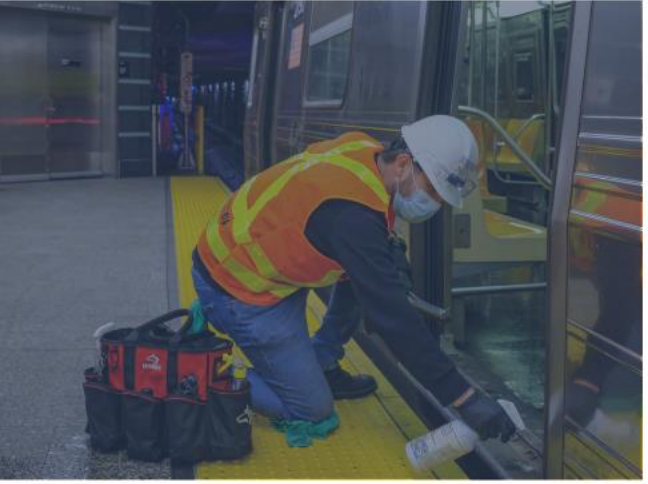
2020 FTA Joint State Safety Oversight and Rail Transit Agency Virtual Workshop

October 6-8, 2020

U.S. Department of Transportation

Federal Transit Administration



U.S. Department of Transportation
Federal Transit Administration

Agency Safety Plans: Integrating Lessons Learned

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Workshop Purpose

- Review PTASP Updates
- Share lessons learned from FTA voluntary ASP reviews
- Assist State and RTA personnel with developing best practices to address common ASP gaps

Agenda

1. PTASP implementation updates
2. ASP voluntary review data
   - Employee Safety Reporting Program (ESRP)
   - Safety Hazard Identification (SHI)
3. Requirements review (ESRP & SHI) and
4. Group Activity: Review gaps and identify best practices
   - Employee Safety Reporting Program (ESRP)
   - Safety Hazard Identification (SHI)

PTASP Requirements

Agency Safety Plan

Develop, **approve**, and **certify** an Agency Safety Plan, including an **annual review and update process**

Safety Management System (SMS)

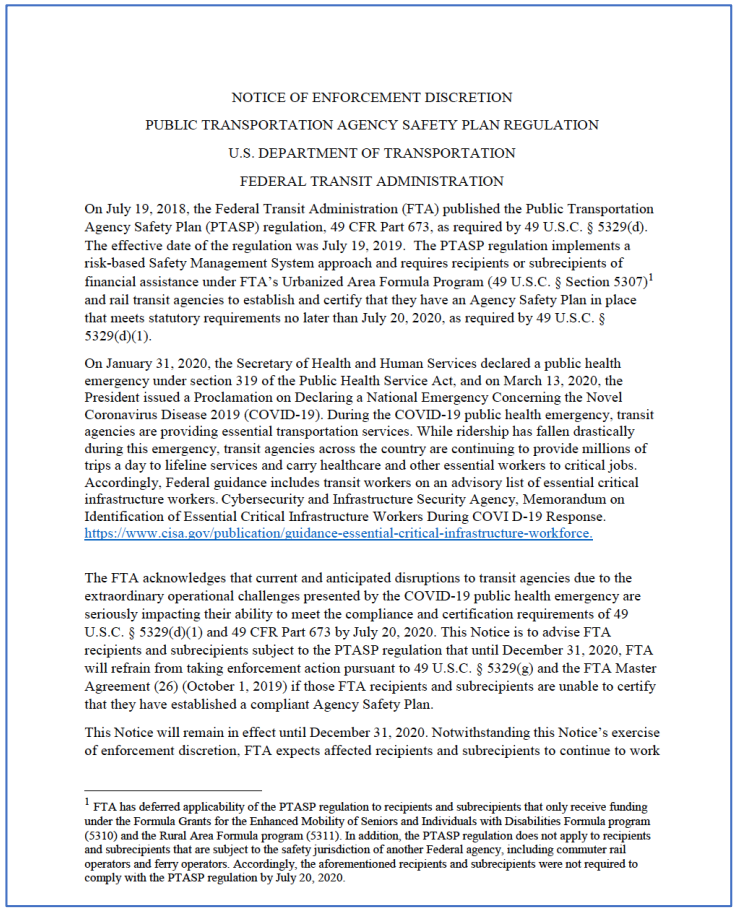
Implement and **operate** an SMS

PTASP Documentation

Maintain Agency Safety Plan and SMS documentation

Notice of Enforcement Discretion

- In light of the extraordinary operational challenges presented by the coronavirus disease 2019 (COVID-19) public health emergency, FTA issued a Notice of Enforcement Discretion effectively extending the PTASP compliance deadline from July 20, 2020 to **December 31, 2020**
  - https://www.transit.dot.gov/safety/public-transportation-agency-safety-program/public-transportation-agency-safety-plan-ptasp



