Guidance for projects on applicable Notified National Technical Rules

<table>
<thead>
<tr>
<th>Date of issue</th>
<th>2015 07 01</th>
<th>Date of next review</th>
<th>2017 07 01</th>
</tr>
</thead>
<tbody>
<tr>
<td>RIG post holder/owner</td>
<td>Paul Hooper</td>
<td>RIG cleared by</td>
<td>Mark Morris</td>
</tr>
<tr>
<td>RIG type</td>
<td>Policy x</td>
<td>Information x</td>
<td>Procedure x</td>
</tr>
<tr>
<td>Target audience</td>
<td>RPP and RSD x</td>
<td>Policy x</td>
<td>Inspectors x</td>
</tr>
</tbody>
</table>

Keywords

Summary
This RIG clarifies how project entities can efficiently manage the evolution of Notified National Technical Rules (NNTRs) for their project when it is at an advanced stage.

Changes to NNTRs during a project have to be taken into account in an application for authorisation against The Railways (Interoperability) Regulations 2011, as amended. Where the changes take place at a stage in the project when it is too late to demonstrate compliance with the revised NNTR, it has been industry practice for the Project Entity to seek a deviation from the Standards Committee to permit use of the superseded version of the NNTR. This can occur when timescales have become short, risking delay to the project. It also adds to the workload of the Standards Committee although the matter is not usually technically complex.

Under the revised approach the Project Entity may make a case to ORR for the application of the superseded NNTRs to the project. ORR will consider such justifications on a case-by-case basis. This approach will not apply where the change due to the revised NNTR is technically complex; in that case the Project Entity should seek a deviation from the relevant Standards Committee.

Consultation
ORR RPP Engineering & Asset Management
ORR RSD Safety Policy
ORR Legal Department
DfT Interoperability & Standards
RSSB Industry Standards Coordination Committee & Chairman, Rolling Stock Standards Committee
ATOC Head of Engineering
Project Entities applying *The Railways (Interoperability) Regulations 2011, as amended*, (RIR2011) and seeking an authorisation to place new, upgraded or renewed subsystems or vehicles into service have to meet the essential requirements by demonstrating compliance with the applicable Technical Specifications for Interoperability (TSIs) and applicable Notified National Technical Rules (NNTRs).

The Department for Transport (DfT), on the advice of RSSB for the Railway Group Standards (RGS)-managed network, notifies National Technical Rules to the Commission. It publishes a list of these NNTRs on its website, revised when there is a change to the rules.

Regulation 15(1) of RIR states that compliance with the Essential Requirements for interoperability is demonstrated by compliance with applicable TSIs and applicable NNTRs. For NNTRs this has been interpreted to mean the rule published on the 'DfT list' that is current at the time that the authorisation to place in service is being sought.

Updates to the DfT NNTR list are made every three months, in line with the Standards Catalogue published by RSSB with the intention that when the RGS list changes then the NNTR list is aligned and projects should ensure they are aware of RSSB consultations so that they can plan for changes when possible.

Most Project Entities apply the interpretation that it is necessary to demonstrate compliance with the version of the DfT list in force at the overall design stage of their project. They therefore seek deviations against all NNTRs that have subsequently changed by the time of authorisation.

Some Project Entities monitor changes to the DfT list as the project develops and undertake design re-evaluation to take into account changes to NNTRs.

Project Entities are claiming that complying with the NNTRs published on the DfT website at the time of authorisation, when a design has been developed to an earlier version, is causing unnecessary commercial and project risk.

Project Entities who want to use a previous version of NNTR, no longer on the current DfT list, obtain a deviation against the revised NNTR from the relevant standards committee. Often this takes place at a late stage, resulting from a change to the DfT NNTR list. In these cases the grounds for seeking the deviation are simply the advanced stage of the project making it unreasonable to comply, or assess compliance, with the updated requirement.

ORR and RSSB see late-stage RGS deviation requests as an unnecessary burden placed on Project Entities and Standards Committees.

