



U.S. Department  
of Transportation

**Federal Railroad  
Administration**

1200 New Jersey Avenue, SE  
Washington, DC 20590

# **FRA AUDIT REPORT**

**Norfolk Southern Railway (NS)**

**Class I**

**FRA Audit Number: 2024-NS271-10-1**

**Report Date: 5/15/2024**

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## Preface

*The Federal Railroad Administration (FRA) is not solely an auditing organization. Therefore, this performance audit does not strictly adhere to generally accepted government auditing standards (GAGAS). However, this performance audit was planned and performed to obtain sufficient and appropriate evidence, and to provide a reasonable basis for our findings and conclusions based on our audit objectives.*

## Executive Summary

FRA conducts external audits of a railroad's Risk Reduction Program (RRP) pursuant to 49 CFR Part 271, Subpart F—External Audits. The purpose of an external audit is to ensure that a railroad is complying with its FRA-approved RRP plan (which must contain certain elements required by Part 271) and to determine whether the railroad's RRP is effectively supporting continuous railroad safety improvement and a positive safety culture at the railroad, as required by 49 CFR § 271.101(a). To the extent FRA's external audit identifies deficiencies with a railroad's RRP or RRP plan (including instances of non-compliance with Part 271), § 271.503 requires a railroad to submit for approval an improvement plan addressing those deficiencies. As a result of this audit, FRA identified eight defects, but is not recommending those for civil penalties. This report contains broad recommendations for improvements to address those eight defects.

FRA concluded a supplemental safety assessment of NS in May 2023, which reviewed select operational elements and evaluated NS' overall safety culture. To further the effort of evaluating the safety performance of NS, FRA assessed NS' adherence to its RRP plan in accordance with Part 271. The purpose of Part 271 is to improve railroad safety through structured, proactive processes and procedures developed and implemented by railroads. Each railroad subject to Part 271 must establish an RRP that systematically evaluates railroad safety hazards on its system and manages the risks associated with those hazards to reduce the number and rates of railroad accidents/incidents, injuries, and fatalities. The processes used to implement the railroad's RRP are described in a railroad's FRA-approved RRP plan. FRA approved NS' RRP plan on March 8, 2022. NS is currently following the 36-month implementation plan described in its RRP plan (as required by § 271.225), with full program implementation required by March 8, 2025. In this audit, FRA evaluated NS' program implementation, including the status of the risk-based hazard analysis (RBHA) required by § 271.103(b), in order to evaluate whether NS' RRP would likely be fully implemented on schedule.

This FRA audit demonstrated that NS, in the period leading up to the audit, had struggled to some degree to make operational key elements of its implementation plan, but is now making significant improvements in organizational oversight, training, and documentation. NS completed the annual internal assessment required by § 271.401 and found opportunities for improvement that were consistent with FRA's audit findings. Specifically, both FRA and NS found the following:

- NS had not adhered to several administrative requirements of Part 271.

- NS was unable to demonstrate that it had followed the current process for identifying and analyzing hazards or mitigating risks identified through processes described by the RRP plan, and the process as described was insufficiently developed.
- NS was unable to demonstrate that communications processes outlined in its RRP plan were followed.
- There was limited employee engagement of ballast line and operational department managers in RRP processes such as the RBHA.
- As of the date of the audit, NS had achieved some, but not most, of the RRP implementation milestones documented in its RRP Implementation Plan timeline.

However, NS is heading in a positive direction to rectify findings from the audit and its own internal assessment. NS has drafted an amendment to its RRP plan which it will provide to the non-profit employee labor organizations representing NS' directly affected employees (Labor) for consultation. Providing the draft amendment is just the beginning of the consultation process, and the regulation requires NS to use good faith/best efforts when working with Labor during consultation meeting discussions. FRA guidance on what good faith/best efforts means related to consultation is available on the FRA E-Library<sup>1</sup>. NS also has a new organization structure, which provided more staff and therefore more bandwidth in the NS Safety Department to support RRP. Those additional managers have experience with safety management systems (SMS). NS also expanded its field safety team from 4 to 15 personnel who are going to provide oversight for many RRP activities like the Local Safety and Service Committee (LSSC) meetings.

