

FTA Webinar Series: Questions and Answers

Introductory Note

The Federal Transit Administration (FTA) conducted public outreach sessions and hosted a webinar series related to its Public Transportation Agency Safety Plan Notice of Proposed Rulemaking (NPRM) and its Proposed National Public Transportation Safety Plan. FTA conducted these public outreach sessions on the following dates:

- February 12, 2016;
- February 24, 2016;
- March 1, 2016;
- March 2, 2016;
- March 3, 2016; and
- March 7, 2016.

During these public outreach sessions, FTA presented on the proposed requirements under the Public Transportation Agency Safety Plan NPRM and the Proposed National Public Transportation Safety Plan. FTA also responded to questions asked by the public.

FTA recorded these presentations, including the question and answer sessions. Below is a compilation of each question and answer related to FTA's Public Transportation Agency Safety Plan NPRM and FTA's Proposed National Public Transportation Safety Plan, organized by subject matter.

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Accountable Executive

1) Question: If a state department of transportation does a statewide agency safety plan, must each agency have an accountable executive?

Answer: Yes, if a state department of transportation drafts a public transportation agency safety plan on behalf of a transit operator in that state, then that operator would be required to have an accountable executive. The proposed rule states that an accountable executive at a very small agency can be someone with various roles, such as a grants manager or head of operations. At a large rail transit agency, the accountable executive must be the general manager, president, or comparable role.

2) Question: I just want to make sure I heard correctly that the grants manager could serve as the accountable executive for sign-off on the safety plan in a municipal environment?

Answer: I don't think any of us said that a grants manager could serve as the accountable executive. The proposed definition of accountable executive would have to be a person within a transit agency who has direct control over the resources needed to implement an agency safety plan and transit asset management practices, and who is responsible for implementation of both of those requirements. So, a grants manager would not be that person. However, for purposes of serving as an equivalent authority to an agency's board of directors, we are deferring to transit agencies to identify an individual that would have sufficient authority to approve those plans after they're signed by the accountable executive. For some of the smaller agencies, that equivalent authority could be a grants manager. That is different than functioning as the accountable executive.

3) Question: Can an accountable executive be a CEO or general manager of a transit agency?

Answer: Yes, an accountable executive can be a CEO or general manager of a transit agency.

Annual Review and Update of Safety Plans

1) Question: Are only the performance targets required to be updated annually or the entire agency safety plan? My understanding of the Transit Asset Management Plan is that the targets are updated annually through NTD, but the plan, itself, is only updated every three years.

Answer: Under our statute, Congress required an annual update of the plan. The plan includes safety performance targets. Each year, the agency would be required to update its entire plan which would include all elements of the plan, including the performance targets. I would add that this would not necessarily indicate that the entire plan must change, but rather you would want to revisit it, make any modifications necessary, based on your experience with how the plan has worked for the agency the previous year. You would want to update your performance targets accordingly.

2) Question: Section 673.11(a)(6) states that a transit agency must set a process and timeline for an annual review. If the plan is drafted by the state for 5311(f) recipients, would the state be responsible for the annual review process and timeline?

Answer: Although FTA is proposing that the states would be required to draft and certify the plans for section 5310, section 5311, and small 5307 recipients and sub-recipients, it is ultimately the responsibility of the recipient or sub-recipient to carry out the plan. The recipient or sub-recipient would have to review its plan annually and update it accordingly. If your state drafts your safety plan, your annual review of the safety plan allows you to look at your performance targets for your particular agency: How are you meeting those targets? How do you want to adjust those targets in the future? Are there new performance measures you want to be looking at? These are the kinds of updates you would be making to your agency plan each year, and they will be specific to your agency. It would be very difficult for the state to make those types of updates. Additionally, after having lived by the safety plan for a year and having implemented its processes, the agency may find that a specific process may not work well for them and they may want to modify it. It's up to the agencies to determine what works best for them.

Applicability of the Proposed Rule

1) Question: Can you discuss the "exemption" language for 5310 closed door operations?

Answer: Service that is not considered open door service (i.e., it is not "public" transportation) is not required to have an agency safety plan. Examples may include churches or nonprofits that serve specific subsets of the population. This exemption is not specific to the type of funding that an operator receives; it is specific to the type of service—open door or closed door. If a 5310 agency provides public transportation that is open door service, then the agency must have an agency safety plan.

2) Question: Do public transit agencies that do not receive 5307 funding but do receive 5311 funding fall into this requirement [to have an agency safety plan]?

Answer: Yes, 5311 agencies are subject to this requirement even if they do not receive 5307 funding. The state would be required to draft and certify the agency safety plan on their behalf, unless the agency opted out and wanted to draft and certify the plan themselves.

3) Question: Do bus agencies come under these regulations?

Answer: The answer is yes, bus agencies do come under these regulations. We've decided to propose in the NPRM, at least, that it's all chapter 53 recipients that operate public transportation systems, so that would include buses as well, so yes.

4) Question: How does this work for transit agencies that operate in two or more contiguous states?

Answer: Hi, this is Brian. It would be the same for those who operate in two or more contiguous states. Every operator is still a public transportation system that operates an open door service is going to be required to have an agency safety plan, regardless if you operate in one or more states.

5) Question: Where would van pool providers fall within this regulation?

Answer: The rule would apply to any operator of a public transportation system, which would include a recipient or a sub-recipient, unless it provides closed-door service that's not open to the public that's only designed for a particular clientele.

6) Question: Will this apply to privately owned companies who transport the public?

Answer: The rule would apply to a public transportation operator that is a recipient of FTA funds.

7) Question: What about van pools that are in our fleet and contracted service for door-to-door services? Will they need an SMS also?

Answer: It applies to all operators of public transportation systems that receive FTA funds.

8) Question: Is there a definition of closed door for the 5310 exemption?

Answer: The exemption is not specific for any particular funding program at FTA, such as 5310. We are proposing to define that in a way that aligns with the type of service provided, not the type of funds received. By closed door service, we mean service that is not open to the general public and is only available for a particular clientele.

9) Question: Will FTA identify agencies exempt from this new rule?

Answer: FTA has, in the NPRM, identified agencies exempt from this new rule. We're saying that 5310 operators that don't operate open-door service, so closed-door service operators, would

be exempt from this rule. Non-profits and churches that are closed-door service providers. Ferry providers and those that fall under FRA regulations – so commuter rail service providers – would be exempt, as well.

10) Question: What governs PTASP for FTA grantees operating on shared track/operation governed by FRA rules?

Answer: We talked about this before, but just to reiterate, if you're already governed by FRA regulations and FRA oversees you for safety, then you would not fall under this rulemaking. It's pretty basic. If you're under FRA regulations currently, if you're a commuter rail system, then you would not be regulated by the FTA, and this rule would not apply to you, but only for that specific portion of your agency.

11) Question: If a 5311(f) provider who is a sub-recipient or a contractor is regulated by federal motor carrier, are they included?

Answer: The rule would apply to any operator of transit. If the recipient of FTA funds is a public transportation operator, they would be required to draft and certify a safety plan unless the state can do so on their behalf.

12) Question: How do these rules tie in with other regulations that exist for agencies (e.g., FRA)?

Answer: The rule would not apply to any type of service regulated by other agencies such as commuter rail service regulated by the FRA or passenger ferry service regulated by the US Coast Guard.

Asset Management, Planning, and Safety Relationships

1) Question: On slide seven, what did you say about bridging statewide and metropolitan planning with SMS? Did you mention something about Transit Asset Management Plan and PBPP? Please elaborate or explain.

