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FEDERAL TRANSIT ADMINISTRATION

Public Transportation Safety Program Final Rule Webinar

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August 30, 2016

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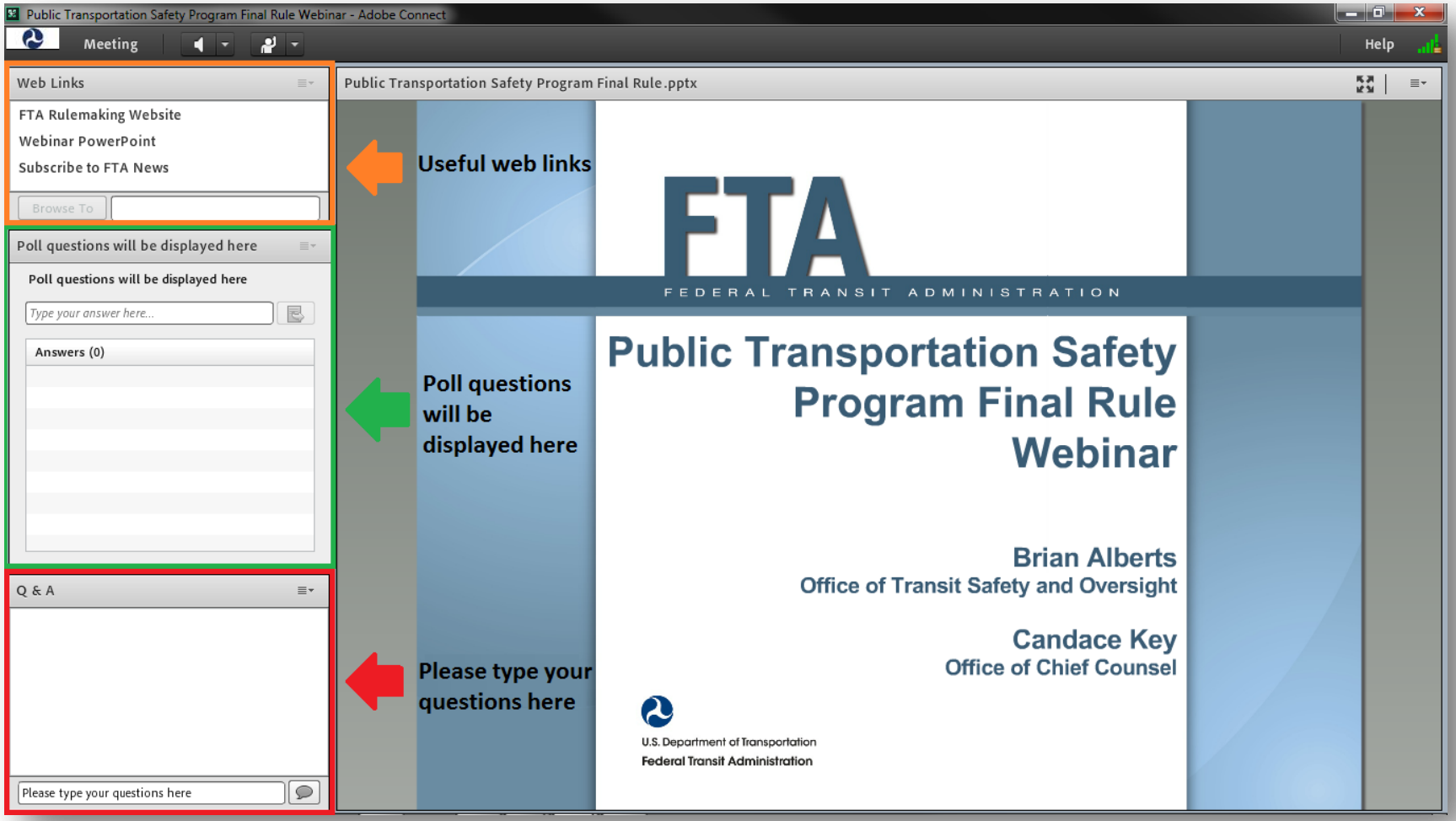
Webinar 101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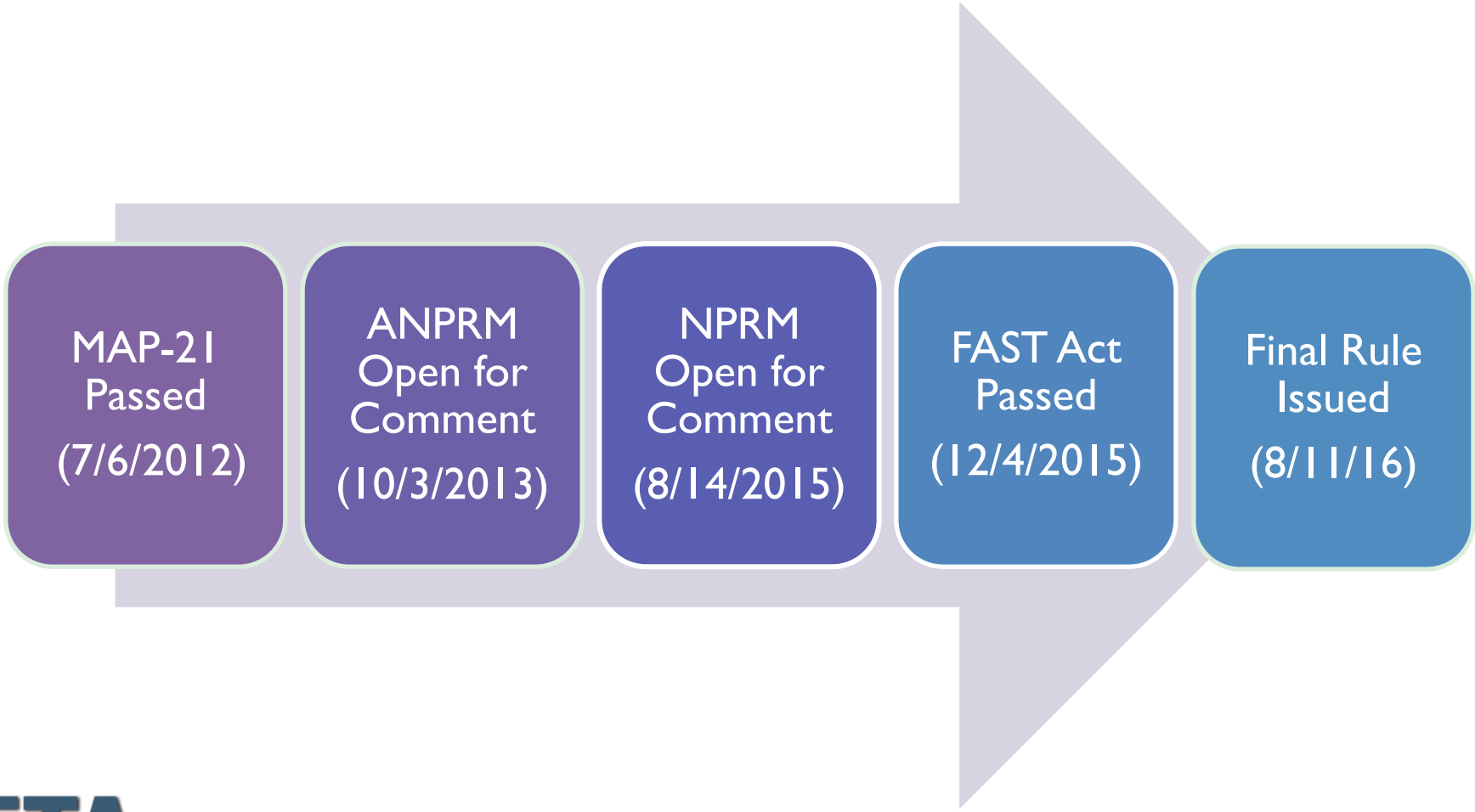
U.S. Department of Transportation
Federal Transit Administration