Furthermore, NS has demonstrated enhanced focus on safety with its collaboration with Atkins Nuclear Secured (ANS), a safety consultant hired by NS to review NS operations and safety culture. NS has committed to recalibrating its risk committees, which were nonexistent at the start of this audit. NS has also informally committed to increase employee outreach regarding the RRP to enhance company-wide awareness of the RRP, including the supporting RRP plan, and to encourage collaboration with field employees. Finally, NS has undertaken training initiatives to support RRP, such as training for the LSSCs on hazard and risk processes and the development of mitigations, and all employees will take a computer-based training learning module in 2024.

## **Introduction**

### **I. Audit Objective(s)**

FRA's audit objectives/evaluation questions were as follows:

1. Is NS complying with the FRA's Risk Reduction Program requirements as detailed under Part 271?
2. Is NS adhering to the implementation of the RRP plan elements as outlined in its RRP Plan?

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<sup>1</sup> <https://railroads.dot.gov/elibrary/guidance-railroademployee-consultation-requirements-49-cfr-parts-270-and-271>

3. Is NS adhering to the implementation timeline as outlined in its Risk Reduction Plan?

## II. Audit Scope

The scope of this audit covered the period between FRA's initial plan approval (March 8, 2022) through September 30, 2023. The audit team reviewed reports, records, and materials in order to answer FRA's evaluation questions. The audit team also interviewed railroad officials and directly affected employees in order to answer the evaluation questions.

## III. Audit Methodology

This audit team interviewed NS management and staff at NS Headquarters in Atlanta, Georgia. The audit team also worked in teams of two to conduct interviews with and collect evidence from a convenience sample of NS employees at three field locations within NS' system. The field locations were selected for their relative proximity to NS Headquarters and because safety committee meetings were scheduled during the field work period of the audit.

To determine if NS has complied with FRA's RRP requirements as detailed under Part 271, FRA:

- Reviewed documents listed in the audit notification letter to assess the effectiveness of NS' RRP.
- Reviewed NS reports and materials, including, but not limited to training materials, PowerPoint presentations (including presentations that were specific to RRP goals), targeted hazards, and mitigations.
- Conducted interviews with railroad officials and directly affected employees at NS Headquarters, Network Operations Center (NOC), Inman Yard, and Macon Yard.
- Reviewed LSSC meeting minutes for five NS locations (Inman, Birmingham, Chattanooga, Elkhart, and NOC).
- Attended a LSSC meeting at Inman Yard.

## IV. Audit Criteria

For purposes of this audit, FRA relied on the criteria in the following sources:

1. 49 CFR Part 271.
2. NS Risk Reduction Program plan approved by FRA March 8, 2022.

## **Audit Findings/Results**

### I. Compliance with Part 271

1. NS is adhering to some, but not all, administrative requirements in Part 271.
  - a. Under § 271.303(b)(1), NS is required to submit amendments to its approved RRP plan to the FRA Associate Administrator not less than 60 days before the proposed effective date of the amendment. However,

there were several elements of NS' approved plan that were outdated (contact and personnel information, system description), and NS failed to submit an amendment to FRA. RRP plan changes not requiring consultation are those changes that are updating names and addresses of railroad personnel, and FRA considers these changes non-substantive amendments. While the outdated contact and personnel information in the NS plan could have been updated pursuant to such a non-substantive amendment as described in § 271.303(a)(1), the outdated system description was a substantive amendment requiring consultation with directly affected employees. NS should have drafted a substantive amendment to its RRP plan, consulted with Labor, and then submitted the amendment to FRA. This process was not completed because NS did not have adequate and experienced staffing on the RRP and did not allocate appropriate organizational resources to make the program successful. Because NS did not make these necessary amendments to its RRP plan, both substantive and non-substantive, FRA did not have a copy of the NS RRP plan with the most recent programmatic and systemic changes, and neither did directly affected employees. This was particularly problematic in relation to the outdated contact and personnel information, because if all parties do not have a copy of the plan with recent personnel changes, it creates challenges with identifying who is responsible and accountable for RRP element implementation.

b. Recommendations

- Create a process, procedure, or tracking system that ensures any changes to the RRP plan are timely shared with both FRA and Labor (i.e., the Labor representatives (or their successors) on the initial plan's service list, as well as any additional directly affected employees who participated in consultation on the plan changes independently of Labor).