Answer: MAP-21 created a performance-based and multi-modal program to strengthen the U.S. surface transportation system by focusing on National goals, increasing accountability, and improving transparency. These changes will improve decision-making through better informed planning and programming. The United States Department of Transportation is implementing the new performance management requirement through a number of rulemakings that will be released in several phases. There are three components to this performance management framework on the FTA side. Those are the National Public Transportation Safety Plan, which will include performance criteria, the Public Transportation Agency Safety Plan, which will include a requirement that transit agencies set performance targets based on the criteria, and the Transit Asset Management Rule, which will include performance measures established by FTA, and a requirement that agencies set performance targets based on those measures pursuant to the planning provisions at 49 U.S.C. 5303 and 5304. State and Metropolitan Planning Organizations are required to establish performance targets for transit that are based on the performance measures that are established by FTA, both in Asset Management Rule, and in the National Safety Plan, and to coordinate selection of those performance targets to the maximum extent practicable, with the performance targets set by transit agencies at the operator level

2) Question: What language is expected in TAMP that reflects that it's in sync with Agency Safety Plan? There seems to be inconsistent performance criteria between the two documents.

Answer: I would say that this question is outside the scope of our presentation today. FTA had a separate public comment period on its Asset Management Rulemaking. That public comment period is closed. That's a question that is outside the scope of the language in FTA's proposed National Safety Plan and the language in FTA's Agency Safety Plan NPRM.

I will add, however, that there was no requirement in the Asset Management NPRM where FTA proposed that there be any language included in the Asset Management Plan that reflects it's in sync with an agency safety plan. The asset management plan has four components. It must include an asset inventory, a condition assessment of the assets within that inventory, investment prioritization, and a method for conducting your investment prioritization. Then there's also the target setting and reporting requirements that were also proposed.

Boards of Directors/Equivalent Authorities

1) Question: On slide seven, what did you say about bridging statewide and metropolitan planning with SMS? Did you mention something about Transit Asset Management Plan and PBPP? Please elaborate or explain.

Answer: That's specific to your agency, but I think that we said in the notice of proposed rulemaking that, yes, if you define that as the highest-level person in your agency, then they can be the approver. If you have a smaller agency and you don't have a well-defined "CEO" or general manager of that sort, then you can have a county manager be the approver as the accountable executive. It would be impossible for us to identify every hypothetical scenario for the thousands of transit agencies across the country. So we're really proposing to defer to the transit agencies to make that determination for themselves. As proposed, the definition of accountable executive would be the person that has the responsibility over ensuring an agency safety management system and carrying out transit asset management practices, and also has control or direction over resources needed to carry out both of those requirements. So if your county manager is that person, then a county manager could be an accountable executive.

Certification of Safety Plans

1) Question: If a small agency decides to draft its own plan, who is responsible for certifying the plan the small agency or the State?

Answer: The small agency would need to certify its own plan.

2) Question: We are a small bus-only transit agency receiving 5310 and 5311 funds, with services open to the public. We also have a system safety program plan in place. It is my understanding that we are not required to submit an agency safety plan under this proposed rule, however, we are required to submit a TAM plan. Is this an accurate interpretation?

Answer: No, that is not an accurate interpretation. Neither the proposed Agency Safety Plan rule nor the proposed Asset Management rule would require a transit agency to submit either an agency safety plan or asset management plan. If FTA were to require that, we would be receiving, potentially, thousands of plans. As proposed under both rules, both an Agency Safety Plan and an Asset Management Plan would be self-certified by the agency.

Chief Safety Officer

1) Question: Where is the requirement for a certified Safety Officer explained?

Answer: MAP-21 required agencies to identify a safety officer and left it to the agencies to determine who that person would be.

2) Question: The NPRM is written as if every transit system was independently run with its own board and executive. However, many systems are municipally-sponsored and contracted out. A strict reading of the proposed rule would indicate that the County Executive, City Manager, or Mayor is the Accountable Executive, and that the Chief Safety Officer should report directly to that individual. Frankly, that is organizationally unworkable and very counterproductive. The Chief Safety Officer for transit cannot be higher in the organizational structure than the individual monitoring contract operations. The County Executive, City Manager, or Mayor has a very broad breadth of responsibilities and cannot be expected to be intricately familiar with transit. Please clarify.

Answer: Congress required under 49 U.S.C. Section 5329(d) that a board of directors or an equivalent authority approve each agency's safety plan, and it also required each agency to identify a chief safety officer who would report directly to the general manager, president, or equivalent officer of the recipient. In our proposal, we are really deferring to the transit agency to identify these individuals in their system and we are looking forward to public comment on this particular topic.

3) Question: The NPRM seems to indicate that the chief safety officer reports directly to the accountable executive. In our organization, this position reports to a deputy who reports to the executive director. Does this regulation require a change?

Answer: Like we mentioned at the beginning of the Q&A section, we're not going to answer questions of implementation. This question seems very specific for this particular transit agency. I will say that FTA is proposing to require each agency to identify an accountable executive and to identify a chief safety officer. We look forward to your comments on our proposal.

4) Question: I understand that the larger transit programs can implement a designated individual to be a safety officer. How does a small transit program handle such an intense requirement with only a couple of administrative positions?

Answer: We understand that small agencies may not have a designated safety officer. So, someone who is also the head of operations or maintenance, may also be the safety officer at a small agency. We're only allowing that for small 5307, 5311, and 5310 agencies. For anything that is a large 5307, we would expect that they would be able to designate someone to be a set safety officer because they are a larger system.

Data Protection

1) Question: Is the government going to offer protection to agencies that have all the data that is required for SMS not to be FOIA'd (Freedom of Information Act)?

Answer: FTA does not have the statutory authority to protect any of this information from disclosure. However, in our most recent proposal – GROW AMERICA – we did include language which would have amended federal transit law to provide for this type of data protection. FTA is aware of this issue and the concerns that agencies have with respect to collecting this type of data and collecting more data that may be required in the implementation of their safety management system. We hear your concerns, and we have attempted to make efforts through the legislative process to address this issue.

I want to expound on that a little bit, also. It's important to keep in mind the difference between the information that the transit agency collects for its internal safety management processes to assess how well the agency is doing in areas that the agency has identified as safety concern areas and the information that the FTA requires be submitted and shared. In the Transit Agency Safety Plan, agencies designate what measures they are going to be looking at and what data they are going to be collecting based on concerns that this particular agency would like to address. There is no requirement that that information be sent to the Federal Transit Administration.

One final point that I'd like to add on all this, there is data protection under the Federal Railroad Administration's safety plans, the safety plans required by the Federal Railroad Administration. Many transit agencies that operate commuter rail service may have safety plans for purposes of FRA's requirements that have that data protection. We don't want that data protection to get lost if a transit agency were to combine that plan for commuter rail safety with safety for other modes of transit, so we are proposing that agencies keep those plans separate. They'd have a separate plan for commuter rail service subject to FRA jurisdiction and a separate plan for FTA's purposes so that the data protection offered by FRA doesn't get lost through a combination of safety plans.

2) Question: Would the Safety Plan become open to the public? It seems that this would tell people how we handle situations, and with the issues of terrorism, it would seem odd to open our plans to the public."

Answer: We don't have data protection in our statute that would apply to the Agency Safety Plan. I'm assuming that the person asking the question is referring to not the System Safety Program Plan required under Part 659, which will ultimately go away, but to the Agency Safety Plan that we're talking about today. We don't have data protection, but FTA is not proposing to collect the thousands of Agency Safety Plans across the country. We're proposing to review them to ensure that they comply with the rule through our existing triennial review process and our state management review process.

Also, keep in mind that your Transit Agency Safety Plan may refer to another document not contained in your Safety Plan. In fact, I would think there are several areas where your Transit Agency Safety Plan, as proposed, would refer to processes that would be created within the agency to meet the requirements of each of the four components of SMS.

