

## PART 272—CRITICAL INCIDENT STRESS PLANS

### Subpart A—General

Sec.

- 272.1 Purpose.
- 272.3 Application.
- 272.5 General duty.
- 272.7 Coverage of a critical incident stress plan.
- 272.9 Definitions.
- 272.11 Penalties.

### Subpart B—Plan Components and Approval Process

- 272.101 Content of a critical incident stress plan.
- 272.103 Submission of critical incident stress plan for approval by the Federal Railroad Administration.
- 272.105 Requirement to file critical incident stress plan electronically.

AUTHORITY: 49 U.S.C. 20103, 20107, 20109 note; 28 U.S.C. 2461 note; and 49 CFR 1.89.

SOURCE: 79 FR 16233, Mar. 25, 2014, unless otherwise noted.

### Subpart A—General

#### § 272.1 Purpose.

(a) The purpose of this part is to promote the safety of railroad operations and the health and safety of railroad employees, especially those who are directly involved in a critical incident by requiring that the employing railroad offers and provides appropriate support services, including appropriate relief, to the directly-involved employees following that critical incident.

(b) Nothing in this part constrains a railroad from implementing a critical incident stress plan that contains additional provisions beyond those specified in this part (including provisions covering additional incidents or persons), provided that such additional provisions are not inconsistent with this part.

#### § 272.3 Application.

This part applies to each

- (a) Class I railroad, including the National Railroad Passenger Corporation;
- (b) Intercity passenger railroad; or
- (c) Commuter railroad.

#### § 272.5 General duty.

A railroad subject to this part shall adopt a written critical incident stress plan approved by the Federal Railroad Administration under § 272.103 and shall comply with that plan. Should a railroad subject to this part make a material modification to the approved plan, the railroad shall adopt the modified plan approved by the Federal Railroad Administration under § 272.103 and shall comply with that plan, as revised.

#### § 272.7 Coverage of a critical incident stress plan.

The critical incident stress plan of a railroad subject to this part shall state that it covers, and shall cover, the following individuals employed by the railroad if they are directly involved (as defined in § 272.9) in a critical incident:

(a) Railroad employees who are subject to the hours of service laws at—

(1) 49 U.S.C. 21103 (that is, train employees not subject to subpart F of part 228 of this chapter regarding the hours of service of train employees engaged in commuter or intercity rail passenger transportation);

(2) 49 U.S.C. 21104 (signal employees); or

(3) 49 U.S.C. 21105 (dispatching service employees);

(b) Railroad employees who are subject to the hours of service regulations at subpart F of part 228 of this chapter (regarding the hours of service of train employees engaged in commuter or intercity rail passenger transportation);

(c) Railroad employees who inspect, install, repair, or maintain railroad right-of-way or structures; and

(d) Railroad employees who inspect, repair, or maintain locomotives, passenger cars, or freight cars.

#### § 272.9 Definitions.

As used in this part—

*Accident/incident* has the meaning assigned to that term by part 225 of this chapter.

*Administrator* means the Administrator of the Federal Railroad Administration or the Administrator's delegate.

*Associate Administrator* means the Associate Administrator for Railroad

Safety and Chief Safety Officer of the Federal Railroad Administration or that person's delegate.

*Class I* has the meaning assigned to that term by the regulations of the Surface Transportation Board (49 CFR part 1201; General Instructions 1-1).

*Commuter railroad* means a railroad, as described by 49 U.S.C. 20102(2), including public authorities operating passenger train service, that provides regularly-scheduled passenger service in a metropolitan or suburban area and commuter railroad service that was operated by the Consolidated Rail Corporation on January 1, 1979.

*Critical incident* means either—

(1) An accident/incident reportable to FRA under part 225 of this chapter that results in a fatality, loss of limb, or a similarly serious bodily injury; or

(2) A catastrophic accident/incident reportable to FRA under part 225 of this chapter that could be reasonably expected to impair a directly-involved employee's ability to perform his or her job duties safely.

*Directly-involved employee* means a railroad employee covered under § 272.7—

(1) Whose actions are closely connected to the critical incident;

(2) Who witnesses the critical incident in person as it occurs or who witnesses the immediate effects of the critical incident in person; or

(3) Who is charged to directly intervene in, or respond to, the critical incident (excluding railroad police officers or investigators who routinely respond to and are specially trained to handle emergencies).