II. Implementation of Plan Elements

Risk-Based Hazard Management Program

1. NS completed an RBHA for some but not all of the factors identified by § 271.103(b). According to NS' RRP plan pursuant to § 271.221, this RBHA should have determined risks levels based on probability (likelihood) and severity assessments.
  - a. Under § 271.103(b), as part of a risk-based hazard management program (RBHMP), NS is required to conduct an RBHA that addresses, at a minimum, the following aspects of a railroad's system: Infrastructure; equipment; employee levels and work schedules; operating rules and practices; management structure; employee training; and other areas impacting railroad safety that are not covered by railroad safety laws or

regulations or other Federal laws or regulations. NS is required to make RRP documentation available to FRA upon request under § 271.501, and NS' RRP plan specifically stated the results of its RBHA would be made available to FRA upon request. NS further indicated in its RRP implementation plan that it would start the RBHMP in winter 2022. FRA requested the results of NS' RBHA, but NS could not provide FRA evidence that it had conducted the RBHA as planned. The RBHA process was not completed because NS did not have adequate and experienced staffing on the RRP and did not allocate appropriate organizational resources to make the program successful. Without the RBHA data, NS is limited in its ability to properly identify and analyze hazards within the railroad's system as provided in its RRP plan, including operational changes, system extensions or system modification, to include accidents/incidents, injuries, fatalities and other known indicators of hazards, in order to effectively mitigate railroad safety risks as provided in the RRP plan.

b. Recommendations

- Develop and implement an RBHMP within NS' RRP plan that includes all statutorily required factors.

2. NS did not include the identification of mitigations after identifying or analyzing hazards by determining risks levels based on probability (likelihood) and severity assessments, as outlined in its RRP plan.

a. Under §271.103(c), NS is required as part of its RBHMP to design and implement mitigation strategies that improve safety by mitigating or eliminating aspects of a railroad's system that increase risks identified in the RBHA and enhancing aspects of a railroad's system that decrease risk identified in the RBHA. NS' RBHMP, described in its RRP plan pursuant to § 271.211, indicates it would be using a five-by-five matrix for a total risk assessment score of 1 to 25 and afterwards developing mitigations to reduce hazard severity, likelihood, or both, while also reevaluating hazards for residual risk. NS did conduct some RBHA on close track centers, line of fire, riding equipment and switching operations (flat, gravity, and hump) with risk assessment scores, but did not provide the audit team with any identified mitigation strategies. This process was not completed because NS did not have adequate and experienced staffing on the RRP and did not allocate organizational-appropriate resources to make the program successful. Without the RBHMP data and corresponding mitigation strategies, NS is limited in its ability to properly identify and analyze hazards within the railroad's system in order to effectively mitigate railroad safety risks as provided in its RRP plan.

b. Recommendations

- Develop and implement a clear process for the identification of mitigation strategies within the RBHMP.
  - Develop and implement a clear process that includes a hierarchy or prioritization scheme for selecting mitigations.
3. NS is not utilizing a Risk Committee as indicated in its RRP Plan as part of its RBHMP.
- a. Pursuant to §§ 271.103 and 271.211, NS is required to comply with the processes described in its RRP plan for actively identifying and analyzing hazards by calculating risk levels based on the probability and severity of potential events for the purposes of treatment or mitigation. NS' RRP plan indicates it will utilize a Risk Committee to focus on complex hazards, provide operational expertise, and assist with residual risk or mitigation. NS' RRP plan indicates the Risk Committee will meet annually and may be consulted as Subject Matter Experts (SMEs) or when mitigation strategies must be developed for hazards with high or very high-risk scores. NS' RRP plan indicates the Risk Committee will include Safety & Environmental personnel and personnel identified within other departments. Furthermore, NS' RRP plan indicates personnel serving on the Risk Committee will be asked to provide information to assist in determining causes of adverse events, potential outcomes of events for use in determining severity, descriptions of existing controls, identification of potential controls for evaluation, and the number or frequency of events, to assist in estimation of likelihood and potential detrimental impacts or unintended consequences of a proposed mitigation effort.
- b. However, NS indicated during the audit that the Risk Committee is not currently meeting and will need to be reestablished. The Risk Committee did not meet annually as required by the NS RRP plan and there was no risk committee data provided to the audit team for review. Furthermore, NS indicated the committee was not reviewing hazards with high or very high-risk scores as required by NS' RRP plan. As such, the audit team determined there was currently no established Risk Committee, and NS was not following its approved RRP process for its RBHM. This process was not completed because NS did not have adequate and experienced staffing on the RRP and did not allocate appropriate resources to make the program successful. Without utilizing the Risk Committee as described in the RRP plan, NS is limited in its ability to properly identify and analyze hazards within the railroad's system in order to effectively mitigate railroad safety risks as provided in its RRP plan.
- c. Recommendations
- Utilize the Risk Committee as part of the RBHMP.

