

Final Rule for 49 CFR Part 270 System Safety Program



Hosted by the Federal Railroad Administration (FRA)
and American Public Transportation Association (APTA)

Friday, July 17, 2020

Moderator

Narayana Sundaram

Sr. Director for Engineering and Commuter
Rail Operations
American Public Transportation Association
Washington, DC



Presenters



Larry Day, Jr. CSP, SMS, NREMT
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Federal Railroad Administration
Academy, CA



Michael D. Ramsey
Passenger Rail Safety Specialist
Federal Railroad Administration
Conifer, CO

During and after the presentation:

Ask a Question:

- Submit a question or comment by typing into the Question box on the screen and then clicking the “send arrow” located at the bottom of the box

After the Presentation:

Raise Your Hand:

- Raise your hand to speak by clicking on the “raise hand” icon
- The APTA moderator will call on those who have raised their hands and unmute them.

System Safety Program Part 270 Regulation

*APTA Tele-
Conference*

July 17, 2020

*System Safety
Program*

*Michael Ramsey &
Larry Dav*



Agenda

Review of must complete by dates

Consultation Process

Common Issues with Plans

Q & A

Face to Face Training



Key Dates

Rule Effective Date

- *May 4, 2020*

Initial Consultation Meeting with Directly Affected Employees

- No later than **July 2, 2020**
- Notice of Preliminary Meeting at least 60 days before meeting

May 4, 2020

Plan Submission

- No later than **March 4, 2021**

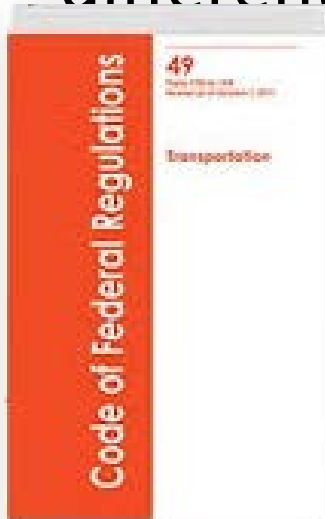
230 Days



Different Approach to Safety

SSP/RRP, are not prescriptive and are different from any other FRA

on.



- Proactive
- Systematic
- Actively promoting continuous safety improvement
- Directly affecting safety culture



2020 Final Rule - Review

SSP 20 Elements have NOT materially changed

Three big modifications:

1. New Term: “Railroad” has been changed to “Passenger Rail Operators” along with more detail regarding who develops and responsibility for a plan.



2020 Final Rule - Review

SSP 20 Elements have NOT materially changed

Three big modifications:

2. Consultation meeting notification with non-profit employee organizations (i.e. Labor) has been modified. General chairperson OR primary point of contact for the passenger rail operation.
 - More information regarding consultation see Appendix B



2020 Final Rule - Review

SSP 20 Elements have NOT materially changed

Three big modifications:

3. C³RS data:

- Federal or State court proceedings...initiated after March 4, 2021, information protected...includes C3RS information...includes in its system safety program.
- Information compiled or collected on or before August 14, 2017, and that continues to be compiled or collected, even if used to plan, implement, or evaluate a system safety program...
- Protection does not apply to civil enforcement or criminal law enforcement proceedings



Consultation

- A passenger rail operation must consult in good faith and use best efforts to reach agreement with all directly affected employees on the **contents of the SSP plan** and amendments to the plan.



Consultation

- Needs to be a series of meetings
 - Union Represented
 - Non-Represented
 - Generally office staff/management
- Document everything – attendance, minutes, get minutes approved at next meeting, any power points or documents presented.



Consultation is NOT

- A new union staff position
- Negotiation point for a new agreement
 - Not a trigger for re-negotiating



Consultation IS

- Opportunity for Safety to work with labor and non-represented employees that they may never interact with on a regular basis
- Forum to discuss system safety/SMS, safety culture, risk based hazard management concepts and passenger rail operator's concept of those elements



Consultation Requirements

- [49 CFR 270.107](#) & Appendix [B](#) & [C](#)
- A passenger rail operation must ensure that the documentation requested in those appendices are attached to the SSP submittal
- More documentation may be required if a letter is received from employees.





