# State Safety Oversight of Rail Public Transit Systems NPRM Webinar

**Operator**: [0:04] Hello, everyone, and welcome to today's webinar, State Safety Oversight Program NPRM webinar. Before we get started, I would like to go over a few items so you know how to participate in today's event.

[0:17] You have joined the presentation listening using your computer speaker system by default. If you would prefer to join over the telephone, just select "Telephone" in the audio pane and the dial‑in information will be displayed.

[0:30] You will have the opportunity to submit text questions to today's presenters by typing your questions in the questions pane of your control panel. You may send in your questions at any time. We will collect these and address them during the Q&A session at the end of today's presentation. I would now like to turn the webinar over to Donna Aggazio.

**Donna Aggazio**: [0:52] Hello, everyone, and welcome. I'm Donna Aggazio with FTA's Office of Transit Safety and Oversight. Thank you for your time today to be on this webinar, which will speak to the proposed rule to increase oversight responsibilities for State Safety Oversight Agencies.

[1:08] This webinar is not an opportunity to provide comments, but rather a forum for FTA to explain the proposed rule. We are recording the webinar, and it will be available for viewing at a later date.

[1:22] Here to provide an overview of the proposed rule is Maria Wright from the Office of System Safety, but first, we also have Richard Wong and Scott Biehl from our Chief Counsel's Office available later in the program to answer questions. So, now Maria.

**Maria Wright**: [1:41] Hello, everyone. Again, this is Maria Wright. I'm the Lead Program Analyst for the State Safety Oversight Program. I am in the Office of Safety Review. Today's webinar will be on the State Safety Oversight NPRM.

[1:57] Basically, this program, this NPRM is going to replace, in the future, the current 659 regulations that have been around for, since 1995, so about 20 years now. I'm going to go through today and just go through the slides and comment on what the NPRM is proposing for the new rule.

[2:28] OK. Topics of discussion. The purpose of today's NPRM is to carry out several explicit statutory mandates to strengthen the State Safety Oversight Program. As we note here: MAP‑21; Public Transportation Safety; Proposed State Safety Oversight Rule‑the NPRM that we're talking about today; Safety Management Systems; and submitting comments to the docket.

[2:57] MAP‑21, Public Transportation Safety. If you look here at this particular slide, we have four key elements: Public Transportation Safety Program; Safety Certification Training Program; Agency Safety Plans for all modes; and State Safety Oversight program.

[3:20] If you notice that with these four elements they're actually going to include not just the State Safety Oversight agencies, but also all modes. That includes buses.

[3:31] And it also in regards to the certification training program, which will be discussed more on Thursday in the Interim Provisions webinar, that the manufacturers of public transportation vehicles, as well as other operators of public transit, will also fall under this new rulemaking that's being proposed.

[3:54] The State Safety Oversight NPRM. This NPRM pertains only to the State Safety Oversight program. Now, the rulemaking for the SSO program differs from other rulemakings under the Public Transportation Safety Program. And it's different because it will replace a set of regulations, like I've noted before, that have been in place for over 20 years. And that is Part 659.

[4:24] The proposed State Safety Oversight Rule. The NPRM proposes states assume greater responsibility for overseeing the safety of the rail fixed guideway systems that are otherwise federally regulated. Again, MAP‑21 is enhancing the State Safety Oversight program so that it can become more robust, and it's overseeing the safety of our transit system.

[4:55] The proposed State Safety Oversight Rule. As we look through here, each state would be required to have an FTA‑approved State Safety Oversight program. As we look through the bullets here, I'll note that establishing an SSOA by state law, I am aware that a lot of states have to go through the legislative.

[5:16] So, this is something that we're working with you all on through our certification work plans. Also wanted to just note that this certifies that that responsible for oversight has to subsequently complete the Public Transportation Safety and Certification Training Program.

[5:31] This is going to be very important as we move forward. Again, this will be discussed in more detail in the Interim Provision Training webinar that will take place on this Thursday coming up.

[5:45] The financial assistance for states. Now, this particular slide here, take note. I guess the main thing I want to talk about here, and, and it's important, is that the Federal share in regards to SSO Formula Grant program. I would like to recommend for those that haven't come in for the program to reconsider coming in because it's going to be very important moving forward, I believe, in different things that this rule is proposing.

[6:10] And having this grant will assist you in doing a lot of these things. But the Federal share will be 80 percent that we'll give you all, but it's important that the State Safety Oversight Agencies come up with their 20 percent local match. That will be a requirement.

[6:30] The certification and compliance. This section here is really going to be important in regards to the certification work plans that we work with a lot of you in regards to. I know there's things on there that are a little bit more difficult in getting approved because of your state legislation.

[6:48] However, we are aware of that, but I really want to encourage you all to work with us so we can help you get through this because it's going to be important for you all to be certified after the final rule is in effect.

[7:04] The State Safety Oversight rule. Each State Safety Oversight Agency has authority to review, approve, and oversee, and enforce the Public Transportation Agency Safety Plan for the rail transit system, investigate it, and enforce an authority for safety of rail transit systems in the state. Now, I know that's an area where a lot of concerns. And I've heard several different states question how that's going to take place.

[7:31] However, again, I ask that you read the notice of proposed rulemaking and also work with us on your certified work plans so we can get through this transition.

[7:40] Requirement to each audit the rail transit system at least once every three years. That's something that's already in place now with Part 659. It's something that will continue in the proposed new ruling, as well. And requirements to report the safety status of each rail transit system to the governor, FTA, and the board of directors of the rail transit systems.

[8:02] So this is something that's pretty much happening now in the current 659 that's in place.

[8:12] In addition, the SSOA is primarily responsible for overseeing Rail Transit Safety Systems, which also include review and approval of the Transit Agency Plan.

[8:23] I just want to note here, I won't read through all of it, that there will be more webinars from FTA later this year that will go into more detail about the Transit Agency Plan, the national agency plan, and again, on the certification training plan that's coming into place. So there'll be more explanation to this.

[8:46] The SSOA program standards. Adopt and distribute the State Safety Oversight program standards, which include information, a means by which the SSOA will oversee rail transit systems, how the program will be managed, how program standards will be developed, how the SSOA will oversee and apply the principles of safety management systems.

[9:12] This is something the FTA is taking on that you will hear a lot more from, from us in regards to safety management, SMS. You'll be hearing more about that throughout the year, as well. Establish policies and objectives for safety; explain SSOA roles, and overseeing safety risk management, safety assurance, safety promotion.

[9:37] How the oversight of rail transit systems internal safety review is conducted. And then, again, the three year safety, the oversight audits of rail transit systems, how they'll be carried out.

[9:52] Additional safety and oversight program standards. Again, establish requirements for rail transit systems to notify the State Safety Oversight Agency of accidents and incidents, establish thresholds for incidents and accident investigations. Again, more information‑

[10:09] Well, the rule, the proposed rule talks about it, as well, but work with the FTA and through your certified work plans and we'll work on these particular areas that have been identified in MAP‑21.