NOTICE OF ENFORCEMENT DISCRETION

PUBLIC TRANSPORTATION AGENCY SAFETY PLAN REGULATION

U.S. DEPARTMENT OF TRANSPORTATION

FEDERAL TRANSIT ADMINISTRATION

On July 19, 2018, the Federal Transit Administration (FTA) published the Public Transportation Agency Safety Plan (PTASP) regulation, 49 CFR Part 673, as required by 49 U.S.C. § 5329(d). The effective date of the regulation was July 19, 2019. The PTASP regulation implements a risk-based Safety Management System approach and requires recipients or subrecipients of financial assistance under FTA's Urbanized Area Formula Program (49 U.S.C. § Section 5307)[1] and rail transit agencies to establish and certify that they have an Agency Safety Plan in place that meets statutory requirements no later than July 20, 2020, as required by 49 U.S.C. § 5329(d)(1).

On January 31, 2020, the Secretary of Health and Human Services declared a public health emergency under section 319 of the Public Health Service Act, and on March 13, 2020, the President issued a Proclamation on Declaring a National Emergency Concerning the Novel Coronavirus Disease 2019 (COVID-19). During the COVID-19 public health emergency, transit agencies are providing essential transportation services. While ridership has fallen drastically during this emergency, transit agencies across the country are continuing to provide millions of trips a day to lifeline services and carry healthcare and other essential workers to critical jobs. Accordingly, Federal guidance includes transit workers on an advisory list of essential critical infrastructure workers. Cybersecurity and Infrastructure Security Agency, Memorandum on Identification of Essential Critical Infrastructure Workers During COVI D-19 Response. https://www.cisa.gov/publication/guidance-essential-critical-infrastructure-workforce.

The FTA acknowledges that current and anticipated disruptions to transit agencies due to the extraordinary operational challenges presented by the COVID-19 public health emergency are seriously impacting their ability to meet the compliance and certification requirements of 49 U.S.C. § 5329(d)(1) and 49 CFR Part 673 by July 20, 2020. This Notice is to advise FTA recipients and subrecipients subject to the PTASP regulation that until December 31, 2020, FTA will refrain from taking enforcement action pursuant to 49 U.S.C. § 5329(g) and the FTA Master Agreement (26) (October 1, 2019) if those FTA recipients and subrecipients are unable to certify that they have established a compliant Agency Safety Plan.

This Notice will remain in effect until December 31, 2020. Notwithstanding this Notice's exercise of enforcement discretion, FTA expects affected recipients and subrecipients to continue to work

[1] FTA has deferred applicability of the PTASP regulation to recipients and subrecipients that only receive funding under the Formula Grants for the Enhanced Mobility of Seniors and Individuals with Disabilities Formula program (5310) and the Rural Area Formula program (5311). In addition, the PTASP regulation does not apply to recipients and subrecipients that are subject to the safety jurisdiction of another Federal agency, including commuter rail operators and ferry operators. Accordingly, the aforementioned recipients and subrecipients were not required to comply with the PTASP regulation by July 20, 2020.

PTASP Certification Progress

- States and transit agencies continue to make progress on ASP development and implementation

- As of September 27, 2020:

  - **Overall**: 58 percent of the 704 affected transit agencies have certified that they meet applicable requirements of the PTASP regulation

  - **RTAs**: 62 percent of the 64 RTAs have certified that they meet applicable requirements of the PTASP regulation

Annual Certification

- RTAs must establish a process and timeline for conducting an annual review and update of the Agency Safety Plan (§673.11(a)(5))
  - FTA does not specify what the annual review and update process looks like
- SSOAs may establish ASP review and update requirements for RTAs under their jurisdiction
- RTAs must re-certify annually in TrAMS
- If an RTA's ASP is updated, it must be signed by the RTA's Accountable Executive, approved by the RTA's Board of Directors or an Equivalent Authority, and reviewed and approved by the RTA's SSOA