One more thing that I'll add here, because I know there are commuter rail operators on the line. The commuter rail operators are subject to FRA's jurisdiction, and FRA has data protection in its statute. So that the agencies don't lose that data protection afforded by FRA, we're proposing that agencies would keep their safety plans for commuter rail separate from their safety plans for bus and any other rail that would be regulated by the FTA. We wouldn't want the agency to combine those plans into a single plan and lose any data protection afforded to its commuter rail operation.

Definitions

1) Question: What qualifies as a safety event?

Answer: A safety event includes any accident, incident, or other occurrence that is currently required to be reported to the NTD or through the SSO reporting framework.

2) Question: Footnote 11 of the national plan mentions the final SSO rule, but my understanding is that the final SSO rule is not out yet, and the definitions therein are different than those in the footnote. Can you clarify?

Answer: The footnote refers to the NPRM, and this is a proposed plan. The definition in that footnote may change based on the definition in a final SSO rule, which FTA has not released as of the date of this webinar.

Effective Date of Final Rule

1) Question: When is the final rule expected?

Answer: Hopefully, a final National Safety Plan and a Public Transportation Agency Safety Plan final rule will be published this calendar year

2) Question: When do you anticipate the issuance of the final rule?

Answer: In the future.

3) Question: Is the release of the FTA final rules going to be at the same time as the National Public Transportation Safety Plan?

Answer: FTA plans for the documents to be published around the same time, but the federal rulemaking process is extensive and FTA cannot ultimately control timing of the documents' release. After FTA develops a proposed rule or plan, it completes an internal Department of Transportation review process. Then, the rule or plan goes to the Office of Management and Budget (OMB), and depending on the document, OMB's review may take 30-90 days. Next, the document is published in the Federal Register for comment, and then the process is repeated for the final rule [(however, there is no comment period for a final rule)].

4) Question: What is the expected timeline for adoption?

Answer: We're hoping to have a final rule out by the end of the year but each agency would have 1 year after the effective date of our final rule to have a safety plan in place.

Emergency Preparedness and Response Plans

1) Question: Will rail transit agencies have the option to keep the emergency preparedness and response plan as a separate document and reference to the document in the agency safety plan?

Answer: FTA proposes that the emergency preparedness response plan is part of the overall agency safety plan. However, if your agency currently maintains a separate document and believes it would be easier to reference it in the agency safety plan, please consider submitting a comment on this subject to the docket.

2) Question: How does this safety plan compare to the safety and security emergency preparedness plan we received a couple years ago from FTA?

Answer: It's only going to be rail transit agencies that are going to have to actually do an emergency preparedness and response plan, and have that included as part of their agency safety plan. So, the bus agencies that fall under this are not going to actually have to do an emergency preparedness and response plan. We would love it if you did do that, but that is not going to be a requirement under the proposed rulemaking.

Enforcement/Compliance

1) Question: Would this monitoring process be federal, state, or locally established?

Answer: Enforcement of an agency safety plan would ultimately be at the federal level through existing triennial review and state management review processes. At the local level, an agency would be responsible for monitoring its maintenance procedures and its system to spot and identify potential safety hazards. For rail transit agencies, there is an additional layer of enforcement at the state level. FTA is proposing that state safety oversight agencies review and approve the safety plans for rail transit systems.

2) Question: Do you know if the triennial questions concerning the safety plan will be a separate section or included in an existing area?

Answer: FTA plans to use its triennial review process and its state management review processes to ensure compliance with the rule. Additionally, FTA is not proposing to collect safety plans each year. Rather, FTA will use the triennial and state management review cycles to review plans and ensure compliance with the rule.

3) Question: If 5310 and 5311 providers can opt out of a state DOT safety plan, who would have oversight of the 5310 or 5311 agency safety plan?

Answer: The FTA would have oversight of the 5310 and 5311 agency safety plans. Because we're still going to ensure compliance through the state management review process and the triennial review process. There's going to be oversight by the FTA, even if a 5310 or 5311 agency opts out of doing the state's overall state plan for agency safety plans.

4) Question: Who will have oversight of a 5310 or 5311 agency who opts out of the State's Agency Safety Plan?

Answer: It will be the FTA who has oversight of a 5310 or 5311 agency who opts out of a State Agency Safety Plan, just as a large system would be overseen by the FTA. If a small 5310 or 5311 agency opts out of having the State draft and certify their plan, then they will be overseen by the FTA.

5) Question: As a follow-up to the question about the designated recipient's role in sub-recipients' plans, what are the triennial review implications to the recipient of the subs' funds.

Answer: FTA is proposing to use the triennial review and state management review oversight processes to ensure compliance with the rule, and FTA will have more guidance on this topic as we roll out the final rule.

Funding

1) Question: Is specific additional funding available to implement the safety plans? For instance, can FTA planning funds be used to write and implement the program?

Answer: Congress did not create a new, separate funding program to support the development and the implementation of these plans. The development and implementation of these plans is an eligible activity under FTA's existing programs, including our Planning Program, our Section 5307 Program, our Section 5311 Program, our State of Good Repair Program, and many of our other funding sources.

2) Question: We notice there are some resources supplied, such as templates and some technical assistance. At some point in time, is funding going to be made available in support of implementation of the steps to achieve the safety and security goals?

Answer: Currently, you would be able to use your 5307, 5311, 5310 funds and your planning funds as well, 5303, 5305. We don't have a specific funding program for agency safety plans. That is something that would have to be authorized through Congress.

3) Question: Do you foresee that funding of an agency may be modified if they opt out of the safety plan?

Answer: Congress did not authorize a separate funding program for these rules but the planning activities related to the development of the safety plans and the implementation of them, they are eligible activities under FTAs existing program section 5307, 5311, our planning program that's section 5305, our state of good repair program, so many of the activities related to the development and implementation of the plans are eligible but we just don't have a separate funding program for them right now.

Multiple Safety Plans for Multiple Modes of Transit

1) Question: Does FTA require that you have an agency safety plan separate for rail and bus, or can you have one agency safety plan?

Answer: We're proposing that transit agencies keep separate plans for commuter rail service and their other modes of transit, but we are deferring to transit agencies. Transit agencies certainly could combine their plans for bus and rail, but they could separate them if they'd like. We're deferring to transit agencies on that subject.

2) Question: Can a state require a multi-modal agency to separate a rail and bus safety plan?

Answer: A state will not oversee a multi-modal agency if it has a rail component; the SSOA will oversee it. States are only drafting and certifying safety plans on behalf of 5310, 5311 and small 5307 operators. Multi-modal agencies may have separate plans or a single plan. That decision is up to the agencies as long as they comply with the requirements in the NPRM.

National Public Transportation Safety Plan

- 1) Question:** What is the anticipated effective date for the plan?
Answer: FTA hopes to have the plan out this calendar year. After the comment period closes, FTA will review comments, draft responses, and then draft its first final national transportation safety plan.
- 2) Question:** Under NSP performance criteria, what does the term unlinked refer to?
Answer: Unlinked passenger trips are used in order to ensure that exposure to hazards is captured, during the development of agency safety plan performance targets. Unlinked means individual trips. It's not passenger miles which could include the time from which a bus left the yard to when it actually picked up its first passenger, that distance, whereas unlinked passenger trip is each individual trip that a passenger takes. That's the distinction.
- 3) Question:** Is the injury criteria for patrons and employees, or both?
Answer: It would cover both employees and patrons.
- 4) Question:** Safety Performance Criterion: System Reliability, Items 1 and 2. Document indicates the reporting system failures for both major mechanical system failures as well as other mechanical systems. It does not clarify between liability failures versus safety failures. The reporting of liability failures could prove an unnecessary administrative burden on an agency. Is there any intent to clarify the types and thresholds of safety failures?
Answer: FTA is not requiring agencies to submit their Agency Safety Plans to FTA, nor will FTA collect safety targets...I'm just reading the second half of the question. That's a good one to post to the docket, whether or not or to what extent FTA should clarify the types of thresholds for safety failures. I recommend you submit that one to the docket.
- 5) Question:** Please help define "failure" under the system reliability performance criteria.
Answer: Another way to put it is "on-time performance," which is terminology that's probably familiar to many of you. This is a measure of how well a fleet of transit vehicles and the infrastructure on which it operates is maintained and operated. Any impact to your on-time performance could be considered a failure...related to the actual operation of the vehicle.
- 6) Question:** Rail transit agencies do not currently collect data on vehicle miles operated between mechanical system failures, though bus operators do. Will rail transit agencies now need to track this data?
Answer: As proposed, yes they would. The proposed reliability measure, in order to set a target based on that measure, you would need to collect data to see where you lie as far as safety performance and how you want to improve upon that performance.
- 7) Question:** Does "system" also include non-customer facing operations such as maintenance of infrastructure? If so, how is this related to mean distance between failures by mode?
Answer: This question likely refers to the system reliability measure in the proposed national plan. This is a proxy for measuring the relationship between condition and safety performance; it is not a direct relationship. The system performance in this instance would be measured through vehicle failures, which could be impacted by infrastructure. We will be providing guidance on this particular area of performance measurement over the course of the next year.

