

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 270

[Docket No. FRA-2011-0060, Notice No. 6]

RIN 2130-AC31

System Safety Program

AGENCY: Federal Railroad Administration (FRA), Department of Transportation.

ACTION: Final rule; stay of regulations.

SUMMARY: On August 12, 2016, FRA published a final rule requiring commuter and intercity passenger railroads to develop and implement a system safety program (SSP) to improve the safety of their operations. On February 10, 2017, FRA stayed the SSP final rule's requirements until March 21, 2017, and extended the stay until May 22, 2017 and then to June 5, 2017. This document extends that stay until [ENTER DATE 180 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].

DATES: Effective [INSERT DATE DOCUMENT PLACED ON PUBLIC DISPLAY], 49 CFR part 270 is stayed until [ENTER DATE 180 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].

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SUPPLEMENTARY INFORMATION:

On August 12, 2016, FRA published a final rule requiring commuter and intercity passenger railroads to develop and implement an SSP to improve the safety of their operations. See 81 FR 53850. On February 10, 2017, FRA stayed the SSP final rule's requirements until March 21, 2017 consistent with the new Administration's guidance issued January 20, 2017, intended to provide the Administration an adequate opportunity to review new and pending regulations. 82 FR 10443 (Feb. 13, 2017). To provide additional time for that review, FRA extended the stay until May 22, 2017 and then to June 5, 2017. 82 FR 14476 (Mar. 21, 2017) and 82 FR 23150 (May 22, 2017).

The review includes petitions for reconsideration of the SSP final rule (Petitions).¹ FRA will conduct some form of outreach with interested parties to inform its decisions on the issues raised in the Petitions. FRA will announce any outreach process by separate notice in the Federal Register. Accordingly, to allow time for potential outreach, and to complete review of the rule and the Petitions, FRA is extending the stay of the rule until [ENTER DATE 180 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].

FRA's implementation of this action without opportunity for public comment is based on the good cause exceptions in 5 U.S.C. 553(b)(B) and 553(d)(3), in that seeking public comment on the stay is impracticable, unnecessary, and contrary to the public interest. The delay in the effective date until [ENTER DATE 180 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER], is necessary to continue the review of the rule and Petitions, including any potential outreach. Given the imminence of the effective date of the "System Safety Program" final rule, seeking prior public comment

¹ See SSP rulemaking docket for these petitions at: <https://www.regulations.gov/docket?D=FRA-2011-0060>.

on this temporary delay would be impractical, as well as contrary to the public interest in the orderly promulgation and implementation of regulations.

Authority: 49 U.S.C. 20103, 20106-20107, 20118-20119, 20156, 21301, 21304, 21311; 28 U.S.C. 2461, note; and 49 CFR 1.89.

Issued in Washington, DC, on June 1, 2017.

Patrick T. Warren
Executive Director