Annual Certification

- For RTAs, before certifying in FTA's Transit Award Management System (TrAMS), the ASP and subsequent updates must:
  - Be signed by the RTA's **Accountable Executive**
  - Be approved by the RTA's **Board of Directors or an Equivalent Authority** (§673.11(a)(1))
  - Be **Reviewed and approved by the RTA's State Safety Oversight Agency (SSOA)** (§673.13(a) and §674.25(b))
  - Address all other applicable PTASP requirements

Fiscal Year 2020 Certification

Published Certifications and Assurances

FTA CERTIFICATIONS AND ASSURANCES

PTASP Technical Assistance Center

PTASP Technical Assistance Center

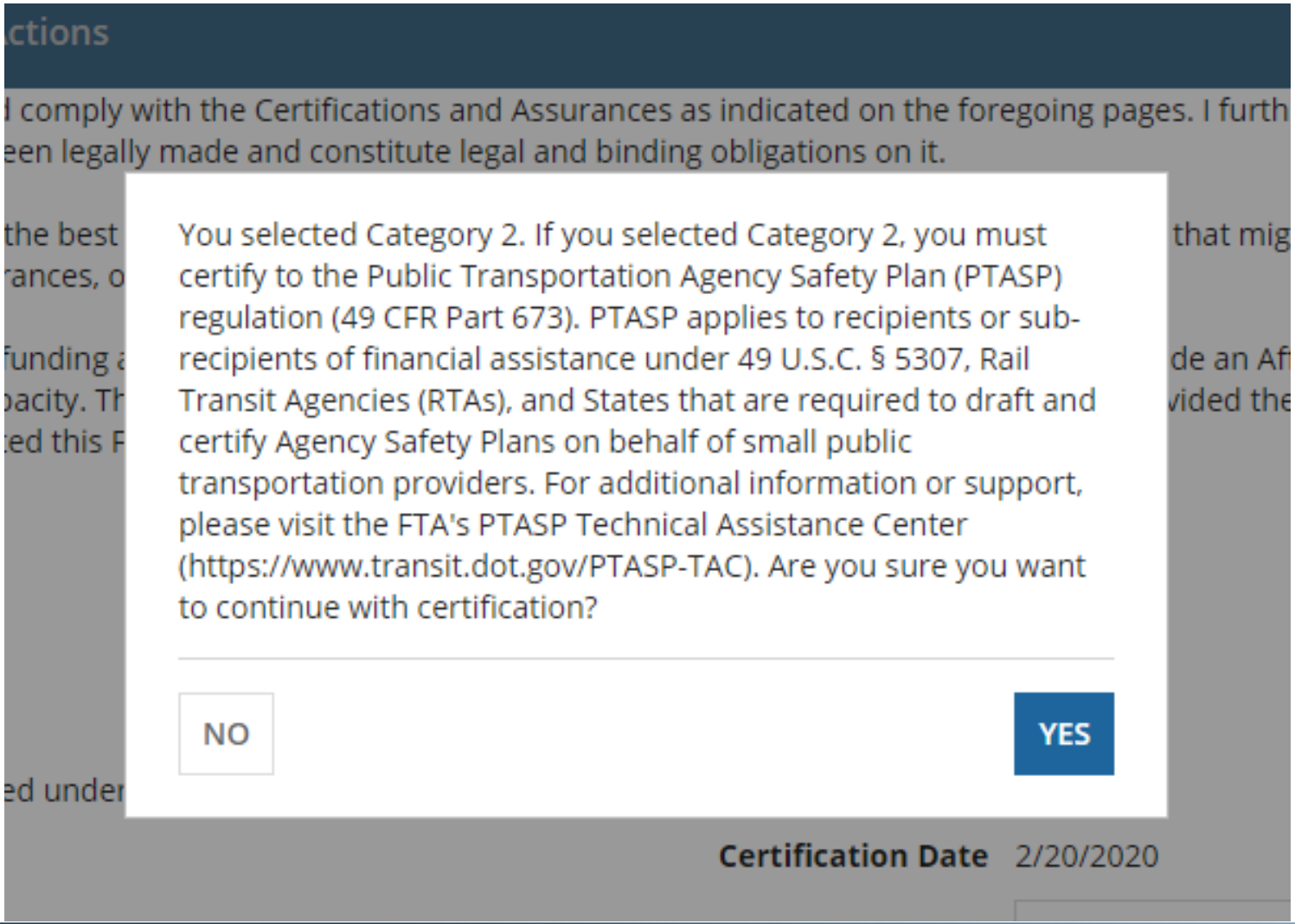
⚠ Certifications and Assurances

Certification History

Certification Date: 2/12/2020 | Official: Johnita Glover | Attorney: Johnita Glover

Category	Title
01	REQUIRED CERTIFICATIONS AND ASSURANCES
02	PTASP
03	PRIVATE SECTOR PROTECTIONS
04	DEMAND RESPONSIVE SERVICE
05	ROLLING STOCK REVIEWS AND BUS TESTING
07	INTELLIGENT TRANSPORTATION SYSTEMS
08	INTEREST, FINANCING, AND LEASING COSTS

Fiscal Year 2020 Certification



Roles

Agency Safety Plan

Develop, **approve**, and **certify** an Agency Safety Plan, including an **annual review and update process**

Safety Management System (SMS)

Implement and **operate** an SMS

PTASP Documentation

Maintain Agency Safety Plan and SMS documentation

FTA Role

- FTA does **not approve** Agency Safety Plans
- FTA will **review** Agency Safety Plans as part of the existing triennial review process
- FTA **audits** SSOA compliance with FTA's SSO program requirements, including the SSOA's review and approval of the RTA's ASP