8) Question: Can you please provide a list of the best practice standards that were referred to?

Answer: The proposed voluntary minimum standards in the national plan start on page 61 in chapter 4, which you can find on [FTA's website](#) or on the docket. Please note that these are voluntary minimum standards; they are not mandatory.

9) Question: Where can we find the minimum standards?

Answer: If you look at chapter 4 of the proposed plans, on page 61, you will find the section on Voluntary Minimum Vehicle Safety Performance Standards and the section on Voluntary Minimum Safety Standards for Operation begins on page 63. I will note that, especially with respect to the vehicle standards, they are specific. If you are not an operator, and do not operate public transportation then these standards would not apply to your operation of vehicles.

National Transit Database Reporting

1) Question: Will the current criteria for NTD reportable events apply to the proposed plan?

Answer: No. NTD reporting is separate from the target setting that an agency must do based off the criteria in the proposed plan.

2) Question: Has FTA defined their criteria used for identifying reportable injuries?

Answer: Yes. The requirements for what needs to be reported are in the NTD guidance document for reporting to NTD so that is already available on FTA's NTD website.

3) Question: Will NTD reporting still be required?

Answer: Yes, NTD reporting will still be required.

4) Question: Are the fatality, injury, and safety event performance criteria the same data that transit agencies already submit to the National Transit Database?

Answer: Correct. We based the initial proposed criteria on information that we already collect. The new component to this is the requirement under an Agency Safety Plan rule where agencies would have to set targets based off these measures. The first three criteria are based on information that you already collect and submit to NTD. The new criterion is the reliability measure.

Public Comment Submittal

1) Question: Is there a public involvement requirement before an agency plan is adopted? If so, how long is the proposed comment period?

Answer: No, but we do have the 60-day comment period for the notice of proposed rulemaking. That ends on April 5th, 2016. Then we will be reviewing comments and coming out with a final rule based on those comments. However, there may be state processes or requirements that would require this type of plan, development of this type of plan, to go through some type of public comment period. The requirements for this rule are different from our joint planning requirements for transportation improvement programs and state-level transportation improvement programs, which have a public comment process. You can look to our joint planning rule with FHWA for guidance on that topic.

2) Question: Could you repeat the process for submitting a comment?

Answer: This is Brian. As I mentioned in the slide, you can submit public comments, and we encourage you to do it, through the electronic method at <http://www.regulations.gov>. Those of you that are on the webinar and logged in, you can actually click on that link and go to [regulations.gov](http://www.regulations.gov), and it'll tell you how to actually submit public comments. Then, the other methods are U.S. mail, and you can see our address there at the U.S. Department of Transportation. You can hand-deliver it to the Department of Transportation here in Washington, DC, or you can fax it to us at the number at the very bottom of that slide. Those are the ways we will be receiving public comments.

Recordkeeping

1) Question: Will we have to keep hard copies of the records or would electronic copies be acceptable?

Answer: Electronic copies are acceptable as long as you have a database to keep them in that can be accessed during triennial and state management reviews.

2) Question: Are electronic copies okay or do we need hard copies of records?

Answer: Either is fine. Transit agency may keep these documents in electronic form or in hard copy. FTA isn't proposing to collect these but we would want the agency to make them available to us when we do our triennial reviews and our state management reviews, so that the transit agency can demonstrate that it's complied with the rule but we defer to the transit agencies whether they want to keep it in electronic or hard copy format.

Safety Management Systems

1) Question: What does SMS stand for?

Answer: SMS stands for Safety Management Systems. You can feel free to go over the slides again once they become available as we had a whole section on what each section of SMS means.

2) Question: Is the SMS a static or live document?

Answer: SMS is going to be a way that we are suggesting that agencies manage safety. SMS is a compilation of documents that make up safety policy, processes used to identify risk and assess that risk, processes developed to ensure that risk mitigations are working, and safety actions that an agency takes that are effective in lessening the risk. Also, communication tools and training tools that an agency uses to communicate safety issues across the organization. Although the specific safety policy document or the Transit Agency Safety Plan may be a document, that document will outline the functioning of the safety management system.

3) Question: Under Safety Assurance Item eight, 'Management of Change,' under this section, there is limited information to the extent of this subcomponent. The question is: given the extent to which 49 C.F.R. 659 provides greater specificity in terms of safety certification, configuration and management control and system modifications, to what degree can an agency incorporate such programs into its SMS safety plan?"

Answer: An agency will want to look at areas of change that could introduce risk. Where are they going to set the bar so that changes that could introduce risk have to go through a safety risk management process to identify what the risks are that change could present, and how are you going to mitigate that risk? How are you going to make sure that those bad outcomes don't materialize with this change? It's really just encouraging a proactive look at safety when an agency is dealing with any kind of change to its system. It's really going to be for the agency to determine when that bar will kick in, where that bar is set and when safety risk management activities would kick in with the change.

4) Question: What is the relationship between requirements for a safety plan and a Quality Management System?

Answer: That's a big topic there, the discussion between the differences between requirements between your SMS and your QMS. I would suggest that for agencies that already have a Quality Management System in place, you do not attempt to use your QMS versus developing an SMS. They are two different safety management systems. They can work very well together. For example, if you have an area identified via your QMS, maybe you have a corrective action plan. If you determine that the root cause touches on safety or that this quality issue can introduce risk to the organization, you would want to have an official hand-off through your Safety Risk Management folks to take a look at that risk and determine what level of risk it poses and if you need to take further action to mitigate that risk.

I would suggest that you not try to make safety a quality attribute. That would be like trying to use your QMS to perform Safety Management System functions. Your Quality Management System will continue to exist to make sure processes are followed. Your SMS is going to exist for a very different purpose. That is going to be to make sure safety issues are handled in a very prescribed and repeatable fashion throughout the organization – that you are identifying hazards, that you are assessing risk, that you are developing mitigations, and you are, in turn,

following up with your safety assurance function to make sure those mitigations are working as you intended them to.

Again, that's a big topic, but I would recommend that you keep them separate and think of them separately. Also, for those of you who have Quality Management Systems, I'd also suggest that a Safety Management System, as it is prescribed in our NPRM and how it's usually implemented at an organization, include a continuous improvement component under Safety Assurance, where you not only look at – are the mitigations, have they been implemented, are they effective - but you also look at is the SMS process being followed as it should? That's a corrective action item if somebody is not adhering to an SMS process as they should be. SMS, by its nature, has a quality assurance component to it.

5) Question: Will the Public Transportation Agency Safety Plan be able to also serve as an agency's SMS manual?

Answer: Absolutely, an agency might very well find out that they add an introduction to these processes, and they have their SMS manual.