[10:22] Explain criteria for ordering corrective action and then the State Safety Oversight program standards for us to review and approve by FTA. This part here, again, is through the certified work plans. So FTA is reviewing those and working with you all to get those certified so you can become a certified state.

[10:45] State Safety Oversight rule. The State Safety Oversight NPRM proposes that the requirements must be met three years after the effective date of the final rule. So again, I keep reiterating the certification work plans. It is important that you meet and try to come into compliance based on the work plan that we have worked out because once the rule has been effective you have three years to become a certified state. So that's important to remember.

[11:13] It replaces the current 49 CFR 659, State Safety Oversight rule. And also, this new SSO NPRM proposes replacing the system safety program plan requirements with the transit Agency Safety Plan requirements that will established via a separate rule.

[11:33] [pause]

**Maria**: [11:52] Before I conclude my presentation here I do want to state that this SSO NPRM not only includes the State Safety Oversight Agencies but also the rail transit agencies the companies that actually work with the transit system I guess the bus side of the transit system. So it's not just SSO entirely but all, all modes within public transportation. So I want to note that.

[12:24] A couple housekeeping rules in regards to SSO NPRM that I'll go over. How to submit your comments to the NPRM docket. You have four different ways that you can do this. One, you can see – on the screen here – is through the website at www.regulations.gov. Follow the instructions for submitting your comments.

[12:51] Another way is through the US Mail to the US Department of Transportation headquarters. Another one, you can hand deliver it or courier to the US Department, or headquarters of DoT. Or you can fax it to 202‑493‑2251.

[13:16] And then, what's important here is the docket number. The docket number is FTA-2015-0003. The deadline for all comments on this SSO NPRM will be April 28, 2015.

[13:39] This concludes my portion of the SSO NPRM overview. However, at this time we will take questions and answers. And I will direct the questions and answers to our legal team from the Federal Transit Administration.

**Operator**: [13:58] Thank you. I just want to remind everyone that you can still submit questions through the questions pane of your control panel. Our first question is, "Can the new SSOPs state universally that the SSOA's order that the RTA fulfill all CAPs that are created as a result of accidents, hazards, close calls, internal safety audits, inspections, and other compliance assessments?"

**Richard Wong**: [14:27] The answer is yes. That was one of the goals of Congress when they drafted the State Safety Oversight requirement, oversight program requirements in MAP‑21. They wanted the states to take on this responsibility.

[14:44] And so, in the certification plans, in the work plans, we require the State Safety Oversight Agencies to have specific legislative authority in hand in order to, for them to carry out their oversight functions and if the state has deemed that carrying out a carrying out and overseeing the implementation of corrective action plans is essential, is an essential part of that SSO's responsibilities then yes, the SSOA does have that authority now.

**Operator**: [15:18] Thank you. Our next question is what is the role of the SSOAs in terms of RTA safety plans that only pertain to bus systems? Are the SSOAs required to do anything with these bus plans?

**Richard**: [15:34] That's actually a great question. Oh, I forgot to introduce myself. This is Richard Wong from FTA's Chief Counsel's Office. I apologize for my voice. I've got a little frog in my throat.

[15:45] But the question was about bus plans. And I know there's a lot of confusion because we've been seeing some chatter in the preliminary questions that we've been receiving of how does this SSOA program apply to bus systems.

[15:58] The answer is it does not. This is strictly for transit, passenger transit rail systems and rail passenger transit systems and the oversight agencies that oversee their safety aspects. Now, Congress required states to establish SSOAs, State Safety Oversight Agencies, with the authority to oversee safety and to ensure that transit agencies implement their safety plans.

[16:28] That oversight is not limited to rail. States, at their discretion, may extend it to bus systems but, as of now, it is not part of this current Federal NPRM rule making. Right now we're focusing on exclusively rail transit agencies.

[16:46] States, at their discretion, may include bus systems and give the states the necessary resources, authority to oversee and receive bus system safety plans but from the Federal perspective, we're just focusing on the rail operators.

**Operator**: [17:07] Thank you. Our next question is how long after comment period ends do you anticipate releasing the final rule?

**Scott Biehl**: [17:17] This is Scott Biehl from the FTA Chief Counsel's Office. That's a great question and it's difficult to predict, quite frankly. In part, it'll depend on the volume of comment we receive on this NPRM, and the nature of those comments. But in brief, here's how the process works.

[17:43] Once the docket for comment closes at the end of April, FTA takes a hard look at all the comments we've received. We analyze those comments. We develop issues and options for our agency leadership. We make decisions and we do certain economic and regulatory impact analyses in support of what we believe we want to end up in terms of the final rules.

[18:21] And there are other agencies inside the executive branch that collaborate in all that process, specifically the Office of the Secretary of Transportation and the Office of Management and Budget. In my experience, I've never seen a final rule proceed to a final rule any more quickly than several months after the close of the docket for a notice of proposed rulemaking.

[19:01] Now, I would emphasize this particular rule making is of utmost importance to this administration. We have every intention of issuing a final rule for State Safety Oversight as quickly as practicable. My best guess, and this is just a guess on my part, would be to look for a final rule late in 2015 or sometime in calendar 2016.

**Operator**: [19:40] Thank you. Our next question 674.19, Financial Penalty. Please explain the reasoning behind funding being withheld, number two, from the transit agency or requiring the RFGS to spend funding in prescribed ways, number three, when the state fails to take steps to certify.

[20:05] It seems that the wrong agency is being penalized here.

**Scott**: [20:10] That's a fair question. However, let me assure you what FTA has drafted in terms of the proposed rule is simply carrying out the statutory mandate that *Congress* decided upon. Specifically, Congress drafted and enacted 49 USC section 5329e such as to incentivize the states to stand up State Safety Oversight programs as quickly as practicable.

[20:53] And it was deliberate, I daresay that Congress imposed potentially a very harsh financial penalty on the rail transit systems within a state's jurisdiction if the state fails to develop a viable State Safety Oversight program in due course.

[21:18] So the short of this is that hopefully the rail transit agencies find it in their own interest to persuade their states to stand up these State Safety Oversight programs as quickly as practicable.

**Richard**: [21:37] That also brings up another point, too. You mentioned, the caller, listener mentioned a state's failure to certify. Does the onus, is the onus being, is the onus falling upon the wrong party?

[21:51] It's only based on the facts. You know, why did the State Safety Oversight Agencies fail to certify the rail transit agency? Is it because the rail transit agency is failing to comply with the State Safety Oversight’s program standard? If so, the onus is falling on the appropriate agency because the rail transit agency needs to get its act into shape and bring itself into compliance with the State Safety Oversight program standard for that state.

[22:19] But on the other hand, if it's the SSOA that can't get its act together, then, yes, we do have the authority to withhold funds from the SSOA itself until it can get its act together.

[22:33] So, you know, this is all about FTA withholding funds and FTA would have to look at, you know, the totality of the facts to determine who are the bad actors before any funds are withheld.

