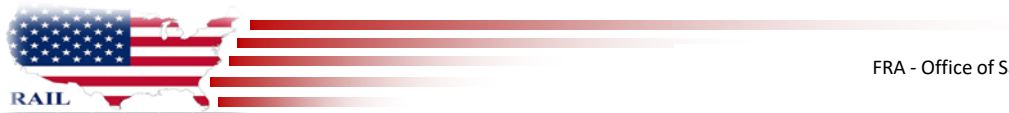
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Employees Who Are Not Represented by a Non-Profit Employee Labor Organization

...

As provided by §270.107(c), if agreement on the contents of an SSP plan cannot be reached, then a non-represented employee may file a statement with the FRA Associate Administrator for Railroad Safety and Chief Safety Officer explaining employee's views on the plan on which agreement was not reached.



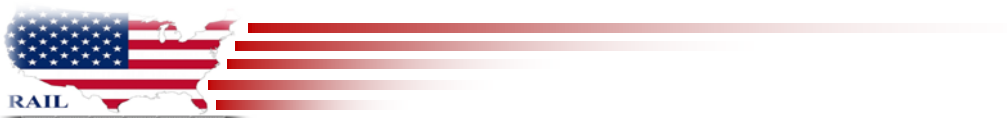


Questions?

Please raise your hand

or

Type your question in the comment
section



U.S. Department
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**Federal Railroad
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Q&A

QUESTION:

How do I submit my system safety plan to FRA?

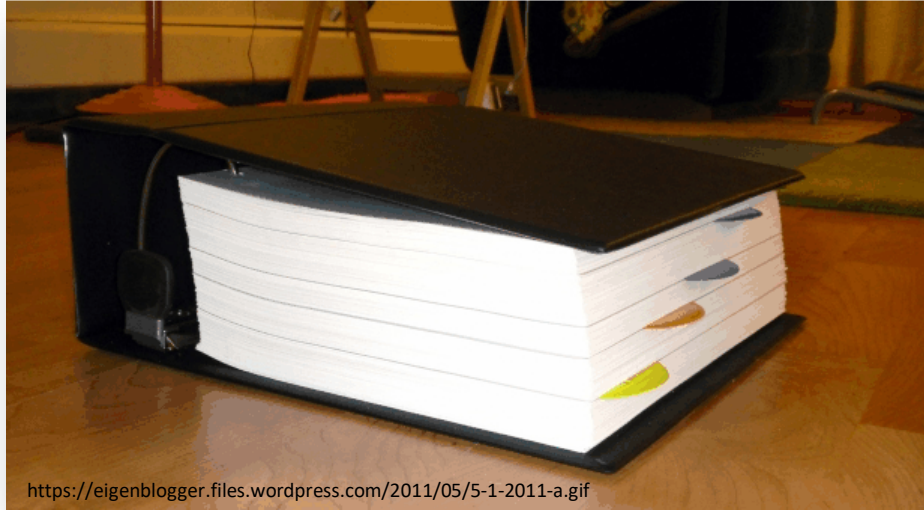
ANSWER:

The plan can be submitted to the Associate Administrator of Railroad Safety and Chief Safety Officer in Washington D.C. and/or electronically through the [FRA Railroad Portal](#).

For electronic submittal user guide, contact Mike Ramsey or Larry Day.



Write it to fit your organization, not ours



The rule provides each passenger rail operation with a certain amount of flexibility to tailor its SSP to its specific operations.



FRA System Safety Team

- Communication

- System Safety Team
 - Larry Day
 - larry.day@dot.gov
 - 909 782-0613
 - Mike Ramsey
 - michael.ramsey@dot.gov
 - 720-201-5718
 - TBD



Questions?



Thank you for your time



Questions and Answers

Type your Question:

- Submit a question by typing into the Question box on your attendee control panel, then click the “send arrow” located at the bottom of the box

Ask your Question:

- Select the “raise hand” icon to indicate you wish to ask your question directly to our presenters
- The APTA moderator will announce you by name and unmute your audio line so you can ask your question.

Closing Remarks

Adjournment

Thank You!