The rule provides each passenger rail operation with a certain amount of flexibility to tailor its SSP to its specific operations.



Common Issues with SSP Submittals

Over the last several years we have requested informal reviews of SSP plans.

Here is some of the top issues we have found.



FTA vs FRA

- There are aspects where FTA's plans can cross over.
- Such as: *Safety Policy, Goals, Emergency Management, Public Safety Outreach...*
- However there does need to be some tailoring for FRA requirements.



Program Goals § 270.103(c)

- An SSP plan must contain a statement defining the goals for the SSP.
- Because strategies for achieving those goals are integral to an SSP, the statement must also describe these strategies and management's responsibilities for achieving the goals.
 - *Id.* These goals must be long term, meaningful, measurable, and focused on the identification of hazards and mitigation or elimination of resulting risks
- While there can be many ways to define an SSP's goals, this generally means that goals should be:
 - Long-term so that they are relevant to the SSP throughout the life of the system;
 - Meaningful so that they are not so broad that they cannot be attributed to specific aspects of the operations;
 - Measurable so that they are designed in such a way that it is easily determined whether each goal is achieved or at least progress is being made to achieve the goal; and
 - Focused on the identification of hazards and the elimination or mitigation of the resulting risks, consistent with the overall goal(s) of the SSP.



Implementation Process § 270.103(f)

- Three years are allowed to fully implement the plan.
- Provide a roadmap, matrix or something easy to follow that shows what will be implemented and when.
- Hint, Risk Based Hazard Management should be in the first year.
- It is okay to adjust your implementation goals with the first (even second) annual submission.



Implementation Process § 270.103(f)

- **Implementation Process**

Any implementation process should be guided by a passenger rail operation's description of its system.

- **Management of the Implementation Process**

Generally, the chief official of the passenger rail operation designates the overall responsibility for managing SSP plan implementation to the chief official responsible for safety.

- **Implementation Process Development**

Before development of the SSP plan implementation process begins, the chief official responsible for safety should provide an overview of SSP requirements to all managers responsible for implementation of the SSP plan, including information on their specific roles for implementation.



Implementation Process § 270.103(f)

- **Implementation Process Development – cont.**

In developing the implementation process, a passenger rail operation should consider reviewing existing processes and programs to identify and document elements already in place that follow the SSP regulation. For example, labor/management teams can be formed to analyze existing programs, systems, and activities with respect to the SSP regulation. This process may also help identify potential gaps in processes, procedures, and management controls; documentation that is incomplete or not up-to-date; and vague interfaces between processes or departments. Such gaps may identify elements of the SSP that are not already being performed or are being performed but may require modification.

- **Milestones**

An SSP plan must establish milestones necessary to fully implement a passenger rail operation's SSP within 36 months of FRA approval.

Each operating environment is unique, there are many ways to address the milestones. In general, however, passenger rail operations should first identify the required SSP elements that are already implemented. The passenger rail operation should then identify the elements that need to be implemented to fully comply with the rule, as well as the time period needed to implement them.

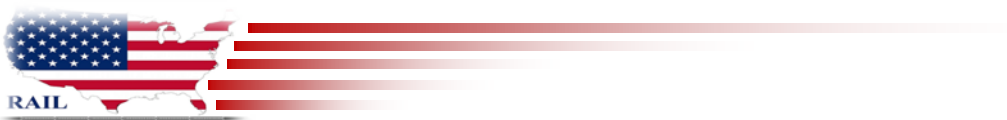


Common Plan Issue Questions

Please raise your hand

or

Type your question in the comment
section



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Q&A

QUESTION:

If a passenger rail operation is funded by and/or part of a state agency with a contractor for operations and maintenance, who is responsible for compliance with Part 270 and the development of the system safety plan?

ANSWER:

- The central responsibilities of developing, filing, and implementing an SSP plan should be the passenger rail operation.
- For most passenger rail operations, FRA expects the entity conducting the railroad operations to develop, submit, and implement the required SSP plan for that passenger rail operation.
- The entity submitting the plan for a passenger rail operation will typically be the railroad providing the engineers and crews and physically operating the trains on that passenger rail operation's routes.
- If the entities involved in a passenger rail operation determine that an entity other than the railroad operating the service should develop and file that operation's SSP plan, that
- different entity may be designated with such responsibility for the passenger rail operation, provided the required elements of the SSP plan are met with a single plan covering that system.



