

§ 239.105

structures, or roadbeds, including labor costs and the costs for acquiring new equipment and material.

§ 239.105 Debriefing and critique.

(a) *General.* Except as provided in paragraph (b) of this section, each railroad operating passenger train service shall conduct a debriefing and critique session after each passenger train emergency situation or full-scale simulation to determine the effectiveness of its emergency preparedness plan, and shall improve or amend its plan, or both, as appropriate, in accordance with the information developed. The debriefing and critique session shall be conducted within 60 days of the date of the passenger train emergency situation or full-scale simulation. To the extent practicable, all on-board personnel, control center personnel, and any other employees involved in the emergency situation or full-scale simulation shall participate in the session either:

- (1) In person;
- (2) Offsite via teleconference; or
- (3) In writing, by a statement responding to questions provided prior to the session, and by responding to any follow-up questions.

(b) *Exceptions.* (1) No debriefing and critique session shall be required in the case of an emergency situation involving only a collision between passenger railroad rolling stock and: a pedestrian; a trespasser; or a motor vehicle or other highway conveyance at a highway-rail grade crossing, provided that the collision does not result in: a passenger or employee fatality, or an injury to one or more crewmembers or passengers requiring admission to a hospital; or the evacuation of a passenger train. (2) For purposes of this section, *highway-rail grade crossing* means a location where a public highway, road, street, or private roadway, including associated sidewalks and pathways, crosses one or more railroad tracks at grade, and *trespasser* means a person who is on that part of railroad property used in railroad operation and whose presence is prohibited, forbidden, or unlawful.

(c) *Purpose of debriefing and critique.* The debriefing and critique session

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shall be designed to determine, at a minimum:

- (1) Whether the on-board communications equipment functioned properly;
- (2) How much time elapsed between the occurrence of the emergency situation or full-scale simulation and notification to the emergency responders involved;
- (3) Whether the control center or the emergency response communications center promptly initiated the required notifications, as applicable under the plan;
- (4) How quickly and effectively the emergency responders responded after notification; and
- (5) How efficiently the passengers exited from the car through the emergency exits, including any passengers with a disability or injury (when the railroad has knowledge of any such passengers).

(d) *Records.* (1) Each railroad shall maintain records of its debriefing and critique sessions at its system headquarters and applicable division headquarters for two calendar years after the end of the calendar year to which they relate, including the following information:

- (i) Date and location of the passenger train emergency situation or full-scale simulation;
- (ii) Date and location of the debriefing and critique session; and
- (iii) Names of all participants in the debriefing and critique session.

(2) These records shall be made available to representatives of FRA and States participating under part 212 of this chapter for inspection and copying during normal business hours.

[63 FR 24676, May 4, 1998, as amended at 78 FR 71816, Nov. 29, 2013; 79 FR 18148, Mar. 31, 2014]

§ 239.107 [Reserved]

Subpart C—Review, Approval, and Retention of Emergency Preparedness Plans

§ 239.201 Emergency preparedness plan; filing and approval.

(a) *Filing of plan and amendments—(1) Filing of plan.* Each passenger railroad

to which this part applies and all railroads hosting its passenger train service (if applicable) shall jointly adopt a single emergency preparedness plan for that service, and the passenger railroad shall file one copy of that plan with the Associate Administrator for Railroad Safety and Chief Safety Officer, Federal Railroad Administration, 1200 New Jersey Avenue SE., Mail Stop 25, Washington, DC 20590, not less than 60 days prior to commencing passenger operations. Any passenger railroad that has an emergency preparedness plan approved by FRA as of July 29, 2014, is considered to have timely filed its plan. The emergency preparedness plan shall include the name, title, address (street address and, if available, email address), and telephone number of the primary person on each affected railroad to be contacted with regard to review of the plan, and shall include a summary of each railroad's analysis supporting each plan element and describing how every condition on the railroad's property that is likely to affect emergency response is addressed in the plan.

(2) *Filing of amendments to the plan.* (i) Except as provided in paragraph (a)(2)(ii) of this section, each subsequent amendment to a railroad's emergency preparedness plan shall be filed with FRA by the passenger railroad not less than 60 days prior to the proposed effective date of the amendment. When filing an amendment, the railroad must include a written summary of the proposed changes to the previously approved plan and, as applicable, a training plan describing how and when current and new employees and others within the scope of the training requirement at § 239.101(a)(2) would be trained on any amendment.

(ii) If the proposed amendment is limited to adding or changing the name, title, street address, email address, or telephone number of the primary person to be contacted on each affected railroad with regard to the review of the plan, approval is not required under the process in paragraph (b)(3)(i) of this section. These proposed amendments may be implemented by the railroad upon filing with FRA's Associate Administrator for Railroad Safety and Chief Safety Officer. All

other proposed amendments must comply with the formal approval process in paragraph (b)(3)(i) of this section.