6) Question: When does FTA plan to launch the SMS implementation pilot program?

Answer: FTA believes the SMS implementation pilot is an important program and plans to launch it as quickly as we are authorized to do so. Our pilot, which is currently limited to CTA in Chicago, allows us to test our tools and templates, and we need to be able to test those items at large, small, and multimodal agencies.

Safety Performance Targets/Criteria

1) Question: Will there be a separate notice of proposed rulemaking (NPRM) or comment period for the four proposed initial safety performance criteria?

Answer: Yes, the proposed national safety plan was published on the same day as the agency safety plan NPRM (February 5, 2016), and the four proposed measures are included in that document. The comment period is open until April 5, 2016.

2) Question: Are performance targets numbers?

Answer: Yes, a performance target is a number. It should be a measure of the agency's goals for improving safety performance and determining whether or not their mitigations under the safety assurance safety pillar of SMS are working effectively. There is no penalty or reward for meeting or not meeting a target, so each agency should set realistic targets based off of their particular issues and the resources that they have available.

3) Question: How do the new plans affect agencies that are responsible for the MPO process and transit process?

Answer: The coordination with the planning process – so each transit agency is required to make its safety performance targets available to states and MPOs to assist with the overall selection of safety performance targets at the state and MPO level. That's the main way in which we tie in the MPO process into this whole thing, and we want to make sure that there's coordination between the MPOs and the transit agencies.

4) Question: Are the states that write and certify small urban system safety plans, would they then be required to set the performance measures within that plan, or can the small urban systems set their own PEs themselves?

Answer: The performance targets at the agencies themselves would have to be set by the agencies themselves. The state can draft and certify on behalf of the small agencies, but they wouldn't necessarily know those targets to be set at each individual small agency within that state. They need to at least have some sort of communication with the small agency in order to get those targets for those small agencies.

5) Question: Can you go into the relation between the requirement in the Agency Safety Plan NPRM to include the TAM Performance Targets as the Public Safety Plan Targets?

Answer: This question is a bit confusing as written, but I'll just layout the requirements. FTA must develop safety performance criteria for all modes of public transportation. That's pursuant to 49 U.S.C. 5329(b). Pursuant to 49 U.S.C. 5329(d), agencies must set performance targets based off the safety performance criteria established in the National Safety Plan, one of which is a state of good repair related safety performance criteria. As proposed, you would be required to set safety performance targets based off each of the proposed safety performance criteria in the plan. That's the relationship between the performance measures and the performance targets required under the Agency Safety Plan NPRM. There is no requirement in the Transit Asset Management NPRM that would require an agency to set any targets in its Agency Safety Plan based off the proposed measures in the Asset Management Plan NPRM.

6) Question: When you say minimum performance metrics, will there be a consequence if we are below the minimum?

Answer: The performance metrics are really intended for agencies, other than the minimum ones we set forth, these are measures that agencies will look at to see how well they're doing in their safety concern areas. In addition to the minimum metrics that we are proposing be required under this NPRM and the Safety Plan, we would hope that agencies would look at where their risks are and look at performance measures, so that they can know if they're improving in those areas. To answer this question, there's no penalty for not meeting the metrics that you set and the performance targets that you set as an agency. We would expect an agency, when they reviewed their performance in the previous year, to ask themselves why they didn't meet their performance target, are their mitigations not working? Do they need to change something to get better results? This is one of the processes of SMS that we are suggesting that agencies just start to routinely use to monitor how their safety mitigations and safety efforts and programs are working.

7) Question: Safety Performance Criterion: System Reliability, Items 1 and 2. Document indicates the reporting system failures for both major mechanical system failures as well as other mechanical systems. It does not clarify between liability failures versus safety failures. The reporting of liability failures could prove an unnecessary administrative burden on an agency. Is there any intent to clarify the types and thresholds of safety failures?

Answer: The first point I would make is that FTA is not requiring agencies to submit their Agency Safety Plans to FTA, nor will FTA collect safety targets...I'm just reading the second half of the question. I think that's a good one to post to the docket, whether or not or to what extent FTA should clarify the types of thresholds for safety failures. I recommend you submit that one to the docket.

Scope of Safety Plans

1) Question: Does the safety plan apply to both transit bus operations and transit facilities?

Answer: Yes, the rule would apply to just about every aspect of a transit agency system, including its operations, its facilities, its maintenance, new capital projects, construction of those projects, the planning and design of those projects. Our intent is that safety permeates every aspect of a transit agency's system.

2) Question: If an agency is small, do they have to include everything on the State safety plan for their own agency?

Answer: Yes, regardless of what level of funding an agency receives, all safety plans must have the minimum requirements as set forth by Congress. Those include: (1) Approval from the board of directors (or equivalent entity), (2) Methods for identifying and evaluating safety risks, (3) Strategies to minimize hazards, (4) Annual review and update of the plan, (5) Performance targets based on the safety performance criteria established under the National Safety Plan, (6) An adequately trained Safety officer who reports directly to the general manager, president or equivalent officer, and (7) A comprehensive staff training program for personnel directly responsible for safety.

3) Question: Is it the intent of the FTA, that these SMS requirements also apply to construction projects within a TA?

Answer: I'm assuming that TA refers to Transit Agency, but yes. Absolutely. FTA's expectation would be that the requirements in the rule and the activities conducted under SMS, would apply to every aspect of the agency's systems including operations, maintenance, construction, design, planning. Our intent is to have safety permeate each aspect of a transit agency's operating environment, and it would also include construction activity.

4) Question: Would SSMP still be required for major rail capital projects?

Answer: Yes. Transit agencies would still be required to develop an SSMP for major capital projects. That requirement would not go away.

Security

1) Question: How or does this tie into DHS and the security components of transit?

Answer: The Department of Homeland Security has jurisdiction over security-related issues. Our proposal is focused on safety and not security components. That's where the lines are with our federal jurisdiction.

Small Operator Threshold

1) Question: Is the 100 bus threshold for an agency creating its own safety plan just for 5307 recipients or for 5310, 5311, and 5307 recipients?

Answer: The threshold applies to 5307 recipients. Under 49 USC 5329(d), FTA is required to define a small operator under the section 5307 program. FTA proposes to define a small operator as one with 100 or fewer vehicles in revenue service. That definition is similar to the proposed definition that FTA is using in its asset management rule, and we want to make the safety rule and asset management rule consistent.

2) Question: Can you define the difference between multimodal agency versus bus-only and how it applies to the 100 vehicle rule?

Answer: A multi-modal agency has multiple modes of transportation (e.g., rail and bus). Bus-only agencies are agencies that only have buses. The 100 vehicle rule mainly applies to bus-only agencies with 100 buses or fewer in revenue service.

3) Question: To confirm, a 5307 large bus agency is 100 vehicles in revenue service, not 100 vehicles in peak hour revenue service?

Answer: Yes, the 100 vehicle count would apply to the vehicles that are in revenue service.

4) Question: Are the 100 buses in revenue service those vehicles operating in peak revenue service, or does this mean the total buses for revenue service including spare vehicles?

Answer: As the NPRM stands, it says just revenue service, not peak revenue service. The rule proposes to define small operator under our section 5307 program to be an operator that has 100 or fewer vehicles in revenue service.

5) Question: Does 100 vehicles in revenue service include fixed route and paratransit?

Answer: Yes. It's all vehicles at a transit agency and in revenue service. That's how we've defined it currently in the proposed rulemaking.

6) Question: We operate commuter rail (safety oversight is responsibility of FRA, not FTA), and also operate less than a hundred buses. Are we classified as a small public transportation provider? We operate less than a hundred buses. Our Rail Fixed Guideway safety is not overseen by FTA, and therefore not subject to the proposed rule, but we receive 5307 large urban funds. If we are not classified as a small transportation provider, it seems odd that our commuter rail service would be subject, and our bus service, to the rule.