Q&A

QUESTION:

Our agency has both rapid/urban transit operations and commuter rail operations. Can I just use my FTA required Safety Management Systems (SMS) program to cover the commuter rail operation in place of a FRA System Safety Program?

ANSWER:

- No, the FRA will require a separate Part 270 plan for the commuter rail operation as the FRA Part 270 program will provide data protections. There are many elements that can be used in both the SSP and SMS, but the plans will have to remain separate.



Q&A

QUESTION:

Will there be a guide on SSP Plan development available?

ANSWER:

Yes...maybe...possibly...hopefully before
March 4, 20??



Q&A

QUESTION:

What kind of training will FRA make available to the industry?

ANSWER:

Webinars, face to face, TSI and on-demand



Q&A

QUESTION:

What kind of information will fall under the protections provided by the rule?

ANSWER:

- Any information compiled or collected after August 14, 2017, solely for the purpose of planning, implementing, or evaluating a system safety program under this part shall not be subject to discovery. “Information” would include plans, reports, documents, surveys, schedules, lists, or data, and specifically includes a railroad's analysis of its safety risks and a railroad's statement of mitigation measures.
- After March 4, 2021, this will also include C3RS information that is a part of the system safety program, even if compiled or collected on or before August 14, 2017, for purposes other than planning, implementing, or evaluating a system safety program.



Q&A

QUESTION:

Am I now required to include C3RS in my system safety plan?

ANSWER:

- No, but if included, the C3RS information will be protected as outlined above.



Q&A

QUESTION:

How do I submit my system safety plan to FRA?

ANSWER:

- The plan can be submitted to the Associate Administrator of Railroad Safety and Chief Safety Officer in Washington D.C. or electronically through the [FRA Railroad Portal](#).
- For electronic submittal user guide, contact Mike Ramsey or Larry Day.



Q&A

QUESTION:

When are the internal audit results required by FRA?

ANSWER:

- Within 60 days of completing the internal SSP plan assessment



Q&A

QUESTION:

Are the passenger rail operations required to audit each element of the plan annually?

ANSWER:

- No, you may audit a portion of the elements outlined in your plan, depending on the initial implementation schedule and/or identified concerns with specific ailments.