Safety Outreach Process

4. NS lacks an effective safety outreach process.
  - a. Under § 271.107, NS' RRP must include a safety outreach component that communicates RRP safety information to railroad personnel and reports to management. Pursuant to § 271.215, NS' RRP plan stated that it would implement this component by reinforcing existing administrative controls, explaining new or modified administrative controls, explaining the purpose of newly adopted engineering or other controls, or otherwise explaining abatement or mitigation efforts selected to reduce risk for priorities selected from the RBHMP. FRA determined that the communications NS provided did not have a direct connection to the RRP to substantiate a finding that this RRP element had been completed. NS employees in the field were also unable to confirm these plan processes were being completed. FRA believes that this part of the safety outreach process has not been completed and/or been implemented by NS, suggesting that the field personnel/LSSCs have limited knowledge of the abatement or mitigation efforts to reduce risks. This process was not completed because NS did not have adequate and experienced staffing on the RRP and did not allocate appropriate resources to make the program successful.
  - b. Recommendation
    - Evaluate and ensure that this section of the safety outreach process is communicated and implemented. Consider periodic reviews to verify compliance.
    - Ensure the safety outreach program conveys safety critical information, explains why RRP-related actions are taken, and explains why safety procedures are introduced or changed.
5. NS representatives from Occupational Safety did not meet with LSSC leadership on a rotating schedule to discuss efforts related to the RRP as outlined in NS' RRP plan.
  - a. As part of the safety outreach component required by § 271.105, and pursuant to § 271.215, NS' FRA-approved RRP plan stated NS would have Occupational Safety personnel meet with LSSC leadership on a rotating schedule to discuss efforts related to the RRP. NS provided FRA with information that Occupational Safety had meetings with the LSSCs, but the meetings were based on the current safety data and not based on a rotating schedule. NS did not provide a rotating schedule for new meetings. This process was not completed because NS did not have adequate and experienced staffing on the RRP and did not allocate appropriate resources to make the program successful. This indicates that this part of the safety outreach process has not been implemented as outlined in NS' approved RRP plan and that not all LSSCs will be scheduled to meet with Occupational Safety. If not all LSSCs are meeting



with Occupational Safety, it creates system-wide gaps in RRP application and safety processes.

b. Recommendation

- Evaluate whether the process described in the current NS RRP plan is feasible to implement without missing scheduled meeting milestones.
- Evaluate and ensure that this section of the safety outreach process is implemented as described in NS' RRP plan.

6. NS developed a Risk Reduction Program Outreach SharePoint site; however, that site was not accessible to all NS employees, nor did employees with access have adequate awareness of this site.

a. As part of the safety outreach component required by § 271.107, and as described in its RRP plan pursuant to § 271.215, NS stated it would develop an RRP Outreach SharePoint site accessible by all NS employees and invited representatives of labor organizations. NS has developed an RRP Outreach SharePoint site, but the site was either not accessible by all NS employees and invited representatives of labor organizations, or NS had not made employees aware of the SharePoint site. This process was not completed because NS did not have adequate and experienced staffing on the RRP and did not allocate appropriate resources to make the program successful. This lack of safety outreach demonstrates that the RRP is not being communicated to the field personnel/LSSCs in the manner provided in the RRP plan, resulting in incomplete knowledge of the RRP Outreach SharePoint site.

b. Recommendations

- Evaluate and ensure that this section of the safety outreach process is communicated and implemented as described in the RRP plan. Provide SharePoint access to all employees and communicate how to navigate to the site.

