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Issued on: July 5, 2011.

**William Bronrott,**

Deputy Administrator.

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**DEPARTMENT OF TRANSPORTATION****Federal Railroad Administration****49 CFR Chapter II**

[Docket No. FRA-2009-0038]

RIN 2130-AC11

**Risk Reduction Program****AGENCY:** Federal Railroad Administration (FRA), Department of Transportation (DOT).**ACTION:** Notice of public hearings.

**SUMMARY:** FRA is announcing public hearings to provide interested persons an opportunity to discuss the development of a regulation requiring certain railroads to develop a Risk Reduction Program (RRP). The Rail Safety Improvement Act of 2008 requires the development and implementation of railroad safety risk reduction programs. Risk reduction is a comprehensive, system-oriented approach to safety that (1) determines an operation's level of risk by identifying and analyzing applicable hazards and (2) develops plans to mitigate that risk. Each RRP is statutorily required to be supported by a risk analysis and a Risk Reduction Program Plan (RRPP), which must include a Technology Implementation Plan and a Fatigue Management Plan.

**DATES:** To encourage participation, two public hearings will be held. A public hearing will be held on July 19, 2011, in Chicago, and a public hearing will be held on July 21, 2011, in Washington, DC. At both locations, the times of the public hearings will be from 9 a.m. to 4 p.m.

**ADDRESSES:** *Public Hearings.* The public hearing in Chicago will be held at the W Chicago City Center Hotel located at 172 West Adams, in the Great Room I, Plateau. The public hearing in Washington, DC, will be held at the Doubletree Hotel located at 1515 Rhode Island Avenue, NW., in the Terrace Ballroom.

*Attendance:* Any persons wishing to make a statement at the hearing should notify FRA's Docket Clerk, Michelle Silva, by telephone, e-mail, or in writing, at least five business days before the date of the hearing. Ms.

Silva's contact information is as follows: FRA, Office of Chief Counsel, Mail Stop 10, 1200 New Jersey Avenue, SE., Washington, DC 20590; telephone: 202-493-6030; e-mail:

*michelle.silva@dot.gov.* For information on facilities or services for persons with disabilities or to request special assistance at the meetings, please contact by telephone or e-mail as soon as possible, Wendy A. Noble Burns at 202-493-6304 or *wendy.noble@dot.gov.*

**FOR FURTHER INFORMATION CONTACT:**

Miriam Kloeppe, Staff Director, Risk Reduction Program Division, Office of Safety Analysis, FRA, 1200 New Jersey Avenue, SE., Mail Stop 25, Washington, DC 20590; telephone: 202-493-6224; e-mail: *miriam.kloeppe@dot.gov;* or Matthew L. Navarrete, Trial Attorney, Office of Chief Counsel, FRA, 1200 New Jersey Avenue, SE., Mail Stop 10, Washington, DC 20590; telephone: 202-493-0138; e-mail: *matthew.navarrete@dot.gov.*

**SUPPLEMENTARY INFORMATION:** Interested parties are invited to present oral statements and to proffer information and views at the hearings. The hearings will be informal and will be conducted by a representative designated by FRA in accordance with FRA's Rules of Practice (49 CFR 211.25). The hearings will be non-adversarial proceedings; therefore, there will be no cross examination of persons presenting statements or proffering evidence. An FRA representative will make an opening statement outlining the scope of each hearing. After all initial statements have been completed, those persons wishing to make a brief rebuttal will be given the opportunity to do so in the same order in which the initial statements were made. Additional procedures, as necessary for the conduct of the hearings, will be announced at the hearings. The purpose of these hearings is to receive oral comments in response to an Advanced Notice of Proposed Rulemaking (ANPRM) that requested public comment on a potential risk reduction rulemaking. See 75 FR 76345-76351, Dec. 8, 2010. A transcript of the discussions will be made part of the public docket in this proceeding.

*Public Participation Procedures.* Any person wishing to participate in one of the public hearings should notify the Docket Clerk by mail or at the address or fax number provided in the Attendance section at least five working days prior to the date of the hearing and submit three copies of the oral statement that he or she intends to make at the proceeding. The notification should identify the party the person represents,

the particular subject(s) the person plans to address, and the time requested. The notification should also provide the Docket Clerk with the participant's mailing address and other contact information. FRA reserves the right to limit participation in the hearings of persons who fail to provide such notification. FRA reserves the right to limit the duration of presentations if necessary to afford all persons with the opportunity to speak.

**Background**

In § 103 of the Rail Safety Improvement Act of 2008, Public Law 110-432, 122 Stat. 4854 (Oct. 16, 2008) (codified at 49 U.S.C. 20156) (hereinafter RSIA), Congress directed the Secretary of Transportation to issue a regulation by October 16, 2012, requiring certain railroads to develop an RRP. While the statute vests certain responsibilities with the Secretary of the U.S. DOT (Secretary), the Secretary has since delegated those responsibilities to the FRA Administrator. See 49 CFR 1.49(o); 74 FR 26981 (June 5, 2009); see also 49 U.S.C. 103(g).

Each railroad subject to the regulation would have to develop and implement an RRP approved by FRA. See 49 U.S.C. 20156(a)(1). This RRP is required to be supported by an RRPP. See 49 U.S.C. 20156(d)(2). FRA would conduct an annual review to ensure that each railroad has complied with its RRP. See 49 U.S.C. 20156(a)(3). The RSIA mandates that the following three categories of railroads be required to develop and implement an FRA-approved RRP:

- (1) Class I railroads;
- (2) Railroad carriers with inadequate safety performance, as determined by the Secretary; and
- (3) Railroad carriers that provide intercity rail passenger or commuter rail passenger transportation (passenger railroads).

See 49 U.S.C. 20156(a)(1).

Railroads not required to implement RRP under the RSIA would be permitted to voluntarily submit plans meeting the requirements of any final RRP regulation for FRA review and approval. See 49 U.S.C. 20156(a)(4).

On December 8, 2010, FRA published an ANPRM soliciting public comment on how FRA can best develop a risk reduction regulation based upon the RSIA's requirements. See 75 FR 76345-76351. The ANPRM discussed certain major components that must be included in the final rule under the RSIA and identified various approaches that FRA could take in developing the rule. The purpose of these hearings is to

receive oral comment in response to the issues discussed in the ANPRM.

FRA encourages all interested persons to participate in one of these hearings, at the addresses noted above. We encourage participants wishing to make

oral statements to plan on attending an entire hearing, since FRA may not be able to accommodate competing requests to appear at specific times.

Issued in Washington, DC, on June 29, 2011.

**Jo Strang,**

*Associate Administrator for Railroad Safety/  
Chief Safety Officer, Federal Railroad  
Administration.*

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