(b) *Approval—(1) Preliminary review.*

(i) Within 90 days of receipt of each proposed emergency preparedness plan, and within 45 days of receipt of each plan for passenger operations to be commenced after the initial deadline for plan submissions, FRA will conduct a preliminary review of the proposed plan to determine if the elements prescribed in § 239.101 are sufficiently addressed and discussed in the railroad's plan submission. FRA will then notify the primary contact person of each affected railroad in writing of the results of the review, whether the proposed plan has been conditionally approved by FRA, and if not conditionally approved, the specific points in which the plan is deficient.

(ii) If a proposed emergency preparedness plan is not conditionally approved by FRA, the affected railroad or railroads shall amend the proposed plan to correct all deficiencies identified by FRA (and provide FRA with a corrected copy) not later than 30 days following receipt of FRA's written notice that the proposed plan was not conditionally approved.

(2) *Final review.* (i) Within 18 months of receipt of each proposed plan, and within 180 days of receipt of each proposed plan for passenger operations to be commenced after the initial deadline for plan submissions, FRA will conduct a comprehensive review of the conditionally approved plan to evaluate implementation of the elements included. This review will include ongoing dialogues with rail management and labor representatives, and field analysis and verification. FRA will then notify the primary contact person of each affected railroad in writing of the results of the review, whether the conditionally approved plan has been finally approved by FRA, and if not approved, the specific points in which the plan is deficient.

(ii) If an emergency preparedness plan of a railroad or railroads is not finally approved by FRA, the affected railroad or railroads shall amend the plan to correct all deficiencies (and provide FRA with a corrected copy) not later than 30 days following receipt of

FRA's written notice that the plan was not finally approved.

(3) *Review of amendments.* (i) Except as provided in paragraph (a)(2)(ii) of this section, FRA will normally review each proposed plan amendment within 45 days of receipt. FRA will then notify the primary contact person of each affected railroad of the results of the review, whether the proposed amendment has been approved by FRA, and if not approved, the specific points in which the proposed amendment is deficient.

(ii) If the amendment is not approved, the railroad shall correct any deficiencies identified by FRA and file the corrected amendment prior to implementing the amendment.

(4) *Reopened review.* Following initial approval of a plan, or amendment, FRA may reopen consideration of the plan, or amendment, for cause stated.

[63 FR 24676, May 4, 1998, as amended at 74 FR 25175, May 27, 2009; 79 FR 18148, Mar. 31, 2014]

§ 239.203 Retention of emergency preparedness plan.

Each passenger railroad to which this part applies, and all railroads hosting its passenger train service (if applicable), shall each retain one copy of the emergency preparedness plan required by § 239.201 and one copy of each subsequent amendment to that plan at the system and division headquarters of each, and shall make such records available to representatives of FRA and States participating under part 212 of this chapter for inspection and copying during normal business hours.

Subpart D—Operational Tests and Inspections; Records, Record-keeping, and Availability of Records

§ 239.301 Operational tests and inspections.

(a) *Requirement to conduct operational tests and inspections.* Each railroad to which this part applies shall periodically conduct operational tests and inspections of on-board personnel, responsible control center personnel, and, as applicable, emergency response communications center personnel employed by the railroad, under a con-

tract or subcontract with the railroad, or employed by a contractor or subcontractor to the railroad, to determine the extent of compliance with its emergency preparedness plan.

(1) *Program of operational tests and inspections.* Operational tests and inspections shall be conducted in accordance with the railroad's program. A new railroad shall adopt such a program within 30 days of commencing rail operations. The program shall—

(i) Provide for operational testing and inspection on appropriate courses of action in response to various potential emergency situations and on the responsibilities of an employee of the railroad, of an individual who is a contractor or subcontractor to the railroad, or an employee of a contractor of subcontractor to the railroad, as they relate to the railroad's emergency preparedness plan.

(ii) Describe each type of operational test and inspection required, including the means and procedures used to carry it out.

(iii) State the purpose of each type of operational test and inspection.

(iv) State, according to operating divisions where applicable, the frequency with which each type of operational test and inspection is to be conducted.

(v) Identify the officer(s) by name, job title, and division or system, who shall be responsible for ensuring that the program of operational tests and inspections is properly implemented. A railroad with operating divisions shall identify at least one officer at the system headquarters who is responsible for overseeing the entire program and the implementation by each division.

(vi) Require that each railroad officer who conducts operational tests and inspections be trained on those aspects of the railroad's emergency preparedness plan that are relevant to the operational tests and inspections that the officer conducts, and that the officer be qualified on the procedures for conducting such operational tests and inspections in accordance with the railroad's program of operational tests and inspections and the requirements of this section.

(2) The program of operational tests and inspections required by paragraph (a)(1) of this section may be combined