7. NS has not conducted a review of reports to senior management as described in its RRP plan.

a. As required by § 271.107(b), and as described in NS' FRA-approved RRP plan pursuant to § 271.215, NS stated it would review reports with senior management on a biannual basis during Operations Division Safety and Service Committee (ODSSC) meetings. NS has only conducted a single ODSSC meeting. NS had scheduled the next ODSSC meeting the month of December of 2023. NS did not conduct this December 2023 meeting as scheduled.

b. Recommendation

- Evaluate this section of the safety outreach process to determine whether it satisfactorily ensures adequate communication to leadership. Either amend the plan to reflect a new process, or implement the process currently described in the RRP plan.
- Consider distributing the ODSSC meetings over the entire calendar year.

### Involvement of Railroad Employees

8. NS did not ensure adequate employee involvement in processes outlined in its RRP plan for LSSCs and directly affected employees.
  - a. Under §§ 271.113 and 271.221, NS must implement a process described in its RRP plan for involving railroad employees in the establishment and implementation of an RRP. The NS RRP plan states that the LSSCs will meet monthly and include a member from each craft. However, when NS provided minutes for LSSC meetings in Atlanta, GA, Elkhart, IN, Birmingham, AL, Chattanooga, TN, and the NOC, the documentation showed that there were gaps in time where no monthly meetings occurred, and NS could not confirm that there was an LSSC meeting that month because there was no documentation to support whether it happened. Additionally, when reviewing the provided meeting minutes, it appeared that only a portion of the LSSC activities outlined in the RRP plan were being done. For example, the NS RRP plan states that the LSSCs would be encouraging safe behaviors through coaching. However, only a small sample of minutes reflected that this task was done. Additionally, a member from each craft was not always present during the LSSC meeting. According to NS leadership, at some locations, LSSC meeting attendance/participation by a member from each craft may have been impacted by schedule conflicts and local working relationships. FRA did not confirm this explanation with labor representatives at NS.

Field interviews conducted by FRA also showed that NS did not ensure that directly affected employees and managers were involved in the establishment and implementation of the RRP. The responses to the interview questions provided to directly affected employees and managers showed that there was little knowledge of RRP overall, and this finding was most salient at the craft level. This process was not completed because NS did not have adequate and experienced staffing on the RRP and did not allocate appropriate resources to make the program successful. To ensure that directly affected employees have the knowledge necessary to be effectively involved in the processes outlined in the RRP plan, NS should ensure general RRP knowledge is disseminated to its employees and could do so as part of its safety outreach and RRP training processes.

- b. Recommendations

- Ensure employee involvement as described in the RRP plan.
- Recalibrate the process for employee involvement through the LSSCs and ensure adherence to a consistent meeting time period.
- Develop and deliver training to LSSCs on their duties outlined in the RRP plan.

9. NS did not ensure that the Risk and Hazard Identification process outlined in the Involvement of Railroad Employees section of its RRP plan was followed.

- a. Under §§ 271.113 and 271.221, NS' FRA-approved RRP plan must have a process for involving railroad employees in the establishment and implementation of an RRP. NS' RRP plan meets these requirements by stating that NS employees should be able to submit hazards to their LSSC chair, who would then evaluate and forward them to the local supervisor sponsor for the LSSC for handling. If any items could not be resolved at the local level, the LSSC will forward those items to the System Safety Coordinator via email and should have the employee's estimation of frequency of occurrence.

NS was able to provide LSSC minutes for 23 meetings at various locations across the system for the years of 2022/2023. The LSSC meetings cite numerous safety concerns that were brought forward. NS could not provide documentation that hazards were ever escalated beyond the local supervisor level. NS leadership and personnel indicated that they did not do RRP training for LSSCs, so local supervisors did not know how to handle submitted hazards within the context of the RBHA, as described in the NS RRP plan. Based on review of the LSSC meeting minutes that NS provided, some hazards were handled locally if they could be resolved. There was no evidence that hazards that could not be handled locally, which should have been escalated to the System Safety Coordinator, were escalated as described in the NS RRP plan. FRA was not provided any documentation or emails with hazards or estimation of frequency of occurrence that were sent or received by the System Safety Coordinator. NS indicated that it was unable to locate any documentation to provide to FRA.

Also, NS Safety should have evaluated any reported hazards to identify new hazards and, for any previously unidentified hazards, NS should have performed an analysis for likelihood and severity and assigned an overall risk score. However, NS indicated that this was not done.