*FRA* means the Federal Railroad Administration, 1200 New Jersey Ave. SE., Washington, DC 20590.

*Home terminal* means an employee's regular reporting point at the beginning of the tour of duty.

*Intercity passenger railroad* means a railroad, as described by 49 U.S.C. 20102(2), including public authorities operating passenger train service, which provides regularly-scheduled passenger service between large cities.

#### § 272.11 Penalties.

(a) *Civil penalties.* A person who violates any requirement of this part, or causes the violation of any such re-

quirement, is subject to a civil penalty of at least \$1,086 and not more than \$35,516 per violation, except that: Penalties may be assessed against individuals only for willful violations, and, where a grossly negligent violation or a pattern of repeated violations has created an imminent hazard of death or injury to persons, or has caused death or injury, a penalty not to exceed \$142,063 per violation may be assessed. Each day that a violation continues is a separate offense. See appendix A to part 209 of this chapter for a statement of agency civil penalty policy.

(b) *Criminal penalties.* A person who knowingly and willfully falsifies a record or report required by this part may be subject to criminal penalties under 49 U.S.C. 21311.

[79 FR 16233, Mar. 25, 2014, as amended at 81 FR 43113, July 1, 2016; 82 FR 16135, Apr. 3, 2017; 83 FR 60750, Nov. 27, 2018; 84 FR 37076, July 31, 2019; 86 FR 1760, Jan. 11, 2021; 86 FR 23256, May 3, 2021; 87 FR 15870, Mar. 21, 2022; 88 FR 1129, Jan. 6, 2023; 88 FR 89564, Dec. 28, 2023]

## Subpart B—Plan Components and Approval Process

### § 272.101 Content of a critical incident stress plan.

Each critical incident stress plan under this part shall include, at a minimum, provisions for—

(a) Informing each directly-involved employee as soon as practicable of the relief options available in accordance with the railroad's critical incident stress plan;

(b) Offering timely relief from the balance of the duty tour for each directly-involved employee, after the employee has performed any actions necessary for the safety of persons and contemporaneous documentation of the incident;

(c) Offering timely transportation to each directly-involved employee's home terminal, if necessary;

(d) Offering counseling, guidance, and other appropriate support services to each directly-involved employee;

(e) Permitting relief from the duty tour(s) subsequent to the critical incident, for an amount of time to be determined by each railroad, if requested

## § 272.103

## 49 CFR Ch. II (10–1–24 Edition)

by a directly-involved employee as may be necessary and reasonable;

(f) Permitting each directly-involved employee such additional leave from normal duty as may be necessary and reasonable to receive preventive services or treatment related to the incident or both, provided the employee's clinical diagnosis supports the need for additional time off or the employee is in consultation with a health care professional related to the incident and such health care professional supports the need for additional time off in order for the employee to receive preventive services or treatment related to the incident, or both; and

(g) Addressing how the railroad's employees operating or otherwise working on track owned by or operated over by a different railroad will be afforded the protections of the plan.

### **§ 272.103 Submission of critical incident stress plan for approval by the Federal Railroad Administration.**

(a) Each railroad subject to this part shall submit to the Federal Railroad Administration, Office of Railroad Safety, 1200 New Jersey Avenue SE, Washington, DC 20590, for approval, the railroad's critical incident stress plan no later than 12 months after June 23, 2014.

(b) Each railroad subject to this part shall—

(1) Simultaneously with its filing with FRA, serve, either by hard copy or electronically, a copy of the submission filed pursuant to paragraph (a) of this section or a material modification filed pursuant to paragraph (e) of this section on the international/national president of any non-profit employee labor organization representing a class or craft of the railroad's employees subject to this part; and

(2) Include in its submission filed pursuant to paragraph (a) of this section or a material modification filed pursuant to paragraph (e) of this section a statement affirming that the railroad has complied with the requirements of paragraph (b)(1) of this section, together with a list of the names and addresses of the persons served.

(c) Not later than 90 days after the date of filing a submission pursuant to paragraph (a) of this section or a mate-

rial modification pursuant to paragraph (e) of this section, a labor organization representing a class or craft of the railroad's employees subject to this part, may file a comment on the submission or material modification.

(1) Each comment shall be submitted to the Associate Administrator for Railroad Safety and Chief Safety Officer, FRA, 1200 New Jersey Avenue SE, Washington, DC 20590; and

(2) The commenter shall certify that a copy of the comment was served on the railroad.