**Operator**: [22:48] Thank you. Our next question is from Kenneth. Has the minimum training requirements been determined or will the staff be grandfathered if they completed TSI TSSP training, for example? Or if they are CSPs.

**Scott**: [23:06] Let me answer that question in two parts. Number one, State Safety Oversight Agency staff are indeed going to have to meet the training requirements that are set forward both in the interim provisions for safety training certification that were recently issued and the eventual rules for safety training certification that will be codified under that separate rule making.

[23:42] But for the details of the safety training certification requirements, please dial in to our webinar this Thursday afternoon which is on that very subject.

**Operator**: [24:01] Our next question is from John and John asks, "Is it‑it is still not clear how the new program requirements will affect commuter railroads who are regulated by FRA but receive funding from FTA."

**Scott**: [24:18] Please take a look at the preamble to the notice of proposed rulemaking that we published back on February 28, where we make it very clear Federal transit’s safety regulations will *not* conflict with those of the Federal Railroad Administration, and specifically the commuter rails and even those light rails across the United States that, to a certain extent, are regulated by FRA because they touch on the general railroad system of the United States.

[25:02] They will continue to live with the FRA safety authority and the FRA rules. Nothing in this rulemaking effects FRA's safety jurisdiction. Indeed, the simple way to think about is that the FTA's safety requirements and the FRA's safety requirements are mutually exclusive.

[25:32] Now, I say that and yet, let me point out: separately, FTA is pursuing a rulemaking on transit asset management under the agency's new authority‑49 USC section 53.26. And we issued an *advanced* notice of proposed rulemaking for asset management back in October of 2013.

[26:07] Asset management requirements, I daresay, will apply once they're codified they will apply to *all* the modes of operation within a transit agency that receives funding from FTA. Light rail, rapid rail, commuter rail, bus, whatever the mode of transit. So please be watching for that asset management notice of proposed rulemaking, which will probably be published sometime in the near future.

**Operator**: [26:48] Our next question is from Eric. Under the new proposed rule, what penalty is there to the states if they do not comply?

**Richard**: [26:59] Well, as we discussed earlier‑you know, it's, it's twofold, there's a two part, or twofold penalty on the states. One is that we can withhold the funding of the SSOA. Under our apportionments that we published last, I think, March we set out the grant program where we provide an 80 percent Federal match to states to carry out their SSOA program responsibilities.

[27:22] If an SSOA does not have its program plan approved by FTA or falls out of compliance or we deem it to be in, you know, non‑compliance. Then those funds can be withheld.

[27:32] MAP‑21 also gave us the authority to withhold up to five percent of a state's section 5307 apportionment for non‑compliance. And that onus does indirectly, or directly falls on, you know, recipients of FTA in that area.

[27:49] Finally, the third remedy is directing a rail transit agency to spend its funds to make necessary safety related improvements. And all three actions involve the use and disbursement and withholding of FTA funds. And the you know, discretion will be within the FTA of, you know, to apportion blame or responsibility or culpability of who are the bad actors and how can this, how can a safety deficiency best be remedied.

**Operator**: [28:24] Our next question is from Edward. Will the SSOA have authority over APMs, automated people movers?

**Scott**: [28:34] Potentially. And let me note, for example, there are automated people movers in Jacksonville, in Detroit, in Miami. All three of which were funded in part with Federal financial assistance way back you know, in the '80s.All of those are transit systems that are regulated under the State Safety Oversight program and the current rules, at 49 CFR part 659 in fact.

[29:16] However, however the FTA State Safety Oversight rules do not apply to virtually all of the airport people movers across the United States and there are any number of privately owned and operated automatic automated systems, transit systems to which the Federal rules don't apply.

[29:54] I'll turn to my colleague Richard here.

**Richard**: [29:57] Yeah, the SSO program applies to operators of public transportation and the term public transportation is defined by law at 49 US Code chapter 53, section 5302, and paragraph 14. If the automated people mover is engaged in providing public transportation‑that is providing transportation to the general public by a public transportation agency then yes, it would be covered under this rule.

[30:33] However, the statutory definition of public transportation excludes, as Scott noted, certain types of intra-facility systems. I mean they're open to the public but they're operated by a private shopping mall or by an airport, for example, as an intra-facility shuttle. Those are not deemed to be public transportation in terms of taking people from multiple destinations to multiple destinations but rather a, you know, two stop closed loop system.

[31:08] So airport people movers would not be included. People movers taking people from a casino to a parking garage would not be included or from the Getty Museum down to the base end station would not be considered public transportation because they aren't operated by public transportation agencies.

**Operator**: [31:31] Thank you. Next question's from Joan. And bear with me because this is a long question.

[31:39] As a result of the proposed rules, the cost for both SSOAs and RTAs will increase substantially. While section 674.17 would provide Federal financial assistance to SSOAs for administration and staff training, no such assistance is stipulated for the RTAs.

[32:01] This appears to be a major flaw in the proposal rules. Or would RTAs be eligible to receive such financial assistance from their respective SSOAs? How are RTAs expected to cover the cost for administration and staff training?

**Scott**: [32:18] OK, there are several aspects to that question. Let me address at least a few of them and then I'll invite my colleague Richard to chime in first.

[32:33] Straight away, let me emphasize there is good news here. A number of you on this call have been living under the State Safety Oversight program that has been in place since 1994. And those of you well know that until this time State Safety Oversight has been entirely an unfunded mandate. FTA didn't provide any Federal financial assistance for virtually any aspect of the State Safety Oversight program.

[33:14] Now, I daresay we are providing a great deal of Federal financial assistance to carry out the new State Safety Oversight program as authorized by MAP‑21. Moreover, 80 percent of the costs in the scope of work that are covered under a grant for an SSO program will be borne by the Federal government. The state is obliged to match the Federal funds with 20 percent of the total budget that will be encompassed within that grant.

[34:04] So that's, that is a fundamental shift under MAP‑21 from what we had from 1994 up until 2012 or thereabouts.

[34:18] The second point I would make, we at FTA believe we have done our dead level best to try to minimize the costs of this rulemaking as best we can. Undoubtedly there are increased analytical responsibilities reporting responsibilities, and so forth. But we don't believe that they are such an incremental increase as compared to the current costs under the 49 CFR part 659 rule as to be of any particular concern.

[35:08] Now, insofar as the rail transit agencies who have to comply with the standards that a state sets in a State Safety Oversight program, those have always been eligible for Federal reimbursement under the main Federal transit grant programs in 49 USC chapter 53. And for many agencies, that pertains specifically to the funding they receive under the section 5307 urbanized area formula program. OK, and that doesn't change in this instance.

[35:58] Richard, what have I missed?

**Richard**: [36:00] well, also when Congress set up the 5329 program they directly, they directed the Secretary to establish a grant-making program for the SSOAs to bring them into compliance. And Congress has authorized and appropriated a pool of money to the SSOAs.