Answer: This is another interpretation question that FTA cannot answer.

7) Question: How do you determine the 100-vehicle threshold in Tier 1/Tier 2 agencies? Does this include paratransit vehicles, vanpools, etc.?

Answer: We determine the 100-vehicle threshold as those that are in revenue service, so if you have 100 buses or less in revenue service, then you can have your Agency Safety Plan drafted and certified by the State. We are not doing a Tier 1, Tier 2, exactly. It's a little bit different than the Transit Asset Management rule. We're doing it just purely by those thresholds that we talked about in the slides. Yes, paratransit vehicles and vanpools would be included for those vehicles in revenue service.

If the State drafts the Agency Safety Plan for these smaller operations, it is still the responsibility of that agency to implement that safety plan and to build the structures as outlined in the safety plan.

8) Question: If I understand correctly, an area designated as ‘large urban’ in terms of population could be classified as small transportation operator based on number of revenue service vehicles, and a 5311 operator may be classified as a large transportation operator based on number of revenue service vehicles. Is that correct?

Answer: Yes. The threshold that FTA is proposing to use is not based on population of a geographical area or a funding program. The threshold would be the number of vehicles that the grantee operates in revenue service, so that is correct.

9) Question: Why is the threshold for State oversight versus FTA oversight the number of revenue service vehicles rather than funding program, as with all other compliance areas?

Answer: As I mentioned in the presentation, we based this off of comments from the Advanced Notice of Proposed Rulemaking and also to be consistent with the Transit Asset Management Notice of Proposed Rulemaking. Those are the two major reasons why we came to this determination. We invite comment on this in the docket, as well.

Just one point of clarification I want to say here on threshold for State oversight versus FTA oversight. FTA has the ultimate oversight authority over this rule. What we’re asking States to do is to draft and certify plans on behalf of 5310, 5311, and the small 5307 operators.

State's Role

1) Question: Can you clarify who would develop the plan for properties under 100 buses? Is it the State or the agency?

Answer: The State, unless the smaller 5310, 5311, or 5307 small agency decides to opt out and develop and certify their own plan. But otherwise it's the State that would be developing the plan on their behalf.

2) Question: Can a small agency use a safety plan developed by the State even if the agency is not a state funding sub-recipient?

Answer: Yes.

3) Question: What will the role of state DOTs be as far as the NPRM is concerned?

Answer: Each state would be required to draft and certify an agency safety plan on behalf of every 5310, 5311, and small section 5307 recipient and sub-recipient located in that state. For states that have rail transit agencies, there would be an additional requirement that the State Safety Oversight Agency review and approve the safety plan for that rail transit system.

4) Question: If a small agency decides to abide by a state designed SMP, but operates in two states, how will that be accommodated?

Answer: If a small agency decides that it's going to follow a state-developed safety plan, they can decide which state plan they would like to use if it suits them, and then implement that plan. Keep in mind, that even if you use a state-developed plan, it is the responsibility of the agency to now implement that plan. That plan will just outline the processes that are going to satisfy the safety plan rule. That is why we give the option for agencies to develop their own plan if they so choose, because they will be the ones implementing it.

5) Question: If you are a large urban 5307, and have less than 100 buses, who is responsible for developing the plan or can you adopt the state plan that will be developed for small urban 5307 under 100 buses?

Answer: This is talking about the large urban definition for grant making. We are defining it slightly different, here. We're not defining it by population. We're defining it by 100 buses or less in revenue service. In this case, even if you're considered as a grantee that would be a large urban system, if you have 100 buses or less in revenue service, then you can actually have the State develop and certify your safety plan. You're still required to implement your plan, but you can have the State develop and certify it on your behalf. Then, of course, there's the opt-out provision. If you'd like to opt-out, draft, and certify your own plan.

6) Question: Our state currently has requirements for bus transit systems who receive funding to develop safety and security plans as well as a requirement that the BTS certify to the state that their plans comply with the state standards. This applies to all bus transit systems who receive state funding regardless of federal funding. We intend to incorporate FTA's requirements into our state rules but will still require the BTS, including all 5307, to certify their compliance to the states. This would also require the BTS to submit and share their safety plans to the state, as well. I don't want our BTS to be confused that with the FTA requirements they will not be required to submit their certifications and plans to our state if it's required by state law or rule.

Answer: That wasn't really a question, more of a comment. Our final rule or a final rule for an agency safety plan would not trump any state requirement for certification. To the extent that

your state does have requirements for other types of agency safety plans or certification requirements, then you would still have to comply with those state requirements.

7) Question: We as a transit agency have sub-recipients of 5310 funds. In this example, what responsibility do we have in preparation and oversight of the safety plan of a sub-recipient?

Answer: Like we mentioned earlier, we don't want to answer questions related to a specific agency situation. We can't answer questions of interpretations. What I could say here is that we are proposing to require States to draft and certify safety plans on behalf of every Section 5310 recipient, Section 5311 recipient, and small Section 5307 recipient in that State. If the State drafts and certifies the plans on behalf of those smaller operators, then it would be the responsibility of the smaller operator to actually carryout and implement the plan. Beyond drafting and certifying those plans, there would be no additional role for the State. With the exception of States that have rail transit systems, those State Safety Oversight Agencies would be required to review and approve the safety plans of the rail transit systems located in those States.

8) Question: Will a light rail SSO be responsible for a rural bus system within the same State?

Answer: No, a light rail SSO would not be responsible for a rural bus system within the same State. They would be responsible for overseeing, approving the Safety Plan for the actual light rail system, but we understand and know the SSOs only oversee Rail Transit Agencies and not bus systems. The rural bus system, if they fall in the 5310, 5311 small transit provider definition, in those, it would be the State that would be drafting and certifying their plan.

9) Question: How can an SSOA certify a transit agency has implemented SMS throughout the transit agency? Not within the scope of SSO.

Answer: This actually is within the scope of an SSO, it's in the SSO rule, we talk about it in the NPRM for that. We are expecting an SSOA to certify the transit agency has the processes in place. As you could see in the last few slides and we talk about for the Agency Safety Plan, we're asking that agencies have a written statement of safety policy, they establish a process for both Safety Risk Management and Safety Assurance. We're really just asking the SSOA to make sure that they have the processes in place for these things.

I would expand on that to add that, similarly to our providing training and technical tools for agencies, we'll be doing the same for SSOs. The SSOs will have specific training on how to oversee an SMS agency, how to determine the fitness or health of an SMS. They will have their own measures they look at to assess the SMS of an agency.

10) Question: To clarify, please, is it correct to say that the SSOA will have oversight responsibility for each bus system within its respective State? Thank you.

Answer: The answer is no. A State Safety Oversight Agency only has jurisdiction over the rail transit in its system that is not subject to regulation by FRA.

11) Question: If a state prepares a plan for a rail transit agency, is there any risk of a conflict of interest to have the state SSO oversee the plan?

Answer: A state would not be preparing a plan for a rail transit agency; a state is only preparing plans for 5311, 5310, and 5307 small operators. FTA is asking all rail transit agencies to do their own plans. There would not be a conflict of interest because the SSOA would only be overseeing rail transit plans.

12) Question: Would the sub-recipients of a 5310 designated recipient fall under the state's plan, or would the designated recipient need to draft a separate plan? The designated recipient does not provide transit service (5800).

Answer: The state is responsible for drafting and certifying plans for all 5310s who provide public transportation.

13) Question: Will states be required to consult with 5310, 5311, and small 5307 operators when formulating their plan which these agencies may choose to follow?

Answer: Yes, states should be consulting with 5310, 5311, and small 5307 operators when formulating a plan. For example, the states need to understand the operators' risks and hazards. And the agencies are not choosing to follow the safety plan—the agencies are required to follow the plan. The agencies will implement the plan themselves, even though the state is drafting and certifying it on their behalf.