Additionally, NS Safety should have selected hazards for discussion with the LSSCs, and the LSSCs should have performed their own analysis. Over time, a comparison between Safety and LSSC risk analyses would have been included in the Safety Performance Evaluation and annual Internal Assessment. However, NS did not follow its processes for involving the LSSCs and directly affected employees in RRP

implementation, so NS indicated this was also not done. These processes were not completed because NS did not have adequate and experienced staffing on the RRP and did not allocate appropriate resources to make the program successful. Because there was little knowledge/training of RRP, it would be difficult for LSSCs to participate effectively in the processes outlined in the RRP plan. Without utilizing the LSSCs as described in the RRP plan, NS was limited in its ability to properly identify and analyze hazards within the railroad's system in order to effectively mitigate railroad safety risks as described in its RRP plan.

b. Recommendations

- Develop tools and procedures that help the LSSCs document and track their activities consistent with the NS RRP plan requirements and keep this documentation in a central location where records can be accessed by personnel other than the Safety Manager.
- Develop and deliver training to employees, supervisors, and LSSCs on NS' process for identifying, assessing, mitigating, tracking, and reporting hazards to the Safety Department.
- Establish systemwide RBHM training for directly affected employees on a clear process for evaluating a hazard's risk based on a probability and severity assessment.

10. NS did not ensure that the Risk Mitigation process outlined in its RRP plan was followed.

a. Under §§ 271.113 and 271.221, NS' FRA-approved RRP plan must have a process for involving railroad employees in the establishment and implementation of an RRP. NS' RRP plan meets these requirements by stating that employees are invited to submit mitigation strategies to their LSSC chair who would then forward that information to the Occupational Safety System Safety Coordinator. The Occupational Safety System Safety Coordinator would then provide information explaining the proposed mitigation strategies to LSSCs for review and allow employees to participate and provide input. However, upon review of records, FRA was unable to establish that any of these actions were taken. Discussions with NS leadership and personnel suggested that this was because the LSSCs did not have proper training on how NS planned to handle the risk mitigation submission process. The result of this was that employees never submitted mitigations, which led to the absence of employee involvement in the risk mitigation development process outlined in the NS RRP plan.

b. Recommendation

- Develop and deliver training to LSSCs on involving employees in the risk mitigation process and RRP.

11. NS did not ensure that the Technology Analysis and Implementation process outlined in the Involvement of Railroad Employees section of its RRP plan was followed.
  - a. Under the requirements of 49 CFR §§ 271.109 and 271.221 and NS' FRA-approved RRP plan, NS shall have a process for involving railroad employees in the establishment and implementation of an RRP, including its Technology Analysis and Technology Implementation Plan. The NS plan states that employees would be encouraged to submit ideas through their LSSCs for how technology could be used as risk mitigations. The System Manager Safety would then coordinate with operating departments or other departments responsible for developing and implementing technological solutions and would provide information to the Occupational Safety System Safety Coordinator who would submit technological solutions to LSSCs for review and feedback. During interviews with NS leadership, it was indicated that the System Manager Safety did coordinate with different operating departments per the RRP plan; however, NS could not provide any documentation to demonstrate that these meetings occurred. Also, NS indicated that no submissions went to the Occupational Safety System Safety Coordinator, and that nothing went from the Occupational Safety System Safety Coordinator back down to the LSSCs for review and feedback. These processes were not completed because NS did not have adequate and experienced staffing on the RRP and did not allocate appropriate resources to make the program successful. Because there was little knowledge/training of the RRP, it would be difficult for LSSCs to participate effectively in the processes outlined in the RRP plan.
  - b. Recommendations
    - Provide training to LSSCs on informing directly affected employees on the process for submitting technological mitigations.
    - Document all interactions of processes that are described in the RRP plan and keep this documentation in a central location where records can be accessed by, at a minimum, the employees with significant responsibilities related to the RRP.

### III. Adherence to RRP Implementation Timeline

1. NS did not achieve all of the milestones outlined in its RRP plan implementation timeline.
  - a. Under § 271.225, NS' FRA-approved RRP plan must describe how the railroad will fully implement its RRP within 36 months of FRA's approval of the plan. The RRP implementation plan should cover the entire 36-month implementation period and contain a timeline of when certain specific and measurable implementation milestone will be achieved.