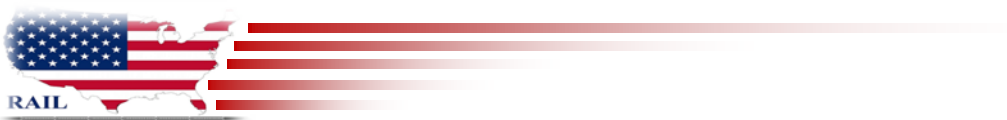


Q & A Questions

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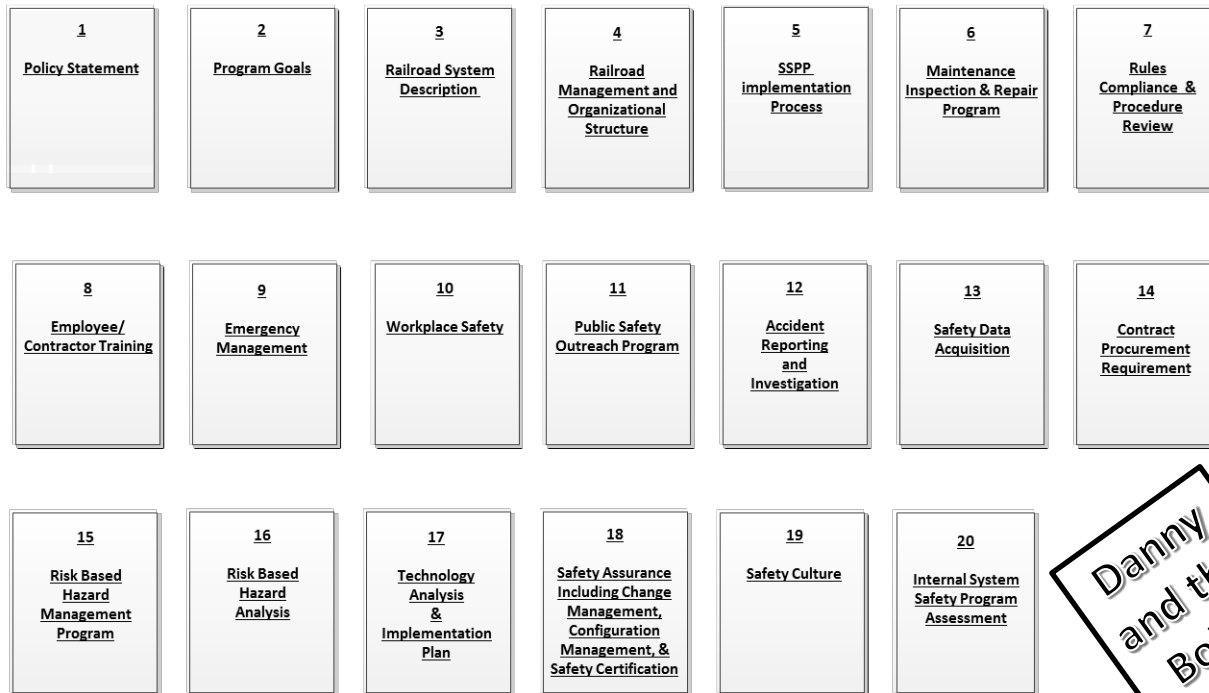
System Safety Program Plan

- A system safety program is adopted and implemented through a written system safety program plan.
- Written for the line supervisory employee, NOT FRA



FRA SYSTEM SAFETY PROGRAM PLAN

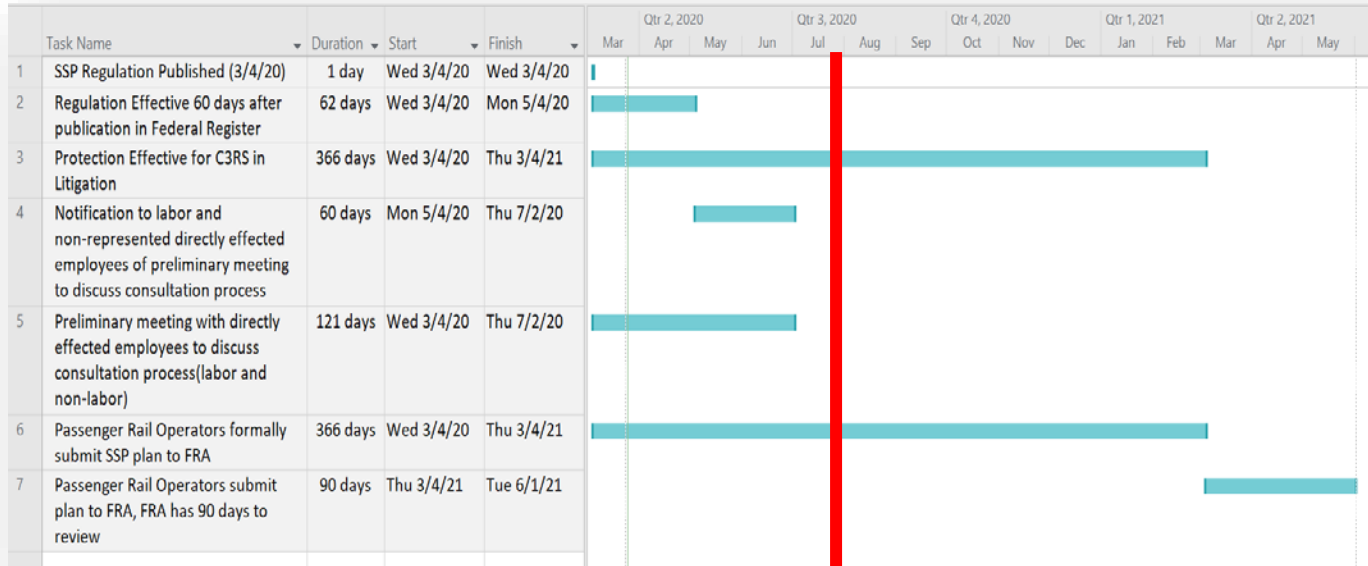
20 ELEMENTS



Danny and the Bob's Boxes



SSP Time Line to Plan Submittal



So What is FRA doing to Roll Out this Regulation?