- FTA's PTASP Technical Assistance Center provides **voluntary** Agency Safety Plan reviews
  - ✓ These are provided for technical assistance only and do not indicate approval of the Plan
    Please note that the deadline for submitting an ASP for a voluntary review is ***November 13, 2020.***

SSOA Role

- The SSOA establishes specific requirements for an RTA's Agency Safety Plan and safety activities in its **Program Standard**
- The SSOA **reviews and approves** the Agency Safety Plan – the original plan and any revisions that result from the required annual review process
- The SSOA may **establish requirements** for the Agency Safety Plan approval process for RTAs under their jurisdiction
- The SSOA **performs reviews** of the RTA's implementation of its approved Agency Safety Plan

RTA Role

- The RTA **develops** the Agency Safety Plan based on the requirements of the PTASP regulation and the SSOA's Program Standard
- The RTA **implements** its Agency Safety Plan
- The RTA **conducts an annual review** to determine if its Agency Safety Plan needs to be updated
- The RTA **submits** its Agency Safety Plan and any subsequent revisions to the SSOA for review and approval according to the process defined in the SSOA Program Standard
- The RTA **certifies** compliance with the PTASP regulation in TrAMS by 12/31/2020 and annually thereafter as part of FTA's annual Certifications and Assurances process

Lessons Learned from ASP Reviews

Agency Safety Plan

Develop and certify an Agency Safety Plan

Safety Management System (SMS)

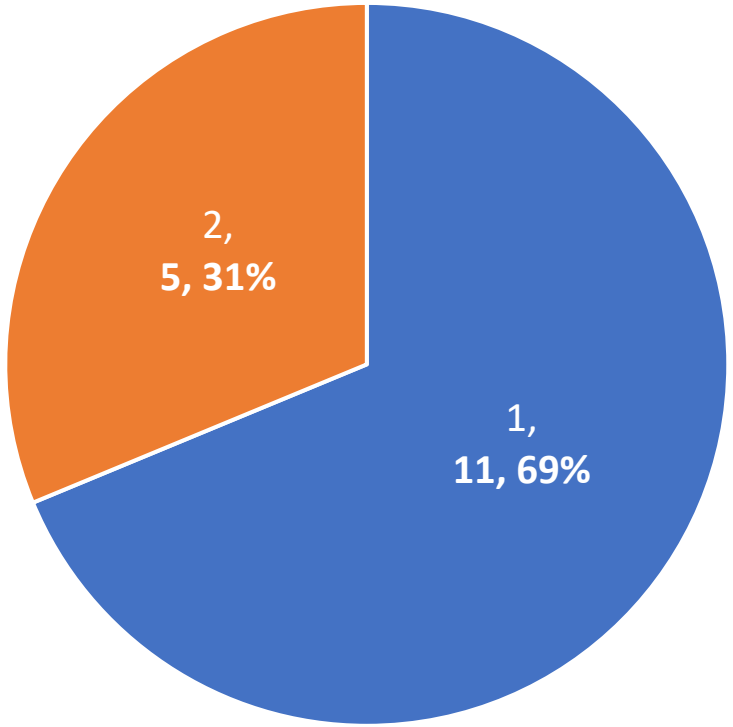
Implement and operate a Safety Management System