[36:21] In contrast, if you look at 5329 e6 paragraph four, all Congress did there was they authorized recipients of 5307 and 5311 funds to use up to point 5 (.5) percent of their formula funds to pay for the cost of participating and certifying and training the employees to comply with these new requirements.

[36:47] So, take it as you will but that's the solution that Congress has authorized. With regard to the availability of funds for training and certification purposes, tune in Thursday and ask the question of Ruth and Bruce.

**Someone in room**: [laughs] [37:03]

**Operator**: [37:06] OK. Thank you. Sherri's asking, if states do not currently have public transit rails in their state, are they required to have an SSOA?

**Richard**: [37:17] Yes. The requirement applies to states with existing systems as well as to states with planned systems. Now, if no city or locality in the system in the state ever plans to have rail transit then the answer is no. But if the state knows that a city or municipality is planning a fixed guideway rail transit public transportation system then yes, the state needs to get involved.

[37:49] And the earlier the better in terms of looking down the road and looking at safety aspects, looking at grade crossings, looking at safety practices, procedures. What's the most appropriate agency to carry out the oversight function, depending on the characteristics of the rail fixed guideway?

[38:09] Are they going to be operating in an exclusive guideway? Are they going to be operating in a mixed roadway? Are there going to be activated crossings? Are they going to be exclusive? Overpasses and underpasses. Is it going to be operated on a traditional rail line?

[38:20] All off these permutations will help influence a state into, in designating the appropriate oversight agency, and hopefully it's going to be an agency that has some experience or knowledge of the particulars of this kind of anticipated rail transit system.

**Scott**: [38:37] Let me offer just one quick illustration for Richard's point. All of these years the state of Hawaii has never had a State Safety Oversight Agency but now they have to have one because, in fact, they are planning, designing, and building one of the most interesting rail fixed guideway transit systems I know of anywhere on the planet.

[39:09] And indeed, the state of Hawaii is now working to stand up a State Safety Oversight Agency for that system, even though that system won't be online for another four or five years yet.

**Richard**: [39:27] Yeah, there was a question about what if a state, what if a municipality or locality wants to go at it using their own *local* funds? Well, in that case they're very lucky to have an abundance or that surplus of state resources where they're turning down a potential 80 percent Federal match.

[39:47] Well, if a, if a locality wants to use strictly local funds and does not accept any FTA funding and if the municipality does not seek to include those route miles within its formula program then there is not a sufficient Federal nexus to draw that program within the SSO program. But those situations are very rare because the cost, the allure of an 80 percent Federal match is just too good to turn down in the vast majority of situations.

**Operator**: [40:25] Thank you. The next question is from Stephen. There is a three year transition period but 674 will replace 659 when 674 becomes effective. How are SSOs supposed to proceed during the three-year period since it takes some time to transition over to the new requirements?

**Scott**: [40:47] That's a great question. In fact, and, and let me explain it simply as follows. It will vary from one State Safety Oversight Agency to the next. We expect that there are a handful of State Safety Oversight Agencies right now who are prepared to transition into the new MAP‑21 type of a State Safety Oversight program pretty quickly.

[41:24] And once the final rule that we're proposing at 49 CFR Part 674 is codified those states in that position indeed can start complying with the new rules. For other State Safety Oversight Agencies, it's going to take longer. And, and we certainly expect that in some instances the SSOAs will be complying with the current rules at Part 659 for some time yet. At least a few years.

[42:09] So it's going to, it's going to work itself out case by case, in short.

**Richard**: [42:15] And as we noted in the NPRM, you know, and even before when MAP‑21 was enacted there's nothing in MAP‑21 or in FTA guidance that requires a state to stop taking actions. And in fact, we were encouraging states to start seeking the necessary legislative and regulatory authority to carry out the SSO functions as spelled out in 5329 in anticipation of the final rule.

[42:50] And as you can see, if, if you haven't already, take a look at the final rule or the NPRM and you'll see that it doesn't differ too much from what's in 5329 in terms of what it will require upon a State Safety Oversight Agency, and what it requires in a State Safety Oversight program. The two are very much synonymous and consistent.

[43:14] So, in all things being considered, a state should have taken the initial efforts to integrating itself into compliance with MAP‑21 because MAP‑21 equals compliance with 674. And to that point, when we started issuing the matching funds last year, states did have to have to give us a, you know, transition plan or a work plan that showed their timeline and their milestones for bringing themselves into compliance.

[43:47] And based on those representations, we were able to release funds because Congress authorized funds not just for systems that were SSOAs that were fully in compliance but also to help those SSOAs to come into compliance.

**Operator**: [44:06] Thank you. Our next question is from David and David asks, "Where did the definition of serious injury originate from? Has FTA considered the difficulties and, and improbability in obtaining the information that defines serious injury? For example, how does an agency know that a person has been hospitalized within seven days of an accident or incident? And then further obtain information regarding the extent of the injury with current HIPAA laws?"

**Scott**: [44:40] That's a great question. Let me answer at least in part as follows. The National Transit Database, the NTD, has reporting requirements in place. They've been in place for quite a while, in fact, insofar as the reporting by transit agencies of certain types of accidents.

[45:08] And I will be the first to admit to you I am not well steeped in the NTD and the various definitions set forth in the National Transit Database myself but you need to make yourself familiar with those if you're not already for purposes of commenting on this notice of proposed rulemaking.

[45:37] Now, our proposed rule does set forth a number of definitions of terms that we use throughout the rule. And you please need to focus on those when you're developing your comments on this NPRM. We certainly invite your criticisms, your suggestions, your thoughts on how we might improve those definitions.

[46:10] The questioner logically asks how is a transit agency supposed to know, for example, whether an individual takes himself or herself to the hospital within seven days of the event. And, and I will tell you with a straight face I would not expect a transit agency to seek out that person in order to make that sort of determination. We're really kind of governed by a rule of reason about all of this.

[46:50] But, it, suffice it to say it, when there is a catastrophic event at a transit agency the, the kind of event that involves multiple injuries and at least some persons are transported to the hospital you can bet that that's the kind of an event that we expect to be reported under the State Safety Oversight rule.

**Operator**: [47:23] Well thank you. Our next question's from Vijay. Who is responsible for conducting accident and incident investigation and preparing the investigation reports? The proposal requires the SSOA to perform this task in 60, I'm sorry, 674.35 but conflicts with 674.27 subsection 7.

**Scott**: [47:49] OK, that's interesting. We don't believe that there is a conflict between those two rules. However, let me please make the following points. One of the fundamental differences now for State Safety Oversight Agencies under MAP‑21 as opposed to where we've been since 1994. State Safety Oversight Agencies are now obliged by law to have the ability to conduct their own accident investigations.

[48:28] That was a change that was very deliberate by the Congress. Quite candidly, what we've seen too often in years past is that State Safety Oversight Agencies would leave it to the rail transit agencies to investigate their own accidents. And too often the results of those investigations by the rail transit agencies were self‑serving for the rail transit agencies. They were not in the interests of the traveling public.