- SSP Development Assistance
 - Sample SSP plans*
- Process for electronic plan submittal
- Internal Assessment review process
- External Audits (Focused and Full) process



**Delayed due to internal policy changes – working through them and hope to have out soon.*



Audit Processes

Internal Assessment process review

Looking to expand our app/software to include internal assessment reviews & external audit

External Audits (Focused and Full)



Looking for any volunteers in late 2020/early 2021 to be subjects of a test audit

- Not full blown, but a day or two for us to test our theories and for you to get an independent review of segments of your SSP implementation



Internal System Safety Program Assessment

Start thinking how your passenger rail operation will perform internal SSP assessments.

- The internal SSP assessment is a required tool to measure how well and to what degree each passenger rail operation is implementing its SSP, complying with its SSP plan, and achieving its SSP goals. The internal assessment is used to identify areas in need of improvement, recommend corrective actions, and measure the effectiveness of achieving the goals of the SSP plan.
- An SSP plan must describe the processes and procedures to be used to conduct the internal assessments. This description should include:
 - **Schedule of the internal assessment**
 - When and how annual internal assessments will be conducted. Internal assessments must be performed annually after initial FRA approval of the submitted SSP plan.
 - A schedule stating which elements of the SSP will be assessed each year. At the end of a three-year cycle, all elements of the SSP should have been assessed.



Internal System Safety Program Assessment

- **Assessment criteria**

- What are the policies, procedures, programs, or requirements that will be used to verify implementation and compliance?
 - What tools (e.g., checklists) will be used?
- What will be used to identify and describe the process and how it will measure safety culture?

- **Assessment teams**

- Who is responsible for establishing assessment teams?
- Who will be included on the assessment teams?

- **Documentation and internal reporting criteria**

- What is the process used to document and distribute the internal assessment findings to the appropriate managers and the chief official responsible for safety?
- Who receives and reviews the reports?



Internal System Safety Program Assessment

- **Improvement plans (AKA – Corrective Action Plans)**
 - Identify and describe how recommendations for improvement are made.
 - How are corrective actions determined and implemented, and how they are tracked through completion?
 - Who is responsible to track the corrective actions?
 - What is the schedule, milestones and target dates for implementation of the corrective action plan?
 - Who approves the corrective action plan?
 - Who verifies that the corrective action is completed and that no new hazards have been introduced by the corrective action implemented?
- **Revisions and updates to the SSP plan (*if necessary*)**
 - What is the process used to manage revisions and updates to the SSP plan based on the internal SSP assessments?
 - Who is responsible?



Face to Face SSP Orientation



2020 Face to Face

SSP Orientation Session

- Week of September 14th
- Two day class
(15 & 16) or (16 & 17)
- Thanks to Metra for hosting

Possible Dates Later 2020/2021

- Early November (East Coast)
- Mid January (West Coast)

*****Subject to Change*****



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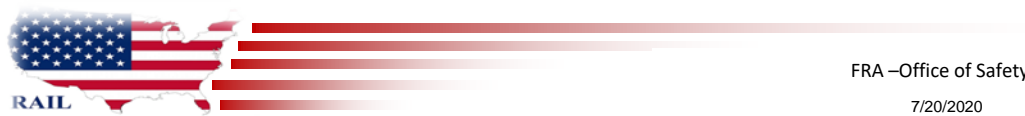
230 Days



FRA System Safety Team

- Communication

- System Safety Team
 - Larry Day
 - larry.day@dot.gov
 - 909 782-0613
 - Mike Ramsey
 - michael.ramsey@dot.gov
 - 720-201-5718
 - TBD



Questions?



Thank you for your time

