UNITED STATES DEPARTMENT OF TRANSPORTATION
FEDERAL TRANSIT ADMINISTRATION (FTA)

Frequently Asked Questions

State Safety Oversight (SSO) Final Rule

Question 1: What are new the requirements for a State Safety Oversight Agency?

Answer: Each eligible State with a rail fixed guideway public transportation system (rail transit system) must establish an SSO program that includes a State Safety Oversight Agency (SSOA). An SSOA must satisfy the following requirements:

- Must be financially and legally independent from any rail transit system it oversees;
- Must not directly provide public transportation services in an area with a rail transit system that the SSOA oversees;
- Must not employ any individual who is also employed by a rail transit system that it oversees;
- Must have the authority to review, approve, oversee, and enforce the agency safety plan for a rail transit system;
- Must have investigative and enforcement authority with respect to the safety of a rail transit system;
- Must audit every rail transit system's compliance with safety plan requirements once every three years, and;

- At least once a year, report the status of the safety of each system to the Governor, FTA, and the board of directors or equivalent agency.

Question 2: What is the relationship between the Public Transportation Agency Safety Plan (TASP) rulemaking and the SSO final rule?

Answer: Under the SSO rule, an SSOA must have the authority to review, approve, oversee, and enforce a rail transit system's agency safety plan. On February 5, 2016, FTA published the Public Transportation Agency Safety Plan Notice of Proposed Rulemaking (NPRM).[1] Under the proposed rule, each operator of public transportation that receives Federal financial assistance under 49 U.S.C. Chapter 53 would be required to develop and implement an Agency Safety Plan based on the principles of Safety Management System (SMS). Each transit operator would be required to develop an Agency Safety Plan within one year after the effective date of a PTASP final rule. The PTASP final rule would replace the current requirement for a 21-point checklist or System Safety Program Plan (SSPP) under 49 CFR part 659. Until a rail transit agency has an approved and certified agency safety plan in place under a final rule for Agency Safety Plans, an SSOA will continue to oversee the SSPP. You may view on FTA's website a side-by-side[2] of the current SSPP requirements and the proposed requirements for an Agency Safety Plan

[1] The Agency Safety Plan NPRM is available at https://www.gpo.gov/fdsys/pkg/FR-2016-02-05/pdf/2016-02017.pdf.

[2] The SSPP TASP NPRM crosswalk is available on FTA's website at https://www.transit.dot.gov/regulations-and-guidance/safety/crosswalk-matrix-49-cfr-part-65919-system-safety-program-plan.

Question 3: What are the notification and reporting thresholds under the SSO final rule?

Answer:

Notification

Under the final rule, an RTA must notify both FTA and its SSOA within two hours of an accident occurring on its system. In addition, an RTA must notify FTA when it would be required to notify the Federal Railroad Administration of an accident as defined by 49 CFR § 255.5.

Reporting-

RTA's must report to the NTD within 30 days after an accident or an incident. FTA is updating its Safety and Security Reporting Manual[3] to provide additional guidance on reporting under the new SSO rule. SSOAs must submit an annual report to FTA that includes the following information: the SSO program standard; information on its employees' and contractors' completion of requirements under the Safety Certification Training Program; a publicly available report that summarizes its oversight activities for the preceding 12 months; a summary of triennial audits completed during the previous 12 months; evidence that the SSOA has reviewed and approved any changes to an RTA's agency safety plan; and a certification of compliance with the requirements of part 674.

[3] The Safety and Security Reporting Manual is available at https://www.transit.dot.gov/sites/fta.dot.gov/files/docs/2015_SS_Reporting_Manual.pdf.

Question 4: How long does a State have to come into compliance with the new SSO rule.

Answer: Each eligible State must have an approved and certified SSO Program no later than April 15, 2019- three years after the April 15, 2016, effective date of the SSO final rule. An individual State's compliance timeline may depend, in part, on that State's legislative process to pass laws to establish an SSOA that will be fully compliant with the rule. FTA understands that compliance timelines may vary from State to State; however, FTA expects that each State immediately will begin to take the steps necessary to have an approved and certified SSO program by the April 15, 2019 deadline.

Question 5: May FTA impose penalties on a State that does not have an approved and certified SSO program by April 15, 2019?

Answer: FTA has the authority to review and approve each State's SSO program and impose financial penalties on States with non-existent or non-compliant safety oversight programs. The Administrator has the authority to impose the following financial penalties:

- Withhold SSO grant funds from the State;
- Withhold not more than five percent of the 49 U.S.C. 5307 Urbanized Area formula funds appropriated for use in the State or urbanized area in the State, until such time as the SSO program can be certified;
- Require that all RTA's spend 100% of their chapter 53 funds on "safety-related improvements" until the SSO program becomes certified.

If a State fails to establish a SSO program that's been approved by April 15, 2019, FTA is prohibited from obligating chapter 53 funds to any entity within that State which would otherwise be eligible to receive financial assistance under 49 U.S.C. chapter 53.

Question 6: Will FTA provide additional funding to implement the new requirements?

Answer: Congress has authorized funding to eligible States to reduce the burden of complying with the SSO final rule. FTA established a formula to distribute the funds in an equitable manner, consistent with the statutory criteria set forth at 49 U.S.C. 5329(e) (6) (B) (i). Eligible expenses include employee training and expenses of establishing and maintaining an SSOA.

Question 7: Where can I find additional information on the SSO final rule?

Answer: Please visit the TSO rulemaking page[4] on FTA's website for more information on the SSO final rule.

[4] Please visit the TSO rulemaking page on FTA's website at https://www.transit.dot.gov/regulations-and-guidance/safety/map-21-safety-related-rulemaking.