[49:07] So that changes? Now the State Safety Oversight Agency, if it chooses, may establish a program standard in its State Safety Oversight program, whereby the SSOA and a rail transit agency can agree upon how they will handle various aspects of a particular investigation and share resources with one another, clarify the roles and responsibilities.

[49:48] It will often be the case, I daresay, where a rail transit agency wants to investigate its own accidents still, even as the State Safety Oversight Agency is conducting an investigation.

[50:05] And that's fine. Moreover, under the statute Federal transit now has *independent* authority to conduct accident investigations and in some instances, to be sure, will do so. It is…

[50:26] [audio break]

**Scott**: [50:28] Oversight agencies have primary responsibility, the day-to-day responsibility for oversight of the safety of rail transit systems, but FTA now does have independent authority to step in as it deems necessary.

**Operator**: [50:52] Thank you. Kevin is asking, "When do you expect the NPRM to be available for review?"

**Scott**: [51:02] Actually it already *is* available. It was published back on February 28, I believe. And the comment period on the NPRM runs through April 28? And my colleague Bruce Walker has just handed me the hard copy of the document. I stand corrected. It was published on February 27 of 2015.

[51:34] For those who might be taking interest, who might have an interest and are taking notes I'll give you the exact citation. This is volume 80 of the Federal Register, beginning at page 11002.

[51:58] And you can access the NPRM not only through the Federal register itself but by going to our docket, FTA-2015‑0003 at www.regulations.gov.

**Richard**: [52:26] We've also posted a copy on FTA's Federal register page on our website. If you go to fta.dot.gov, look under Legislation and Law, click on Federal Register Notices for 2015, you'll see the NPRM posted up there and if you go back to 2014 you can actually see the apportionments notice that spelled out the funding program for the matching grant program for State Safety Oversight Agencies.

[52:58] And it gives a good rundown of how the formulas were developed, how costs were apportioned, eligible costs, ineligible costs, and other technical details that I see some of you have been asking in kind of preliminary questions in the chat room.

**Operator**: [53:15] Thank you. Walter is asking, "Will the new definition of incident require SSOAs to complete reports on each near‑miss and close calls?"

**Richard**: [53:28] That is actually going to be a program question that we will attempt to address. We're at, we've asked for comments for, on that in the NPRM about accidents, events, occurrences, and incidents; our attempts to define them in the rule, and what reporting obligations are going to be for an SSOA.

[53:49] And we'd like to hear from an S‑ from the SSOA community what the expected burden is going to be upon an agency based on the degrees of reporting for each level act.

**Operator**: [54:08] Thank you. Our next question’s from John, what about items like the national safety plan?

**Scott**: [54:19] OK. Let me let me give you a bird's eye view of everything that Federal transit has going on right now in terms of our safety rulemakings and our other initiatives. It gets a little complicated, I admit.

[54:42] What we're talking about today, the State Safety Oversight notice of proposed rulemaking is just the first of several notices of proposed rulemaking under the new safety authority of MAP‑21 that you can expect in the near future.

[55:07] Some of you might be familiar with the advanced notice of proposed rulemaking FTA issued back in October of 2013, where we covered some of this, this same ground.

[55:23] Very quickly, let me explain that you can expect in the not‑too‑distant future a rulemaking for what we call the national safety program rule under the authority of 49 United States Code Section 5329b. Among other things, that rule will spell out FTA’s own authority for conducting inspections, investigations, audits, examinations, testing of facilities and equipment so forth, and just how it is that FTA will go about an investigation in a certain level of detail.

[56:22] Then, there will also be in the not too distant future a notice of proposed rulemaking for the public transportation training, safety training certification program.

[56:39] The safety training certification program, that program arises under 49 USC Section 5329 sub C. And as some of you know, we already have published interim provisions for that program. And that program will be the subject of the webinar this Thursday afternoon that we've scheduled.

[57:12] And then, there will also be a notice of proposed rulemaking for Public Transportation Agency Safety Plans. I refer specifically to the safety plans that each transit agency is going to have to develop for itself.

[57:33] The authorizing statute in that instance is 49 USC Section 5329D. So for any legal scholars on this call this afternoon, who have been taking notes, you, you've figured out by now that there is this section 5329 that has several sub‑sections in sequence, B, C, D, and E, of each of which call for a separate rulemaking by FTA. And then, as I mentioned earlier, we also are conducting a transit asset management rulemaking under the authority of 49 USC Section 5326.

[58:29] To a certain extent we explain these various rulemakings in the preamble to the State Safety Oversight rulemaking published back on February 27. And you might please take a look at that.

**Operator**: [58:47] Our next question is from Walter. "What examples of the use of safety management systems at a rail transit agency exist today?"

**Scott**: [58:59] Simply put, there are several large transit agencies across the United States that are already practicing safety management systems. Some of them indeed are very well steeped in the particulars of safety management systems and they have adopted the principles and the methods of SMS to their own operating environment.

[59:29] Indeed, there are even some bus operations across the United States that are already practicing SMS. I candidly would refer you to the leading trade association, APTA, the American Public Transportation Association for networking opportunities in terms of who's already practicing SMS.

[60:01] Very briefly, I will tell you that I myself, a personal opinion, I am very impressed with the SMS that is practiced by GCRTA, the Greater Cleveland Regional Transit Authority but I know that there are a number of other transit agencies across the United States who are doing very good work in SMS right now. My colleague Richard makes the point about aviation, and he pushes a button with me.

[60:39] SMS, although it's new to a lot of us in the transit industry, it actually has become the leading methodology in enhancing the safety of any type of transportation all across the globe. And the aviation industry, the trucking industry, the maritime industry, any number of lines of business in the transportation sector have been practicing SMS for some time now.

[61:19] And, for many transportation providers, both public sector providers and private sector providers, SMS makes great sense not simply, not simply as a matter of safety, but it saves them a lot of operational expense. It's great for the bottom line of their business. There's more information on SMS available on the safety and oversight Web page of FTA's public website.

**Operator**: [62:02] Thank you. Our next question is from Steve, "Do the accidents/incidents thresholds prescribed apply only to revenue service, or does it spread to all rail transit controlled property?"

**Scott**: [62:24] My colleague Richard is struggling with his voice again, so I'll, I'll start off here, and then he can chime in if he's able. There are [coughs] any number of accidents and incidents on transit agency property that don't involve passengers and they don't involve any aspect of the passenger operation.

[62:56] Those need to be reported. I report‑, I refer specifically to the unhappy incidents in which mechanics are injured in the shop. Wholly separate and apart from a, from a passenger operation.

**Operator**: [63:20] OK, thank you. Our next question is from Micah, "Does the SSOA have the ability to withhold funding from a transit agency or is FTA the one that makes that determination?"

