

# SSO Final Rule Webinar Transcript

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April 12, 2016, 2 pm ET

**Thomas Littleton:** [0:01] Hi. Today we're going to give you an overview of the final State Safety Oversight Rule, or SSO Rule, that was published on March 16, 2016, and takes effect on April 15.

[0:11] FTA has been working with State Safety Oversight Agencies to help them establish their oversight programs and improve the safety performance within the rail transit systems.

[0:20] The new rule further strengthens SSOA's oversight and enforcement authority, and it equips them with the financial and human resources they need to do their jobs effectively. It requires SSOA personnel to have the proper training and certification for the roles. It requires SSO programs to be certified to Federal standards by the FTA. And it outlines requirements for developing program standards, notifying the FTA of incidents and accidents and monitoring corrective actions within a rail transit agency.

[0:49] We realize that implementing the new rule may seem like an extra challenge being added to already full plates of our SSOA program managers and personnel. The FTA does not intend for implementation to be a burden, and we want the final rule to strengthen your oversight programs. That's why we're hosting the webinar today, and hope you'll take this opportunity to learn more about the rule and ask questions to our team who authored it and who lead FTA's SSO program.

[1:15] I want to thank you again for taking time to participate today. And now I'll turn it over to Donna Aggazio.

**Donna Aggazio:** [1:23] Thank you, Tom. Hello, everyone, I'm Donna Aggazio from FTA's Office of Transit Safety and Oversight. We appreciate everyone taking the time to participate in today's webinar. The focus of today's webinar is the content of the SSO final rule that goes into effect later this week.

[1:41] You can submit questions anytime throughout the presentation, and we will take questions at the end. We will post the presentation and the questions received very soon.

[1:54] To explain the rules – the final rules – we have Kim Burtch, acting director of FTA's Office of Safety Review, and Maria Wright, FTA's State Safety Oversight Lead Program Analyst. We also have Candace Key, who is Acting Chief of the Safety Policy and Promotion division for the FTA; Brian Alberts, Program Analyst for the FTA; and Richard Wong, from the FTA Chief Counsel's Office, all here to assist with questions.

[2:30] Here to get us started is Kim Burtch.

[2:33] Kim.

**Kim Burtch:** [2:34] Thank you, Donna. Hi, I'm Kim Burtch. I want to start by asking you to please submit your questions in the Q&A box, noted in the screenshot here. We'll also have poll questions throughout

the presentation. You can participate in these polls by voting in the top left box, you'll see it on your screen. We'll answer your questions at the end of the presentation.

[2:58] Today's presentation will provide an overview, and here's what we plan to cover.

[3:05] We'll give you a brief overview of how the new rule fits into the FTA's public transportation safety program.

[3:12] We'll review some of the contents of the State Safety Oversight Final Rule, including the changes we made based on public comments, the Rule's requirements for State Safety Oversight Agencies, what it means to certify your SSO program with the FTA, grants, development of program standards for SSOAs, and what the Rule says about accident and incident notifications and corrective actions plans.

[3:36] We'll also have some resources online – sorry, moving ahead.

[3:42] The State Safety Oversight program is one component of the FTA's public transportation program. Other components are pictured on the slide.

[3:51] We're working to publish the final public transportation safety program rule later this year.

[3:59] The public comment period closed last week for the public transportation agency safety plan (NPRM) and proposed national public safety plan.

[4:08] FTA is reviewing the comments we've received. We're continuing to work on the training program rule and anticipate publication sometime this year.

[4:18] Where we are.

[4:20] We're discussing the final SSO Rule today, so we've already completed the public comment period. Thank you to all who participated.

[4:27] The final rule was issued on March 16, and will take effect this Friday, April 15.

[4:35] Now I'll turn the next portion over to Maria Wright to discuss the SSO Final Rule.

**Maria Wright:** [4:41] Thanks, Kim.

[4:43] So let's talk in more detail about what the rule says and what it means for you.

[4:49] First, we have a poll question: Have you read the SSO Final Rule? Please either answer yes or no.

[5:04] We'll pause for a few seconds.

[5:07] [pause]

[5:20] OK. We're on slide seven, the Final Rule summary.

[5:30] SSO Final. The new rule strengthens the SSO program and creates some new guidelines. It gives states greater responsibility and authority for overseeing their rail transit systems. It allows the FTA to review and approve SSO program standards. And it enables the FTA to penalize states with non-existent or non-compliant programs.

[5:59] The New Rule replaces 49 CFR Part 659. Part 659 does not disappear completely on April 15, but is sunseting now. So if you're part of an SSOA, your focus should be on the new rule.

[6:18] When the FTA certifies your SSO program, you need to be compliant with the New Rule instead of Part 659.

[6:27] The SSO Rule strengthens an SSOA's authority to investigate accidents and oversee a rail transit agency's safety plan.

[6:38] Slide 8: Changes from NPRM.

[6:43] We've received feedback that some requirements in the draft rule may have placed an unnecessary burden on SSOAs. That's not what we want. We've made some changes to the Final Rule based on comments we received.

[6:59] First, we added an appendix that shows the notification requirements when a transit system has an incident, accident, or occurrence.

[7:11] We gave rail transit agencies more time to report certain types of incidents to the FTA, which we will explain in just a moment.

[7:21] Second, we're not requiring all SSOAs to conduct independent investigations of every accident. The FTA received feedback that this requirement would be burdensome.

