FINAL RULE: Railroad System Safety Program

[Federal Register Notice, here]

Overview

This rule requires each commuter and intercity passenger railroad to develop and implement a safety system program (SSP). This rule takes effect on October 11, 2016. Petitions for reconsideration must be made by October 6, 2016.

Background

The Rail Safety Improvement Act of 2008 directed USDOT to establish requirements for railroads' programs to reduce safety risks (49 U.S.C. 20156). In September 2012 FRA issued a proposed rule for passenger rail safety procedures.

The Federal Railroad Administration (FRA) is establishing distinct requirements for passenger and certain freight railroads. This final rule requires passenger railroads to develop SSPs that systematically and continuously evaluate its system to identify hazards and risks and to mitigate or eliminate these hazards.

FRA describes these requirements as similar in structure to the Federal Aviation Administration’s Safety Management System requirements and the Department of Defense’s Safety System Program.

Relation to FTA requirements

The Federal Transit Administration (FTA), under MAP-21, has established new safety procedures and requirements for transit agencies. Those rules do not apply to commuter rail agencies that are regulated by the FRA. The SSP under this rule may only be used for commuter rail operations, however; other transit modes must follow the safety procedures set out by the FTA.

Requirements and Procedures under the rule

A SSP is a structured, proactive program to identify and then mitigate or eliminate safety risks. The main part of a SSP is a risk-based hazard analysis and management plan. This plan must identify risks and develop a strategy to mitigate or eliminate these risks, using any available technology. Additionally, the plan will list the railroad’s safety procedures, such as inspections, maintenance, and repair practices.

The SSP shall include a safety policy statement; measureable, meaningful, long-term safety program goals; and descriptions of the following:

- the railroad system;
- the railroad management and organization structure;
- safety program implementation process;
- maintenance, repair, and inspection procedures;
- compliance procedures and rules;
- safety training procedures;
- emergency management;
• workplace safety programs;
• public safety outreach programs;
• accident and incident reporting procedures;
• safety data collection;
• risk-based hazard management program;
• risk-based hazard analysis;
• implementation plan; and
• safety assurance.

Railroads must submit their SSP to the FRA within one and a half years of the effective date of the rule. The FRA has 90 days to review the railroad’s SSP and approve it or reject it and send it back to the railroad for amendment. Railroads have 90 days to amend and resubmit a rejected plan.

Certain information in the SSP will be shielded from Freedom of Information Act (FOIA) requests, discovery or admission as evidence in court so that railroads will not be discouraged from identifying potential hazards for fear of litigation.

Railroads must consult with and, to the best of their abilities, reach agreement with employees (including through their unions) on SSP procedures.

The SSP must include procedures for internal audits of how well the plan is being implemented. Railroads must submit such internal assessments to the FRA within 60 days of their completion. The FRA may additionally conduct or commission an external audit of a railroad’s safety procedures.

This final rule applies to commuter and intercity passenger rail operators. It does not apply to rapid transit systems not connected to the national rail network; tourist or scenic railroads; or operators of private rail cars.

Analysis

This rule mandates passenger railroads develop and implement plans to evaluate and then mitigate or eliminate potential risks. These comprehensive procedures should help ensure safe travel for rail passengers and work conditions for railroad employees.