**Scott**: [63:34] That's an interesting question. That will depend state by state on state law. Under the Federal statutes, it's only FTA that has the authority to withhold Federal financial assistance from a transit agency for lack of compliance within an applicable Federal statute or regulation.

[64:02] But I daresay some states, under state law have empowered their State Safety Oversight Agencies to withhold state financial assistance from a rail transit agency that may not be in compliance with state law. The answer is: it depends.

**Operator**: [64:31] Our next question is from David. "Are BRTs, bus rapid transit systems, considered a rail system?"

**Scott**: [64:42] No. By definition, rail is rail. And indeed, we have evidence that the Congress thought about bus rapid transit when it was deliberating on how to pass MAP‑21, but decided that bus rapid transit should not be covered by the State Safety Oversight program. Thus, bus rapid transit does not fall within the definition of rail.

**Operator**: [65:24] Thank you. Our next question is from Sarah. "How close to operation does a planned rail system have to be for the state to set up an SSOA? Many systems are planned. They are in the long‑range transportation plan, but they are not likely to be operational for a decade or more."

**Scott**: [65:44] That's a good question, and in short, there is not an exact, bright line. Let me let me address it as follows. Some of you on this call, I imagine are well versed in FTA's New Starts program, and you're familiar with the sequential steps of project development in the New Starts program.

[66:14] It used to be, of course, before MAP‑21, we had the discrete steps of alternatives analysis, preliminary engineering and final design leading up to a full pardon and grant agreement. Under MAP‑21, however, the process has been simplified, streamlined such that there are now only the steps of project development and engineering, leading up to a full funding grant agreement.

[66:48] My advice to any state in which there is a real transit project in the New Starts pipeline that has reached at least the stage of engineering, that state's SSOA wants to actively engage in the planning of that rail transit system. And, and to FTA's mind, in fact even better if the State Safety Oversight Agency would engage with the project sponsor during the project development phase of New Starts, under the new MAP‑21 paradigm.

[67:43] Of course, there are any number of rail transit projects, however, that are not in the New Starts program. There are some, in fact, that are in FTA's Small Starts program, where there's only the single phase of project development, leading up to construction under what we call the Small Starts grant agreement.

[68:07] And then it's very much a judgment call in terms of when the State Safety Oversight Agency might engage. For my part, I advise the SSOA to engage in the planning of these projects, the earlier, the better.

[68:29] Indeed, in our experience, State Safety Oversight Agencies and their consultants can offer a lot of good advice about the safety of a proposed rail transit fixed guideway, while that project is still on the drawing boards. The SSOA can find design flaws in a project, in fact, that are easily or more easily cured in the earlier stages of planning than later.

**Operator**: [69:13] Our next question is from Joseph. "We have three jurisdictions that have difference legislative session time frames, and must all agree on each other's legislation. Once obtained, the US Congress must ratify the plan. There are also several election cycles that could intervene with process. Will extensions be granted for compliance, if needed?"

**Scott**: [69:42] We will work with each State Safety Oversight program constituents, case by case, to help them through this process. And, and indeed, in those instances of where rail transit system crosses state lines, and you have multiple players in state government involved, those are special session, situations that require some handholding so to speak.

[70:20] And FTA is glad to do that case by case. And we're fully aware of the circumstances of different states having different legislative calendars, different legislative cycles, and so forth. And we can work with folks on those questions.

**Operator**: [70:48] John is asking, "I understand and responded to the ANPRM, but will the National Safety Program require commuter RRs to participate in the national plan?"

**Scott**: [71:05] OK. Commuter RRs, I assume that's commuter railroads. Again, commuter railroads are regulated for safety by the Federal Railroad Administration, not by FTA, and that does not change under this State Safety Oversight rule making.

[71:29] [whispering] [long silence]

**Operator**: [71:43] OK, thank you. That was the last question. I'm going to go ahead and give it a few more minutes to allow more questions to come in. Remember, you can ask questions by typing your questions in the question pane of your control panel. Are there any statements that anyone would like to make that's in the room?

**Scott**: [72:10] While we're waiting let me return to the slide that I think is still on the screen. We very much want to encourage everyone on this call, and everyone in the transit industry to submit comments to the docket on this proposed rulemaking for State Safety Oversight. We want your thoughts, your suggestions, your criticisms, your, your convictions and so forth.

[72:50] And, and as Maria mentioned earlier, you have four options on how you can submit your comments. You can do so online at www.regulations.gov. You can send your comments in the United States mail. You can deliver them here to USDOT headquarters in Southeast Washington, DC, or you can send them by telefax.

[73:24] We just please need you to identify the docket number at the top of your comments, please. Docket number FTA‑2015‑0003, so that the docket, so that the comments are placed on the correct docket, in fact. And we do need you to please comply with the deadline of April 28, 2015. Please permit me an editorial comment, just quickly.

[74:03] In my own experience, the comments on a proposed rulemaking that are most effective are those that are supported by good data, by personal experience by academic literature, by any sort of empirical foundation. Tell us why what you're suggesting is the way to go and, and how that has proven itself in your own experience, if you can. Those are the types of comments that are most valuable to us.

**Richard**: [74:53] We've also got a few more questions that have been submitted. Several of them asked will the slides of the presentation be available, and the answer is yes, they'll be available on the transit safety office's web site, and we have that handy?

**Donna**: [75:12] Yeah, it's the, it's the Office of Transit, Safety and Oversight web page, which is part of the FTA web site. If you go there in the next, if you can give us like a week or two, we'll get it up there for you.

**Operator**: [75:28] We do have a couple more, I'm sorry, go ahead.

**Donna**: [75:31] I just wanted to say we will be emailing everyone that is on this call, on this webinar, with the link to the website so they'll know when it goes up.

**Operator**: [75:45] And we do have a couple more questions that have come in. The next one is from Patrick. He asks, "If, given the SSOA has the authority to mandate CAPs, and the RTA does not agree with the methodology, how will this be mitigated, especially if the SSOA are not subject matter experts?"

**Richard**: [76:08] Well, under the part, under the 5329 requirement, the states are supposed to become subject matter experts or develop an expertise, or to find the appropriate resources that would enable them to oversee a rail transit agency appropriately.

**Scott**: [76:28] Indeed, to amplify Richard's point just quickly, under MAP‑21, under the new statutes, every state is obliged to establish a State Safety Oversight Agency with staffing and financial resources commensurate with the number of rail transit systems in that state, the size of those rail transit systems and the complexity of those rail transit systems.

[77:05] So for a state like California or New York, obviously that's going to be a heavier lift than it is in a state that might have a single rail transit system within its borders.

**Richard**: [77:25] And, you know, the RTA is not at the mercy of the SSOA. Even FTA, you know, we have to deal with the NTSB in dealing with their safety recommendations, and it's more of a collaborative process of how do we get from here to there. And it's not an adversarial relationship, and it shouldn't be, between an SSOA and the rail transit agency, because after all, they both share the same goal, which is to ensure the safety of the riding public.