Today's Webinar

- Background
- Changes from Notice of Proposed Rulemaking
- Contents of the Final Rule
- Resources
- Questions and Answers

Poll Question

Timeline


MAP-21 Passed
(7/6/2012)
ANPRM Open for Comment
(10/3/2013)
NPRM Open for Comment
(8/14/2015)
FAST Act Passed
(12/4/2015)
Final Rule Issued
(8/11/16)

Public Transportation Safety Program
RULE
SMS
National Public Transportation Safety Plan
GUIDANCE
RULE
National Public Transportation Safety Certification Training Program
RULE
Public Transportation Agency Safety Plans
RULE
State Safety Oversight (SSO) Program
TRANSIT AGENCIES
SAFETY WORK AHEAD
BUS
RAIL
SAFER PUBLIC TRANSPORTATION

Contents of NPRM

- Proposed to formally codify FTA's safety policy - Safety Management Systems (SMS)
- Proposed substantive and procedural rules for FTA's administration of the Public Transportation Safety Program
- Proposed contents of a National Public Transportation Safety Plan

Summary of Public Comments

- NPRM published on August 14, 2015, for 60 day comment period
- Received 118 unique comment submissions
- Comments of note:
  - Cost of rule to regulated community
  - Scalability/burden of SMS
  - Reasonable time and manner
  - Coordination between FTA and State Safety Oversight Agencies (SSOAs)

Poll Question

Summary of Major Changes

- Clarified definitions
- Added issuance of restrictions and prohibitions to the list of authorities (FAST Act)
- Replaced specific FTA advance notification requirements with more general language
- Removed 30-day timeframe for recipients to comply with FTA requests for records
- Added that FTA may withhold not more than 25% of a recipient's Urbanized Area Formula funds (FAST Act)

Summary of Major Changes

- Clarified that general directives are not used for emergency situations and don't require immediate compliance upon notice in the *Federal Register*
- Revised to provide the Administrator with the authority to review petitions for reconsideration of special directives
- Removed language which proposed that FTA would take compliance with advisories into consideration when considering other enforcement actions
- Added operational standards to the contents of a National Safety Plan

