

INFORMATION BULLETIN: ACCOUNTABLE EXECUTIVE AND SAFETY MANAGEMENT SYSTEM REQUIREMENTS FOR RAILWAY COMPANIES

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Topic: This bulletin clarifies the responsibility of the accountable executive in a railway company's safety management system and the role of railway consultants under the Railway Safety Act BC and associated regulations.

Definitions:

- **Railway Company:** means a company that has received an authorization under section 3 of the Railway Act.
- **Accountable Executive:** means an executive of a railway company who is designated under section 8 of the Safety Management System Regulations as responsible for the operations and activities of the railway company to be accountable for the extent to which the requirements of the Safety Management System Regulations are met.
- **Railway Consultants:** means third-party companies or individuals providing technical support to the railway industry but are not themselves regulated or referenced in the Railway Safety Act (BC).
- **Railway Safety Officer:** means an employee of Technical Safety BC with delegated statutory powers of a "railway safety inspector" per the adopted provisions of the **Railway Safety Act (Canada)**.

Introduction

Technical Safety BC provides regulatory oversight of railway companies in BC. This includes verifying that railway companies are accountable and meeting the obligations assigned to them under the **Railway Safety Act (BC)** and associated rules and regulations.

We acknowledge that railway consultants, as **unregulated third-party** contractors, **may advise or assist** railway companies in understanding and meeting adopted safety requirements. However, as the **regulated entity**, railway companies are ultimately **accountable for demonstrating** that they are meeting the requirements for their railway operations to maintain their active operating status.

Railway Safety Management Systems

Section 11(1) of the Railway Safety Act (BC) requires a railway company to demonstrate that it is capable of operating its railway in a safe manner to obtain an operating permit from the Registrar. Railway companies must adhere to the relevant legislative and regulatory requirements including the requirement to develop a safety management system ("SMS").

Every railway company must develop and implement an SMS (Safety Management System Regulations, section 5). The purpose of an SMS is for a railway company to achieve the required level of safety in its railway operations. One of the requirements of the SMS is that the railway company designates an accountable executive to be responsible for the SMS.

Specifically, as required by section 8 of the SMS Regulations:

"a railway company must designate an executive who is responsible for the operations and activities of the railway company to be accountable for the extent to which the requirements of the safety management system are met, including its effectiveness in achieving the highest level of safety in its railway operations".

In order to meet this requirement, the accountable executive **must be an employee of the railway company** and hold sufficient seniority and decision-making authority to effectively carry out their regulatory duties and responsibilities. The accountable executive and the employees of the railway company are directly responsible for developing, submitting, implementing, and evaluating an SMS that is specific to their own railway operations.

Railway consultants, or any other third-party contractor to the railway company, may play a role in assisting the railway company in developing and implementing aspects of the SMS. However, railway consultants cannot assume the position of accountable executive, nor can they be designated responsibility for developing or implementing any of the processes required by the SMS Regulations. Those responsibilities ultimately reside with the railway company.

SMS Development & Submission

Railway companies are required by section 5 to submit a copy of their SMS to us in accordance with the SMS Regulations. During this process, railway safety officers may choose to meet with the accountable executive and/or other employees of the railway company who are responsible for ensuring compliance with the Railway Safety Act and its associated regulations, emergency directives, rules, orders, and security measures.

In conducting these meetings, railway safety officers have the authority, under section 28 of the adopted provisions of the Railway Safety Act (Canada), to “require the attendance of persons whom the inspector deems relevant to the carrying out of their functions and may question those persons”. As such, railway safety officers may exercise discretion in determining who may attend these meetings and limit participation of third parties or other selected staff in any meetings or interviews.

Once a railway company’s SMS is deemed satisfactory to the Minister, the Registrar of Railway Safety may issue the railway company an operating permit or allow the railway company to maintain its operating permit.

SMS Implementation & Evaluation

We conduct regular audits of railway companies to verify whether they are operating safely and in compliance with the applicable regulatory requirements. As with the development and submission process outlined above, railway safety officers also have the discretion to limit participation in operational and SMS audits to the accountable executive and/or employees of the railway company. During this process, all formal communications and assessment results regarding railway operations will be provided to the railway companies only.

If a railway safety officer identifies findings that suggest the direct employees of a railway company possess insufficient knowledge and experience to operate the railway in a safe manner or the implemented SMS is deemed incomplete or ineffective in reaching compliance and mitigating threats to railway safety, we may take enforcement action.

Enforcement actions may involve the issuance of notice-and-orders suspending railway operations until corrections can be made to the satisfaction of the railway safety officer or could involve escalation to the Registrar of Railway Safety (Ministry of Transportation and Transit) to suspend or permanently cancel the operating permit.

Questions?

If you have any questions regarding this information bulletin, please contact railway@technicalsfafetybc.ca

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