(d) A critical incident stress plan is considered approved for purposes of this part if and when FRA notifies the railroad in writing that the critical incident stress plan is approved, or 120 days after FRA has received the railroad's critical incident stress plan, whichever occurs first.

(e) After FRA's initial approval of a railroad's critical incident stress plan, if the railroad makes a material modification of the critical incident stress plan, the railroad shall submit to FRA for approval a copy of the critical incident stress plan as it has been revised to reflect the material modification within 30 days of making the material modification.

(f) Upon FRA approval of a railroad's critical incident stress plan and any material modification of the critical incident stress plan, the railroad must make a copy of the railroad's plan and the material modification available to the railroad's employees identified in § 272.7.

(g) Each railroad subject to this part must make a copy of the railroad's plan available for inspection and reproduction by the FRA.

### **§ 272.105 Requirement to file critical incident stress plan electronically.**

(a) Each railroad subject to this part must submit its critical incident stress plan and any material modifications to that plan electronically through FRA's Web site at <http://safetydata.fra.dot.gov/OfficeofSafety/CISP>.

(b) The railroad's electronic submission shall provide the Associate Administrator with the following:

(1) The name of the railroad;

(2) The names of two individuals, including job titles, who will be the railroad's points of contact;

(3) The mailing addresses for the railroad's points of contact;

(4) The railroad's system or main headquarters address located in the United States;

(5) The email addresses for the railroad's points of contact;

(6) The daytime telephone numbers for the railroad's points of contact; and

(7) An electronic copy of the railroad's critical incident stress plan or any material modifications to that plan being submitted for FRA approval.

(c) FRA may electronically store any materials required by this part.

## PART 273—METRICS AND MINIMUM STANDARDS FOR INTERCITY PASSENGER TRAIN OPERATIONS

Sec.

273.1 Purpose.

273.3 Definitions.

273.5 On-time performance and train delays.

273.7 Customer service.

273.9 Financial.

273.11 Public benefits.

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SOURCE: 85 FR 73000, Nov. 16, 2020, unless otherwise noted.

### § 273.1 Purpose.

The purpose of this part is to establish metrics and minimum standards for measuring the performance and service quality of intercity passenger train operations.

### § 273.3 Definitions.

As used in this part—

*Actual running time* means the actual elapsed travel time of a train's travel on a host railroad, between the departure time at the first reporting point for a host railroad segment and the arrival time at the reporting point at the end of the host railroad segment.

*Adjusted operating expenses* means Amtrak's operating expenses adjusted to exclude certain Amtrak expenses that are not considered core to operating the business. The major exclusions are depreciation, capital project

related expenditures not eligible for capitalization, non-cash portion of pension and post-retirement benefits, and Amtrak's Office of Inspector General expenses. Adjusted operating expenses do not include any operating expenses for State-supported routes that are paid for separately by States.

*Adjusted operating revenue* means Amtrak's operating revenue adjusted to exclude certain revenue that is associated with capital projects. The major exclusions are the amortization of State capital payments and capital project revenue related to expenses not eligible for capitalization.

*Amtrak* means the National Railroad Passenger Corporation.

*Amtrak's customer satisfaction survey* means a market-research survey that measures Amtrak's satisfaction score as measured by specific service attributes that cover the entire customer journey.

*Amtrak-responsible delays* means delays recorded by Amtrak, in accordance with Amtrak procedures, as Amtrak-responsible delays, including passenger-related delays at stations, Amtrak equipment failures, holding for connections, injuries, initial terminal delays, servicing delays, crew and system delays, and other miscellaneous Amtrak-responsible delays.

*Avoidable operating costs* means costs incurred by Amtrak to operate train service along a route that would no longer be incurred if the route were no longer operated.

*Certified schedule* means a published train schedule that Amtrak and the host railroad jointly certify is aligned with the customer on-time performance metric and standard in § 273.5(a)(1) and (2). If a published train schedule is reported as a certified schedule under § 273.5(c)(1), then it cannot later be designated as an uncertified schedule.

*Disputed schedule* means:

(1) A published train schedule for which a specific change is sought:

(i) That is the only subject of a non-binding dispute resolution process led by a neutral third-party and involving Amtrak and one or more host railroads;

(ii) That is the only subject of a non-binding dispute resolution process led by a neutral third-party that has been