PTASP Documentation

Maintain documentation related to the Agency Safety Plan, SMS implementation, and results from SMS processes and activities

ASP Review Data

Employee Safety Reporting Program (ESRP)



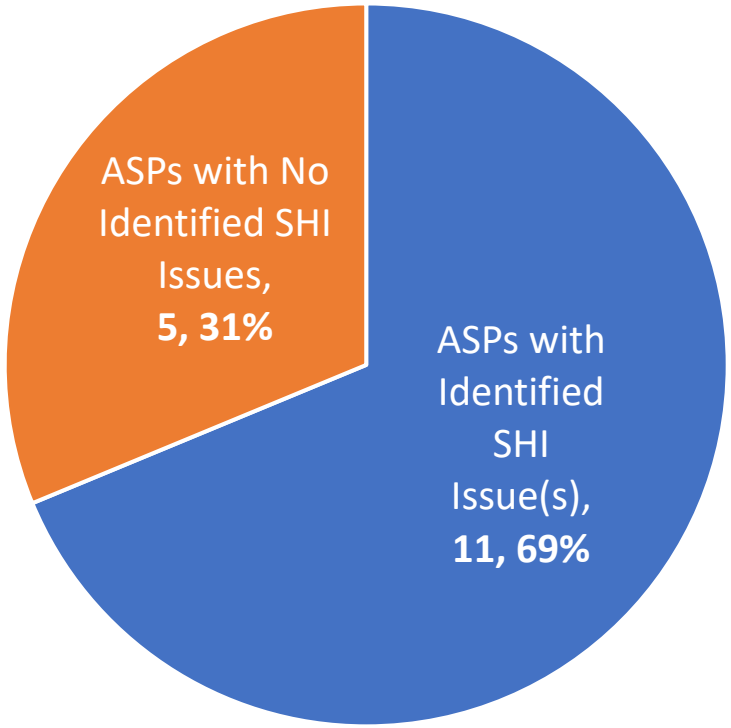
Out of 16 RTA ASP reviews,

11 had ESRP gaps and
11 had SHI gaps

	SHI	ESRP
ASPs with Gaps	11 (69%)	11 (69%)
Total Gaps	16	40

- 69% of ASPs reviewed had ESRP-related issues
  - 40 total issues
- 69% of ASPs reviewed had SHI-related issues
  - 16 total issues

Safety Hazard Identification (SHI)



SMS Components

Safety Hazard Identification

Employee Safety Reporting Program

Employee Safety Reporting Program (ESRP)

- Must **establish and implement a process** that allows employees – including relevant contract employees – to report safety conditions to senior management
- Must **specify protections** for employees who report safety conditions to senior management
  - Part 673 does not specify what those protections must be
- Must **describe employee behaviors** that may result in disciplinary action, and therefore would not be covered by protections
- Must **inform employees of safety actions taken in response to reports** submitted through an employee safety reporting program §673.29(b)

§673.23(b)

b) A transit agency must establish and implement a process that allows employees to report safety conditions to senior management, protections for employees who report safety conditions to senior management, and a description of employee behaviors that may result in disciplinary action.

Safety Hazard Identification (SHI)

- Must establish how the agency will **identify hazards and consequences**
- All agencies **must consider FTA and oversight authority information**
- Some agencies **must** consider **changes that may impact safety performance** §673.27(c)(2)
- Information sources **may include employee safety reporting** and **Safety Assurance outputs** §673.27

§673.25

b) Safety hazard identification

1) A transit agency must establish **methods or processes to identify hazards and consequences** of hazards

2) A transit agency **must consider**, as a source for hazard identification, **data and information provided by an oversight authority and the FTA**

Example of How ESRP and SHI Work Together

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