While the NS RRP plan does contain these specific and measurable milestones, NS failed to meet many of the milestones described in its plan as of the date of the audit. After review of NS documentation and interviews with NS leadership, it was determined that the implementation schedule was not being achieved. These processes were not completed because NS did not have adequate and experienced staffing on the RRP and did not allocate appropriate resources to make the program successful and on schedule. Therefore, the RRP is at risk for not being fully implemented within the 36-month timeline.

b. Recommendations

- File an amended RRP plan with a new implementation timeline after using good faith and best efforts to consult with directly affected employees on the amendment, as required by § 271.303(a).
- Use project management tools to continually monitor current and upcoming implementation tasks.

## Conclusion

Results from FRA's NS RRP audit demonstrate that aspects of the NS RRP implementation are incomplete and that program implementation has lacked proper oversight. Because of these deficiencies, NS is at risk of not implementing a successful RRP within the 36-month period, as required by Part 271. FRA recognizes the efforts that NS has taken to improve its organizational oversight, training, and recordkeeping to take an enhanced railroad safety focus. FRA recommends that NS continue to work to advance its RRP by setting policies and procedures that take a systematic look at railroad safety by assessing hazards and the risk associated with those hazards.

NS is heading in a positive direction to rectify findings from FRA's audit and its own internal assessment. NS has drafted an amendment to its RRP plan that it will provide to its directly affected employees for consultation. Providing the draft amendment is just the beginning of the consultation process, and the regulation requires NS to use good faith/best efforts when working with Labor during consultation meeting discussions. FRA guidance on what good faith/best efforts means related to consultation is available on the FRA E-Library.<sup>2</sup> NS also has a new organization structure, which has provided more staff and therefore more bandwidth in the Safety Department to support RRP. Those additional managers have SMS experience. NS also expanded its field safety team from 4 to 15 personnel, who are going to provide oversight for many RRP activities like the LSSC meetings. Furthermore, NS has demonstrated enhanced focus on railroad safety with the collaboration with ANS, a safety consultant hired by NS to review NS operations and safety culture. NS has also committed to recalibrating its risk committees, which were nonexistent at the start of FRA's audit. NS indicated it was committed to enhancing employee outreach to raise awareness of and facilitate collaboration regarding its RRP activities and implementation. Finally, NS has undertaken training initiatives to support

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<sup>2</sup> [https://railroads.dot.gov/sites/fra.dot.gov/files/2022-10/FRA%20RRP SSP Consultation FAQs Oct 2022.pdf](https://railroads.dot.gov/sites/fra.dot.gov/files/2022-10/FRA%20RRP%20SSP%20Consultation%20FAQs%20Oct%202022.pdf)

RRP, such as training for the LSSC on hazard and risk processes and the development of mitigations, and all employees will take a computer-based training learning module in 2024.

FRA will continue to work in partnership with NS and its employees. FRA is committed to assisting NS in reaching the goals in its RRP to improve railroad safety, to ensuring that NS properly consults with its directly affected employees on substantive amendments to its RRP plan, and to ensuring that NS involves its directly affected employees in the establishment and implementation of its RRP. To assist NS in its RRP safety goals, FRA will follow up with the recommendations made as part of this audit with FRA Safety Management Team-3. Additionally, FRA will continue to follow up with NS regarding the implementation status of RRP and seek out ways to work collaboratively to strengthen NS RRP implementation and improve overall railroad safety. FRA will also reach out to NS' directly affected employees to follow up on whether NS has consulted on the contents of any proposed RRP plan amendments and whether NS is involving the employees in the establishment and implementation of its RRP.

### **Suggestions and Reminders for NS' RRP Implementation**

The following suggestions stem from common themes that were found within each program element's findings. After a review of the recommendations contained within the RBHA, Safety Outreach, and Involvement of Railroad Employees sections, NS should consider the following:

- NS should develop and implement a change management process so that organizational changes do not negatively impact NS' safety programs such as RRP.
- NS should adequately staff its RRP and continually assess for evolving staffing needs.
- NS should provide proper training to all employees with significant involvement in the RRP.
- NS should allocate appropriate resources to make the RRP successful and on schedule.
- NS must ensure it uses good faith and best efforts to consult with its directly affected employees on any substantive RRP plan amendments (§§ 271.209 and 271.303(a)). NS must also ensure it involves its directly affected employees in the establishment and implementation of its RRP (§§ 271.113 and 271.221).