[7:33] So the Final Rule gives the SSOA two options. They can conduct the independent investigation themselves, or the rail system can conduct the investigation and the SSOA can review it.

[7:48] And third, we've removed references to safety management systems from the final rule.

[7:57] Slide 9: Certification and Compliance.

[8:02] In order to be considered compliant, an SSO Program must receive certification from the FTA administrator.

[8:11] If a state's SSO Program is not compliant, the FTA may take certain actions until the state implements a compliant program. FTA can withhold SSO grant funds, certain formula funds, or require transit systems to spend all of their Chapter 53 funds on safety improvements until the SSO program is certified.

[8:37] If a state does not establish a certified SSO Program by April 15, 2019, then the FTA is now prohibited from obligating funds apportioned under 49 U.S.C. chapter 53 to a State, which would impact any other entity that would have received those funds from the State, not just the SSOA.

[8:57] Slide 10: Grants.

[9:01] SSOAs can use Federal financial assistance to pay for operational and administrative expenses, including training, that they incur while developing or implementing their oversight programs.

[9:16] Federal funds will be available according to formula, and based on rail revenue miles, guideway miles and passenger miles, unless it's for a commuter rail overseen by the FRA.

[9:31] Federal funds may cover up to 80% of eligible costs incurred.

[9:36] The non-Federal share cannot include any Federal funds or funds from a public transportation agency.

[9:48] Slide 11: SSOA Requirements.

[9:53] The SSOA has to be financially and legally independent from the rail transit agency it oversees. It can't directly provide public transportation services in the same area where it oversees a rail transit system. It can't employ someone who administers a rail transit system. And the SSOA must have the authority to review, approve, oversee, and enforce a rail transit system's agency safety plan.

[10:30] Slide 12: SSOA Requirements. A continuation here.

[10:37] At least once every three years, the SSOA must audit every rail transit system for compliance with safety plan requirements. And at least once a year, in the interest of accountability and transparency, the SSOA must report on the safety of each rail transit system to the state's governor, the FTA, and the transit system's board of directors.

[11:09] We're going to pause for another poll question: Are your SSOA personnel certified under the interim provisions of Public Transportation Safety Certification Training Program? Please answer either yes or no.

[11:25] [pause]

[11:53] And now, I'm going to turn it back over to Kim.

**Kim Burtch:** [11:59] Thanks, Maria.

[12:00] So what's the SSOs must do?

[12:04] SSOAs will need to adopt program standards that describe how they will oversee their rail transit systems.

[12:09] The Program Standards will define: How the SSO program will be managed, how program standards are developed, how the SSOA will oversee a transit system's internal safety reviews, and how the SSOA's audit of a transit system will be carried out every three years.

[12:32] The Program Standards will also explain how a rail transit system notifies the SSOA and the FTA about accidents and incidents. They will establish thresholds for when accident investigations are launched, and for when SSOAs will conduct their own independent investigation.

[12:50] They will explain their criteria for SSO ordering corrective actions or a transit agency. FTA will review and approve SSOA Program Standards.

[13:02] Notifications.

[13:04] As Maria mentioned earlier, this is one area where we changed the Final Rule based on comments we've received on the NPRM. The NPRM proposed that rail transit agencies report every single accident and incident to the FTA within two hours. The FTA received comments about the burden this would place on the RTAs, so we changed the Final Rule to say they only need to report accidents within two hours.

[13:27] According to the Final Rule, a rail transit agency is required to notify the FTA and its SSOA within two hours when: there is an accident with a fatality, there is an accident with a serious injury, there's a collision with a person or at a grade crossing that results in a fatality or serious injury, a fire results in a serious injury or fatality, a derailment happens, or there's a runaway train.

[13:56] Reporting.

[13:58] A rail transit agency has 30 days to report to the National Transit Database when: there's an incident with an injury that's not considered a serious injury, one or more injuries require an ambulance or medical transportation away from the event, a train is evacuated into or onto the right-of-way or adjacent track, or there's a self-evacuation, certain low-speed collisions or fires, a train stopped due to an obstruction in the tracks, or a hazardous materials incident.

[14:36] Corrective action plans.

[14:38] When a rail transit agency is working on a corrective action plan, the SSOA has to approve it and also track its completion. The corrective action plan can be initiated by the SSOA, the RTA, or the FTA.

[14:57] Effective date.

[14:59] The Final SSO Rule becomes effective later this week on Friday, April 15. SSOAs have until April 15, 2019, to become compliant.

[15:12] There is financial assistance available. Congress has authorized funds for states to use to implement their SSO programs.

[15:19] We're going to pause for another poll question: When do you expect to be in compliance? In 2017, 2018, or 2019?

[15:30] [pause]

[15:56] Learn more.

[15:57] If you want to learn or read more about the Final Rule, please visit the FTA's website. The address is at the bottom of this slide. You'll find a link to the Rule itself, and we also provided or posted FAQs, a fact sheet, a chart comparing the difference between 49 CFR Part 659 and 49 CFR Part 674, and a safety stakeholder letter. There's also a link to the NPRM webinar and transcript.

[16:25] We'll post today's presentation to the site, as well. If you have colleagues who were unable to attend today's webinar, please direct them here.

[16:37] Here's the contact information for Maria and myself.

[16:42] And we will pause for yet one more poll question.

[16:46] Did you – excuse me – do you require additional guidance on the SSO Final Rule – yes or no?

[16:53] [pause]

[17:28] I'd like to thank everyone for their participation. This concludes our presentation, and we will happily take your questions at this time.