14) Question: For the 5310 funds allocated to large urban transit agencies that are provided to sub recipients, who is responsible to do the plan? The large urban transit agency or the state?

Answer: The state would actually do it on behalf of the 5310 agency. We are accepting comments to the NPRM as we showed in the docket, so if an operator feels that it should be in a different way, then they can comment to the docket and we encourage comments. We just want to make sure you know that the state would be doing the drafting and certification of the plan but we are still expecting the 5310 operator to actually implement the plan and carry it out.

15) Question: Will medium and large size 5307 systems be able to adopt the state's SMP?

Answer: As proposed, only small agencies would be allowed to participate in a state plan. A state would draft and certify an agency safety plan on behalf of small providers within that state. By adopt, if you mean participate in the plan? The answer is no, not under the NPRM. If by adopt you mean look at the state's plan and look at it as a guide or a template in developing or implementing your own plan, then that is a possibility or an option.

System Safety Program Plans

1) Question: How does the proposed plan differ from the system safety program plan required by New York State Public Transportation Safety Board?

Answer: FTA requires system safety program plans for rail transit agencies under 49 CFR part 659, which is our state safety oversight rule. Those plans would go away one year after the effective date of the final public transportation agency safety plan rule. At that point, there would be no more part 659, and there would be no special system safety program plans required of rail transit systems. Every transit agency would be required to have a public transportation agency safety plan.

2) Question: We are a bus-only agency with a system safety program plan for NYS PTSB, so we would replace it with the proposed plan?

Answer: The elements of the system safety program plan dovetail with some of the elements of SMS. FTA has a crosswalk for rail transit agencies that illustrates how each of the different requirements of the system safety program plans carry over to the safety management system that they would have to develop for the purposes of the public transportation agency safety plan. FTA wants to make sure that everyone is transitioning gradually, and we're asking agencies to hold back from completely changing system safety program plans (SSPP)s until there is a final rule and FTA can offer more information on how to fully implement SMS.

3) Question: When will the crosswalk be available?

Answer: The crosswalk is available on the TSO Rulemaking page of FTA's website, and it is also posted to the agency safety plan NPRM docket.

4) Question: The preamble states that transit agencies that have a safety plan under 659 must adhere to those requirements until the final rule is issued for SSO. How does that mesh with the one-year overlap between the plan under 659 and the PTASP? Why do transit agencies need to maintain the 21 elements of 659 in addition to the SMS?

Answer: When FTA issues a final rule, a final Public Transportation Agency Safety Plan rule, the requirement for the SSPPs under our state safety oversight rule would go away, and each rail transit agency only would be required to have a Public Transportation Agency Safety Plan that would have each of the elements set forth in the rule. Just one more point of clarification, those rail transit agencies would not have to have 21 elements currently in their Part 659 plans plus the SMS pillars, the four pillars of SMS. It would be required to have a plan that complies with the Public Transportation Agency Safety Plan rule.

5) Question: Will 49 CFR 659 be redacted entirely, or will certain elements remain such as hazard management?

Answer: The rule will be redacted eventually entirely, but because we have hazard management and safety risk management included in the SMS section of the agency safety plan rulemaking, it takes the place of that from Part 659. There's no worry that any kind of safety elements are going away necessarily because, the way we wrote it, we actually are having those elements still covered within the Transit Agency Safety Plan rulemaking. As we've mentioned previously, you should go online to see the SSPP and SMS crosswalk document to see how things translate across from 659 over to the new rulemaking.

6) Question: Where can the crosswalk between the SMS pillars and the SPP elements be found?

Answer: FTA has posted that crosswalk on its website, and we've also put that in the docket.

7) Question: The crosswalk matrix applies to rail. What about a similar matrix for bus agencies?

Answer: The purpose of the crosswalk matrix is to crosswalk the existing requirements for rail transit agencies and their system safety program plans under part 659 with our new proposal. The crosswalk is specific for rail transit. For bus agencies, the bus agency would be required to develop a plan that's compliant with the rule.

8) Question: On the crosswalk, can you provide the specific link to it, on either the docket or website? We have not been able to find it.

Answer: Yes, the document is posted to the TSO page on FTA's website, so if you click on the TSO page, and look on the right-hand side, there's a tab for rulemaking, if you click on that... TSO stands for Transit Safety and Oversight. If you click on that, you'll see all of the documents posted to the docket for both Agency Safety Plan NPRM, and the proposed National Safety Plan. Then if you go to regulations.gov, and search for Public Transportation Agency Safety Plan, you will see the Agency Safety Plan Crosswalk posted to that docket.

9) Question: Page 66 of the preamble says that FTA intends to require rail transit agencies to continue to implement the 21 elements of their SSPP, and that the pillars of SMS cover the remaining 20 elements. This does not mean that the rail transit agencies have to maintain the SSPP with their SMS plan?

Answer: One year after the effective date of the final rule for the agency safety plan rule, each rail transit system would be required to have a Public Transportation Agency Safety Plan. The requirement that they have a system safety program plan under part 659 would go away. We also intend to develop guidance for the industry in order to help them transition from the SSPP to the TASP.

10) Question: Will the System Safety Program Plan be a part of the System Safety Management Plan (SSPP) or will the SSPP completely be eliminated?

Answer: The System Safety Program Plan that's currently required under Part 659 would go away one year after the effective date of the final rule for the Agency Safety Plans.

Just to add to that, we have a crosswalk document on our website now, on the FTA TSO, or Transit Safety and Oversight, section of the website, that shows how the components of the SSPP crosswalk to the components of SMS under the tab for Agency Safety Plan rulemaking. Everything that's covered originally from the SSPP now crosswalks across to the SMS section of the tab for Agency Safety Plan Notice of Proposed Rulemaking.

We are suggesting that agencies not try to prematurely transition from the SSPP to the TASP. We are working on a process that we will share with the industry that will walk our industry through the gradual transition from the SSPP to the TASP. We do not recommend that agencies attempt or make changes to their SSPP at this time.

11) Question: If SSOAs have three years to comply with 5329, that means 659 remains in effect for those three years. If 659 is in effect for three years, wouldn't the transit agencies subject to 659 be required to maintain their system safety program plans (SSPP)s for three years? If so, are they required to have both the TASP and the SSPP for the last two of those three years?

Answer: One year after the effective date of the final agency safety plan rule, each agency would be required to have an agency safety plan, and the requirement to have an SSPP would go away after that year.

12) Question: 659 doesn't go away, and the SSOs obligation to enforce 659 won't go away. How does SSO's obligation to enforce 659 disappear?

Answer: 49 CFR part 659 will go away once we have the new SSO final rule in place. Each SSOA would be required to review and approve the safety plans for rail transit service within their states.

13) Question: Does the entirety of 659 go away, or only the SSPP requirement?

Answer: The SSPP requirement will go away one year after the effective date of the final agency safety plan rule.

Templates and Technical Assistance

1) Question: Will FTA provide safety management system (SMS) templates for transit agencies to utilize to build their own SMS plan?

Answer: Yes, FTA is working on a number of technical assistance templates and other tools for the transit industry to use to build SMSs within their own agencies. FTA will post these documents to its website over the next several months. Additionally, FTA's SMS Framework is now available online. The SMS Framework is Chapter 2 of the Proposed National Public Transportation Safety Plan, and FTA also posted it to its website last fall for transit agencies to use as a resource when planning their own SMSs.

2) Question: When will templates for the safety plans be available?

Answer: Expect to see templates and other technical assistance tools published within the next two to three months.

3) Question: Are there any forms that can make this process easier to complete?

Answer: FTA is in the process of developing guidance, templates, and other kinds of technical assistance to help the industry with the drafting and development of their safety plans and we'll make that available as soon as we complete it.