**Operator**: [78:00] Thank you. Our next question is from Brandon, and bear with me because it is a long one. "Although states are required to develop an SSOA when an RTA is in the planning stages of a project, the NPRM does not specify the role of the SSOA during the various phases of the project development.

[78:21] Will FTA define its expectations for the SSOA during the planning, engineering, design and construction phases of the new system extensions? If so, how will this compare to the responsibility of the PMOC?"

**Scott**: [78:41] OK. For folks not familiar with the term PMOC, that stands for project management oversight contractor. And, it refers specifically to the PMOC program and the PMOC contractors that FTA uses to help conduct project management oversight for all of our major capital projects across the United States.

[79:20] Now PMOCs essentially are an extension of FTA. They're not one and the same, as FTA staff, but they serve as the eyes and ears for FTA on the job site, on the construction site for major capital transit projects. And they typically will issue monthly and quarterly progress reports for FTA's own internal use as a project progresses through engineering, design and construction.

[80:09] Now insofar as projects that are only in planning or various stages of design, depending on the experience of the project sponsor, and its own technical capabilities and capacity, and the complexity of the project. FTA and its POMC will figure out together how best to monitor all the elements of that project, including the safety elements.

[80:50] And of course, FTA reserves the right to bring in its own safety consulting expertise, separate and apart from the POMC program for that purpose. I, I can't give you an exact answer on, on how FTA and the POMC, and the SSOA all will engage on a given project in design and construction. It will, it will determine it will be determined case‑by‑case.

**Operator**: [81:35] Well thank you. Our next question is from Darren. "Since States and RTAs will be required to investigate accidents and incidents, will requirements for FTA investigations it chooses to make include a requirement to coordinate with the SSOA, or will FTA conduct separate and independent investigations without regards to SSOA investigations?"

**Scott**: [82:02] Please be assured, in every instance in which FTA conducts an investigation, an inspection, an audit, an examination, or even testing of facilities and equipment in accordance with its new authority, its separate authority at the new section 5329f, FTA will do so in consultation with the State Safety Oversight Agency.

[82:36] It only makes sense that FTA and a State Safety Oversight Agency be working compatibly with one another, not across services. And indeed, we don't want to duplicate resources or duplicate effort. We'll work that out individually between FTA and the SSOA.

**Operator**: [83:07] That was the last question. Would you guys like to wait another minute or so for more questions to come in, or should we close?

**Donna**: [83:20] We can wait one more minute.

**Donna**: [83:24] Just to be sure.

[long pause]

**Operator**: [83:43] Again, as a reminder, if you would like to submit questions, you can do so by typing your questions into the questions pane of the control panel.

**Scott**: [83:56] And while we're waiting, I should make the point, Richard and Maria may not appreciate this, but when you look at our Federal Register notice from February 27, you will find that Maria Wright and Richard Wong are listed as the contacts for any questions you might have on the State Safety Oversight notice of proposed rulemaking. I think both their phone numbers and their email addresses are provided there, in fact.

[84:32] So, if you don't, if you don't get your question addressed during this webinar, feel free to reach out to them independently.

**Operator**: [84:42] Thank you. We do have a couple more questions that have come in. Our first question is from David, and David asks, "Will the FTA consider extending the comment period for the total of 120 days?"

**Scott**: [84:57] I can predict to you, no and, and the reason being we need to move expeditiously on this rulemaking. It is a priority for the administration. Now, that said, I will tell you, to every extent practicable, FTA will entertain, will consider comments, even those that may not meet the deadline, that are filed shortly after the deadline.

[85:38] Even though we won't extend the formal comment period on the NPRM we, as a practical matter, we will have an opportunity of at least a limited duration, to consider comments that may miss the deadline.

**Operator**: [86:04] Thank you. Our next question is from, Michael. 674.37(a), on the matter of corrective action plans of any sort, please include some language that allows for either party to disagree, have their concerns aired, and a compromise generated. Or, the maintenance of separate CAPs.

[86:25] This is a matter of fairness, and also affects liability. If the SSOA is to have an ultimate authority, then all should understand that this entity would also carry the ultimate responsibility, and liability. This will also extend to the SSOA contractors.

**Richard**: [86:51] Well I think that's going to be a question that's going to be decided by, you know, state tort law of, you know, what’s a State Safety Oversight’s responsibility to oversee safety.

[87:00] If it's a delegated duty, or if it's mandatory duty, that hasn’t perform that duty competently or negligently. It's not a matter for the Federal rules to determine, but rather it's a matter for State Law to decide.

**Scott**: [87:15] I'd agree with Richard on that. But this is a good question, and indeed, if anyone has any personal experience, wrestling with these issues, and, and, has any particular convictions on, on, on how to resolve these sorts of questions, please submit those comments to our docket.

[87:40] We would, we would very much appreciate that kind of comment.

**Operator**: [87:46] Thank you. Allan is asking if you can repeat the names of the speakers today.

**Donna**: [87:54] Sure. Maria Wright, of the Office of System Safety, presented the slides to you, and, answering our questions, has been Richard Wong and Scott Biehl of FTA's Office of Chief Counsel.

**Operator**: [88:13] Thank you.

**Richard**: [88:14] B‑I‑E‑H‑L.

**Operator**: [laughs] [88:16] Thanks. The next question is from Kevin. Why did the FTA choose to propose a replacement rule, rather than revise the CFR? I mean. Yes, CFR's 56 - excuse me - 659, as was done twice in the past?

**Scott**: [88:38] Just to clarify 49 CFR Part 659 was amended last, I think, in 2005. Was it, Richard?

**Richard**: [88:51] Yeah.

**Scott**: [88:52] Essentially the rule has been in place since 1994.

**Richard**: [88:58] '95.

**Scott**: [88:58] .OK. '95.

**Richard**: [88:59] Yeah.

**Scott**: [88:59] '95.

**Richard**: [88:59] Mm‑hmm.

**Scott**: [89:00] OK. Simply put, the current 659, and the previous versions of 659, were based on a very different statute than the statute we now have at 49 CF- I’m sorry, 49, United States Code, section 5329(e). And, if you compare the current Part 659, with the proposed Part 674, you will find differences, but you will find some similarities.

[89:42] I wouldn't call it a wholesale replacement of, of the current Part 659. However, the statutes are sufficiently different that we thought it simply most efficient and, and easiest to create a new rule, rather than trying to extensively amend the current rules at Part 659.

**Richard**: [90:21] Yeah, the other consideration we had, too, was the way Congress wrote the implementation. Congress permits a three-year phase-in period for states to come into full compliance with the new rulemaking. So, during the interim, we still needed Part 659 on the books, from now, from now until, you know, three years after we issue the final rule.

[90:44] So, states that have not yet fully transitioned to the new rule can still comply with 659, but states that have made the jump can now comply with 674. So, for, yes, for three years, there will be two regulations in the CFR, and that way, eliminates the confusion of an old system that's still under 659, versus a new SSOA that's under 674.