**Revised approach**

Project Entities should monitor the development and notification of NNTRs. ORR expects Project Entities to be aware of the version in force at the time when the authorisation is being sought and consider using it if it is advantageous to do so. Using the revised NNTR(s) may result in some re-evaluation of the overall design by the Designated Body (DeBo).

There will be situations where the DeBo commenced design assessment against the version of the NNTR notified at that time. The Project Entity has considered the subsequent evolution of the NNTR list and sees no advantage in using the revised NNTR listed on the DfT website at the time of authorisation to place in service. It is this circumstance where ORR can be asked to confirm that it is acceptable to use the earlier NNTR.

ORR expects the Project Entity to justify in writing why the earlier version is being used and why it is not reasonable to use the later version. ORR will consider justifications on a case-by-case basis. The justification should be included in the Technical File, along with ORR’s confirmation.
of its validity. It is intended that this approach will be used in the event of late changes to the DfT NNTR list, such that it is not reasonable to make changes because of the advanced stage of the project.

Where the change due to the revised NNTR is technically complex it is appropriate instead to seek a deviation from the relevant Standards Committee.

The Project Entity should consider which route is more appropriate, as ORR may refuse to accept a justification relating to a technically complex change and instead direct the Project Entity to seek a deviation in the established manner.

Alternative rules

Project Entities cannot propose to use an alternative rule which was not formerly an NNTR as a compliance measure in place of the NNTR notified at the time of authorisation. There is separate guidance for ‘project specific’ rules.

Legal basis

Annex VI to Directive 2008/57/EC

Annex VI makes it clear that the EC verification procedure for subsystems commences at the overall design stage.

EC Verification Procedure for Subsystems

2.2.3 Stages of the verification procedure

The subsystem, or certain parts of the subsystem, shall be checked at each of the following stages:
— overall design,
— production: construction, including, in particular, civil-engineering activities, manufacturing, constituent assembly and overall adjustment,
— final testing.

The essential requirements for project subsystems

The Project Entity, when seeking an authorisation from ORR to place new, upgraded or renewed subsystems or vehicles into service has to meet the essential requirements. These are described in Regulation 15.

15.—(1) For the purposes of these Regulations, the essential requirements for a project subsystem are deemed to be met if the project subsystem conforms with —
(a) all applicable TSIs; 
(b) where paragraph (2) applies, the requirements of all applicable notified national technical rules, subject to any dispensation granted under regulation 46(1); and 
(c) where such a dispensation applies, any conditions of that dispensation.

The role of the Project Entity

Project Entities seeking an authorisation from ORR to place new, upgraded or renewed subsystems or vehicles into service have to comply with several duties in RIR2011. The role of the project entity is set out in Regulation 16 set out below.

16.—(1) In order for an application for an authorisation to be valid a project entity must—
(a) engage a notified body to act in carrying out the verification assessment procedure, other than in relation to notified national technical rules, in accordance with regulation 
(b) ensure that a notified body (whether that originally engaged or another) continues to be engaged until authorisation under these Regulations is given or refused; and 
(c) if there are applicable notified national technical rules, engage a designated body, or if the engagement is made before the day which is one year after the coming into force of these
Regulations either a designated body or a notified body, to carry out the verification assessment procedure in relation to the notified national technical rules in accordance with regulation 17.

(2) The engagement of a notified body under paragraph (1)(a) must be made—
(a) before completion of the design stage of the project subsystem; or
(b) before commencement of the manufacture stage of the project subsystem, whichever is the earlier.

(3) A project entity must not draw up a verification declaration in relation to that project subsystem unless—
(a) the project entity is satisfied the essential requirements are met (including interfaces with the rail system);
(b) the verification assessment procedure has been carried out by a notified body, and if applicable the body engaged under paragraph (1)(c), in accordance with regulation 17;
(c) a certificate of verification has been drawn up by a notified body, and if applicable the body engaged under paragraph (1)(c), in accordance with Annex VI to the Directive; and
(d) a technical file has been prepared containing the information and documents specified in regulation 17(2) and, if applicable, regulation 17(5).

**Action** Inspectors and policy staff should be aware of this guidance and to be able to explain and help to avoid misunderstandings on the use NNTRs by Project Entities.