Contents of the Public Transportation Safety Program Final Rule

PART 670—PUBLIC TRANSPORTATION SAFETY PROGRAM

Subpart A—General Provisions

670.1 *Purpose and Applicability*
670.3 *Policy*
670.5 *Definitions*

Subpart B—Inspections, Investigations, Audits, Examinations, and Testing

670.11 General
670.13 *Request for Confidential Treatment of Records*

Subpart C—Enforcement

670.21 *General*
670.23 *Use or Withholding of Funds*
670.25 *General Directives*
670.27 *Special Directives*
670.29 *Advisories*

Subpart D—National Public Transportation Safety Plan

Applicability

Applies to States, SSOAs, or local governmental authorities, and any other operator of public transportation that receives financial assistance under 49 U.S.C. Chapter 53

SMS Policy

- FTA has adopted the principles and methods of Safety Management Systems (SMS) as the basis for enhancing the safety of public transportation in the United States
- FTA will follow the principles and methods of SMS in its development of rules, regulations, policies, guidance, best practices and technical assistance administered under the authority of 49 U.S.C. 5329

Summary of FTA Authorities

- Conduct inspections, investigations, audits, examinations, and testing of equipment, facilities, rolling stock, and operations
- Withhold or direct use of federal funds
- Issue Safety Directives
- Require more frequent oversight by a SSOA or more frequent reporting
- Require corrective action plans
- Issue restrictions and prohibitions
- Require the production of documents and prescribe recordkeeping and reporting requirements

Requests for Confidential Treatment of Records

- Recipients may request confidential treatment of records that are requested by FTA
- Requests must follow the procedures outlined in section § 670.13 of the rule
- Confidential treatment does not mean that a record is protected from disclosure under FOIA

Directing the Use of Funds

- The Administrator may require a recipient to use Chapter 53 funds to correct safety deficiencies before the funds are used for any other purpose
- Triggered by a pattern or practice of violations of Federal transit safety law, including regulations and directives
- Rule establishes administrative process for Administrator to issue notice and for a recipient to reply

Withholding Funds

- The Administrator may withhold not more than 25% a recipient's Urbanized Area Formula Funds
- Triggered by a pattern or practice of violations of Federal transit safety law, including regulations and directives
- Rule establishes administrative process for Administrator to issue notice and for a recipient to reply

Directives

A directive is a written communication from FTA to a recipient that requires the recipient to take one or more specific actions to ensure the safety of the recipient's public transportation system

General Directives

- Applicable to all (or subset of) recipients
- Subject to public notice and comment
- Effective upon final notice in *Federal Register*

Special Directives

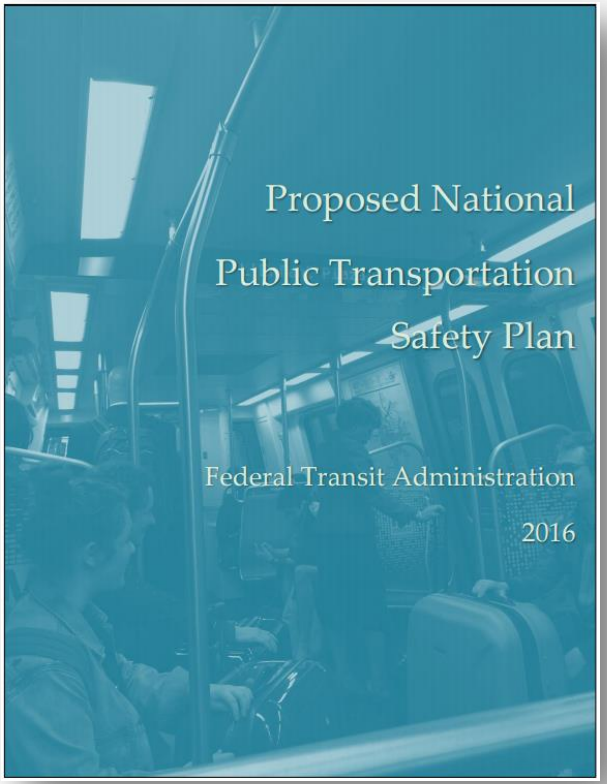
- Applicable to one or more named recipients
- Effective upon direct notice to recipient(s)
- Establishes process for petitions for reconsideration
- Deputy Administrator will issue special directives and Administrator will review petitions for reconsideration

Safety Advisories

- An advisory is a notice that informs or warns a recipient of hazards or risks to the recipient's public transportation system
- An advisory may include recommendations for avoiding or mitigating the hazards or risks
- Effective upon notice in the *Federal Register*

National Public Transportation Safety Plan

- Final Rule defines purpose and includes statutorily required content and other components
- Mandatory vehicle and operational standards will be subject to notice and comment
- Updated periodically



Effect on Transit Community

- Effective date September 10, 2016
- No immediate action required

Poll Question

Resources

- Website
  - https://www.transit.dot.gov/regulations-and-guidance/safety/map-21fast-act-safety-related-rulemaking
- Public Webinars
  - Thursday, September 1 - http://bit.ly/2bfy7Qw
- Subscribe for the latest FTA News
  - https://public.govdelivery.com/accounts/USDOTFTA/subscriber/new

Questions?

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