**Operator**: [91:10] Thank you. Randy is asking, how does this relate to the TAM rulemaking process?

**Scott**: [91:24] How does this relate to the transit asset management rulemaking process? Is, was that the question? OK. The transit asset management rulemaking is on a separate track, so to speak and, again, at, at some point in the not too distant future, you will see a notice of proposed rulemaking for transit asset management, OK?

[92:00] But, it will not be joined with any of the safety rulemakings that we've talked about previously. Now, having said that, just quickly, let me point out some of the connections between the transit asset management rulemaking, and various of the safety rulemakings.

[92:26] Here's the first one. The transit asset management rulemaking will establish a definition of the term, "State of good repair." I'll repeat that. "State of good repair." And when you turn to the safety statutes, specifically section 5329(b), which requires a national public transportation safety plan.

[92:58] You find the statutory requirement that that national plan be based, among other things, on the definition of "State of good repair," that is established through the transit asset management rulemaking. So, that's one such connection.

[93:20] Here's another one. The transit asset management rulemaking, in short, will require all transit agencies to take an inventory of all of their equipment, facilities, rolling stock, and infrastructure. And then conduct an assessment of the condition of all of those four types of assets.

[93:53] And then, having conducted the condition assessment for all of those assets, develop an asset management plan with a financial component, specifically, an investment prioritization strategy, for bringing assets that are not in a state of good repair, up to a state of good repair.

[94:26] And as a practical matter, in the course of conducting the condition assessments for all those assets, transit agencies will be identifying any number of hazards, and risks. Hazards and risks that need to be evaluated, as part of the risk management activity that is one of the four pillars of a safety management system.

[95:01] And, the risk evaluation that a transit agency performs in conducting a safety management system will feed back into the transit asset management plans that that same transit agency conducts, all of which will be overseen by what we call an accountable executive.

[95:33] The accountable executive, who has the ultimate authority for the practice of SMS at a transit agency and the practice of asset management at a transit agency. So, those are just a couple of quick illustrations of how the asset management rulemaking and the safety rulemakings are connected with one another.

**Richard**: [95:58] And to kind of piggyback off of that, I know, working at the grantee level, it's always about, "How does this apply to me?" Well, today's webinar is about the State Safety Oversight program, which only applies to rail fixed guideway public transit systems, and the state agencies that oversee them.

[96:18] The transit asset management program, however, is not – IS going to impact bus as well as commuter rail systems.

**Scott**: [96:27] Yeah.

**Richard**: [96:27] So.

**Scott**: [96:28] Ferries. Any kind of transit.

**Richard**: [96:30] Right. So, just because you are excluded from this SSO program does not mean you’re exempted from the transit asset, asset management program.

**Operator**: [96:44] Thank you. Our next question is from Robert. 659 requires security oversight. Where is the security covered in the new program?

**Scott**: [96:55] Let me answer that in, in two parts. Transit agencies, logically, are concerned about security. They need to continue to be concerned about security. FTA wants them to be concerned about security.

[97:19] And, in some instances, FTA grant funds, are available for transit agencies to do the things they need to do, for the sake of security. However, however, FTA no longer has any regulatory authority for security. FTA will not be conducting rulemaking in the subject of security.

[97:50] Ever since September 11, 2001, as a practical matter, all responsibility and rulemaking authority for security in public transportation resides with the Transportation Security Administration, in the Department of Homeland Security.

[98:13] FTA and TSA have a memorandum of understanding with one another on their respective roles and responsibilities. And that memorandum of understanding spells out the point that TSA has all authority for rulemaking on the subject of security in public transportation.

**Richard**: [98:37] And on, on a practical matter, implementing these new SSOA requirements, just from a safety perspective, is a big enough task for oversight agencies to undertake, without having to also become security experts. So, we've removed that provision from the old 659 rule.

**Operator**: [99:00] Our next question is from Mathew. Will there be specific guidance for SSOAs to evaluate agency SMS?

**Scott**: [99:12] There will be in due course. And, and, let me step back, just for a moment, to point out for anybody with an interest in SMS, safety management systems. Indeed, you will find further information available on FTA's website.

[99:34] But, in fact, we have described, described SMS to a certain level of detail, in the appendix to the text of our proposed rule, in the Federal Register Notice, of February, 27. I don't have the notice in front of me at the moment.

[100:00] Well, it's been handed to me as we speak. If you, if you turn to the tail end of the document, and specifically it starts on page 11028. You find a description of the safety management system's framework that FTA intends to pursue in the future.

[100:34] And, we offer this, for the moment, as guidance for the State Safety Oversight Agencies, and the rail transit agencies, and anybody else who's a stakeholder in the transit community.

[100:51] But, please be assured we are in the process of developing templates, and other forms of technical assistance, on safety management systems, that we will be making available to the transit agencies, to the SSOAs, and everybody else with an interest.

**Richard**: [101:15] I might also add that with regard, with regard to training opportunities, and needing more technical assistance, I might be jumping the gun, but Maria can stop me.

[101:25] But at the end of September, last part of September, the first part of October, FTA will be resurrecting, or resuming, the state program management meeting with the SSOA personnel.

[101:40] And I think this year, because we've gone so long without one, we may be inviting the chief safety officers, from each of the rail transit agencies as well. We'll all get together in a large conference, and to talk about all of these new requirements, what they mean, and how we are going to trade out. So, mark your calendars, it's going to be. Maria?

**Maria**: [102:01] It's the last week of September of this year, through October 2 of 2015. It's going to be held in Baltimore Maryland, and the Maryland – yep, Maryland MTA, is graciously willing to host it for us this year.

[102:17] So, I'm looking forward to it. It should be a great time for us to bring you up to speed, to where the new rules of regulations, and proposed rulemaking, and to hear your thoughts, and comments as well.

**Richard**: [102:34] And if you need further information, you know, either becomes available, Maria's email address is…

**Maria**: [102:40] Maria1.Wright, W‑R‑I‑G‑H‑T, @dot.gov.

**Operator**: [102:53] With that, I'm going to go ahead and thank you, everyone, for participating today. If you were unable to get your questions live today please be assured that we are considering all questions submitted today as we develop the rule.

[103:07] We will notify everyone by email when the video and transcript are available, and provide you a link. Look for this within the next two weeks. And now, Donna will give us a final reminder of how you can submit your comments on the rule.

**Donna**: [103:21] Well, your comments are very important. So, it's worth taking another minute to repeat the four options to comment on this rule. Number one: go to regulations.gov and follow the instructions for submitting comments.

[103:35] Two: send your comments via US Mail to USDOT Headquarters. Three: hand deliver or courier to USDOT Headquarters. And, finally: you can fax your documents to 202‑493‑2251. And remember this is docket number FTA-2015-0003. And all comments are due by April 28.

[104:05] Also, please join us on Thursday at 1:00 PM, Eastern Time, for our next webinar on the interim safety training provision. , that concludes today's webinar. Have a great rest of your day.