### **Auditee's Response**

In general, NS has implemented corrective actions prior to and in response to this audit and NS's own internal assessments. Further, NS is undertaking a comprehensive multi-year RRP improvement initiative that is part of the "Roadmap for Safety Culture Improvement and Operational Excellence" being developed with NS's safety consultant, ANS. We also look forward to continuing to work with FRA. Given the novel nature of the industry-first RRP regulation that was promulgated in recent past, NS appreciates the opportunity to collaborate with FRA to work on any potential issues before the 36-month implementation deadline.

### **FRA's Response**

NS was provided a draft of the audit report and FRA considered and incorporated NS' edits as appropriate. A summary of those comments is included in Exhibit A.

## **Exhibit A: Summary of NS Revisions to FRA Audit Report**

Summary of Comments by Norfolk Southern to Draft FRA Audit Report dated December 10, 2023

In November 2023, FRA conducted an external audit of NS's Risk Reduction Program ("RRP") pursuant to 49 C.F.R. Part 271, Subpart F—External Audits. NS is currently following the 36-month implementation plan described in its FRA-approved RRP plan (as required by § 271.225), with full program implementation required by March 8, 2025. NS reviewed FRA's draft audit report and provided the below substantive edits to the agency on January 29, 2024.

NS proposed revisions to explain that, as of the date of the audit, some RRP processes were not fully implemented as: (1) NS staff were working to gain expertise in the RRP regulations, which were only recently adopted; and (2) NS has a 36-month implementation plan with final implementation set to be completed by March 8, 2025.

NS also suggested revisions throughout the draft audit report clarifying that the audit findings related to RRP milestone implementation are accurate as of the audit date.

In both the Executive Summary and Conclusion sections, NS proposed additions that it stated provide additional relevant context related to NS's commitment to increasing employee outreach regarding the RRP, enhancing company-wide awareness of the RRP plan, and encouraging collaboration on RRP-related topics with field employees.

With respect to the draft §§ 271.103 and 271.211 audit findings relating to the Risk-Based Hazard Management Program, NS's proposed edits clarify that, while NS is continuing to develop its processes related to the risk-based hazard analysis data as contemplated by the RRP, NS is still able to and indeed does identify and analyze certain hazards and develop mitigation strategies that predate and/or are separate from the RRP requirements.

In connection with the draft audit findings related to § 271.107 of the RRP requiring a safety outreach component, NS provided edits that it stated would clarify that RRP-related communications were provided to FRA in the course of the audit, but that FRA determined these communications did not have a sufficient direct connection to the RRP to substantiate a finding that certain safety outreach initiatives had been completed. NS also proposed edits it said would more accurately reflect that NS representatives did meet with Local Safety and Service Committee ("LSSC") leadership regarding the RRP.<sup>3</sup>

With respect to the draft audit findings related to § 271.107(b) regarding reporting to management, NS suggested revising to more accurately reflect NS's Operations Division Safety and Service Committee ("ODSSC") meeting structure. As such, on January 26, 2024, NS clarified to FRA there were eight total ODSSC meetings in 2023, including two meetings that involved updates to senior management as contemplated by the RRP (in September and November). Additionally, NS recommended that FRA update the status of this element of the RRP to "completed." This update accurately reflects NS's completion of this RRP element since implementation was set to begin in late 2023, and the September meeting did take place within

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<sup>3</sup> While these meetings did occur, they did not occur on a schedule as contemplated by the initial RRP plan.



that timeframe. NS proposed edits to accurately reflect the fact that senior management does receive certain safety-related reports at ODSSC meetings. NS also proposed removing FRA's recommendation, "Consider distributing the ODSSC meetings over the entire calendar year," on grounds that (1) NS is compliant with this element of the RRP; and (2) ODSSC meetings are already distributed over the entire calendar year,

With respect to §§ 271.113 and 271.221 draft audit findings relating to involvement of railroad employees with the RRP, NS provided edits regarding craft member attendance at LSSC meetings to accurately reflect that at some locations, LSSC meeting attendance and/or participation by a member from each craft may have been impacted by issues such as schedule conflicts. NS also proposed revisions to accurately reflect that NS conducted searches for communications regarding hazards from LSSCs to relevant safety department personnel, but that such communications were unable to be located.