4) Question: I am unclear about the relationship between the local agency safety plans for 5311 and 5310 agencies, and the statewide plans submitted by the state agency that manages those programs. Secondly, will FTA provide model plans that are scalable for these agencies?

Answer: This is Brian. The best way to answer this is, yes, FTA will provide model plans that are scalable for these agencies. I think we're trying to make it as flexible and as scalable for the State and for the small agency as possible. You'll see more information on this over time, and more technical assistance and templates to help you.

5) Question: How do you go about getting technical assistance?

Answer: To go about getting technical assistance from the grantee, or regulated levels, you would go on the website for FTA, you would look up information that we're putting out to the industry in terms of templates and tools, best practices. You could call one of us if you have questions about something. You could email one of us at the FTA. We are developing the technical tools to assist our industry as well as e-tutorials that will go with each piece of technical assistance so that you have the assistance itself and the direction as to how best to use that assistance.

6) Question: How soon will you make templates and examples available?

Answer: As we develop them, very soon. Within the next year, we're hoping.

7) Question: Where can I find an example of a good safety plan for a small rural transit system?

Answer: We're working in the Office of System Safety here at FTA to come up with some good templates for operators to use. We're hoping in the next year or so, we'll have at least some examples for us, the industry

8) Question: When will FTA provide templates, checklists, and guidance?

Answer: FTA will be providing templates, checklists, and guidance in the near future. We're currently working on it within our office, and we hope to get them out as they are available. We would expect that time frame to be late spring.

9) Question: Please explain more about the technical assistance FTA will be offering, by whom and by what means and methods?

Answer: We're very busy developing a whole variety of technical assistance items for the industry. We'll share them as we develop them, hopefully, starting in the next two and three months. We'll make them available on our website. We anticipate having, for each technical assistance item that we have, we will have an e-tutorial that an agency can look at to see "how do I use this piece of information," "what do I really need to understand about this piece of information." We expect to have templates, we expect to have guidance documents, we expect to have templates as to what a Safety Plan could look like for different size agencies, gap analysis tools. You can kind of measure where you're at currently versus where you would want to be at under the task requirements. We expect to have a very comprehensive list of technical assistance items for the industry. Again, we do also plan on having e-tutorials available for each of them.

10) Question: Will FTA include guidance on safety performance criteria standards and measures as a part of the templates, guidance, and checklists anticipated this spring?

Answer: FTA does anticipate developing and releasing guidance and other materials on performance management in general. We will make that available over the course of this year.

I'll add to that that in our National Safety Plan, we will come out with high-level measures that agencies should be looking at, but it's really going to fall on each individual agency, in addition to the items that we require in our National Safety Plan, for the agencies to look at areas of concern that they have that are maybe specific to their agency. To set performance targets and look at the performance in reducing the risk posed by those specific hazards to your operation.

11) Question: Will FTA be making significant changes to the SMS Framework document, or can we assume this document will not be changing subsequently in the near future?

Answer: You can assume that it will not be changing subsequently in the future. It's the basic tenets of a safety management system, and you cannot go wrong implementing per the SMS Framework.

12) Question: When will the templates for the safety plans be available?

Answer: Expect to see templates and other technical assistance tools published within the next two to three months.

13) Question: Does FTA plan to include stakeholders (transit agencies, MPOs, State DOTs) in the development of the templates, checklists, guidance, training, etc., to help its effectiveness and being user friendly?

Answer: Yes, FTA is currently including stakeholders in those activities for the reasons stated above.

14) Question: When the templates and tools are available, where will we find them at?

Answer: The templates and tools can be found on the [FTA website](#).

15) Question: When is FTA going to make public all the templates, best practices, etc. related to the plans?

Answer: We will make them available as they become available. So, we've been working feverishly to develop a number of guidance materials to assist the industry in implementing SMS and developing an agency safety plan, among other things. As we make them available, we will post

them to our website, so you should go to the TSO page on FTAs website frequently to check for updates.

Training

1) Question: What skills or training does a Safety Officer need when an agency is choosing who it should be?

Answer: It is up to an individual agency to determine who the Safety Officer will be. Under SMS Safety Promotion pillar, there must be training for responsible safety staff. The FTA provides safety training both in-person and online for whoever the agency determines the officer should be.

2) Question: Since training for bus agencies is voluntary, but suggested, why are portions of the plans mandatory? It is difficult to complete mandatory processes if we haven't been trained on SMS processes.

Answer: Training for bus agencies is not voluntary. It's voluntary under the Safety Certification Training Program rule. The training under this is to establish a comprehensive safety training program at an actual agency. Bus agencies are required to have their own safety training program within their own agency. It's voluntary for those that oversee bus safety, but not within the actual agency. That's actually a mandatory thing to have within your own agency, is to have some sort of training program in place for all agency employees and contractors directly responsible for the management of safety.

3) Question: Is the chief executive, or someone who reports directly to the CEO, required to be a certified safety security officer, such as a certification from CTAA?

Answer: Under our proposed rule, under the fourth pillar of SMS – Safety Promotion – each transit agency would be required to have a comprehensive training program which includes refresher training. It would apply to any individuals responsible for the day-to-day management of safety in that organization.

4) Question: What is the best resource for an agency that wants to develop a comprehensive safety training program that will meet the requirements of the new rule?

Answer: I would suggest that, rather than directing you to a resource that you want to look at, I would ask you to look at your operation and determine what competencies and skills your staff need to operate and do their jobs safely.

Do they need certain training initially, and do they need recurrent training? What specific job training is required? Do you feel it's necessary to have recurrent training for certain positions, some positions, no positions?

We have worked hard not to be prescriptive in this area and would suggest that agencies ensure that their lack of training does not introduce risk to the organization. Conversely, that their internal training program ensures that people are aware of how to do their jobs effectively and safely.

Tribal Transit Issues

1) Question: How do tribes fit into this, particularly if their 5311 funding does not pass through the state DOT?

Answer: States will draft and certify Agency Safety Plans on behalf of 5310 recipients and sub-recipients, 5311 recipients and sub-recipients, and small 5307 recipients. Thus, states will draft and certify Agency Safety Plans of behalf of tribal agencies because they fit within the 5311 program. However, due to the unique situation posed in this question, consider adding a comment to the public docket, which FTA will review for the proposed final rule.

2) Question: Is the state required to draft a plan for tribal transits under 5311c?

Answer: Yes, the state is required to draft a plan for all 5311 recipients, unless the 5311 recipient decides to opt out and develop the plan on their own.

3) Question: Our tribal transit program operations is contracted out. Do we have to have a plan as a 5311c recipient?

Answer: FTA cannot answer questions of interpretation, and this question sounds like it is tied to a specific agency. However, to reiterate: each operator of a public transportation system would be required to develop and implement a public transportation agency safety plan.

4) Question: Do plans for tribal transit need to be linked with state?

Answer: Yes, if the state drafts and certifies the plan on behalf of tribal transit agencies.

5) Question: Will 5311C tribal transits also fall under state oversight?

Answer: Well, they'll fall under the state drafting and certification of the plans. Not necessarily state oversight but definitely the state will have to draft and certify the agency safety plan on their behalf unless they would like to opt out of the program. That's how the NPRM is written at the moment.

Webinar Materials

1) Question: Is there a way that we can get a copy of this presentation?

Answer: Absolutely. FTA will be making this presentation available in the public docket.

2) Question: Will this presentation be available for download on FTA's website?

Answer: Yes, we'll have the presentation posted very shortly. We will have the slides available.
Thank you for the question.

3) Question: Are these questions and answers going to be posted in a frequently asked question area for reference?

Answer: FTA will transcribe the question and answer portion of this webinar and post them both to the docket and to FTA's website, so look out for those.

4) Question: Are you going to share the results of the polling?

Answer: Yes, we will share the results of the polling momentarily, right now. See the results on your screen.