

Ohio Department of Transportation (ODOT) Rail Transit State Safety Oversight (SSO) Program

Procedure SSO-004: Enforcement escalation procedure.

Current Version: January 28, 2019 [Note: all older versions of this procedure should be discarded]

Scope: This procedure explains the process that the ODOT SSO program uses to track potential unmitigated safety (or security) risk at the Ohio rail transit agencies (RTAs) and interactions with the RTAs to assure that these potential unmitigated safety (or security) risks are appropriately addressed. The focus for this procedure is on how the ODOT SSO program may escalate this type of situation if there are disagreements or a lack of responsiveness from the Ohio RTAs. This escalation of enforcement may provide a remedy through the Ohio Attorney General's office should an Ohio RTA be unresponsive to resolution of issues required by the ODOT SSO program.

Background – Hazard Management and Risk Monitoring: With limited budgets and resources, the ODOT SSO program focuses on issues that have been identified already through National Transit Database (NTD) reporting, event investigations, audit results, and risk monitoring of various safety and security related activities and issues. For each of the Ohio RTAs, there is a list of hazard and mitigation topics that are tracked and monitored to assure that mitigation is working and no new risk has been introduced by that mitigation.

Prioritization of hazard/risk issues is based on a concept of if you see or become aware of one issue/concern that might become a hazard, it is noted and tracked. If the potential hazard is observed (or reported) a second time, then it is tracked as a potential unmitigated risk that needs more attention. If observed (or reported) a third time, the response is escalated to an on-site visit to conduct interviews and collect relevant data, such as through inspections. This approach is used by the ODOT SSO program to manage the limited resources for tracking potentially unmitigated risk. If at any time the potential hazard becomes a significant hazardous condition, the ODOT SSO program will work with the RTA Safety Department to respond right away.

This is an ongoing or continuous process of tracking, analysis, observing, and communicating with each of the Ohio RTAs to be aware of the risk environment. One extremely important and related issue is that the Ohio RTA should always own their own risk, not the ODOT SSO Program, so care is required in this process to assure responsibility of the Ohio RTA for managing and mitigating its own risk.

Enforcement Escalation: The ODOT SSO program has a set of scheduled and ongoing activities that enable the program staff to monitor the risk environment at the Ohio RTAs, as follows:

- On-going notification and investigation of safety-related events and communication and cooperation for internal and external audits (such as the ODOT SSO program Triennial Safety Program Audit) at the Ohio RTAs.
- Collection and analysis of monthly reporting of investigation, audit, and corrective action status and progress for each Ohio RTA and for the performance of the overall ODOT SSO program.
- Quarterly meetings on-site at the Ohio RTAs to go over current safety and security activities and status of all corrective actions – open and recently closed. These on-site quarterly meetings often include additional days of meetings with various RTA staff to monitor and explore performance of the rail systems and activities.
- Additional visits to the Ohio RTAs are planned between on-site quarterly meetings to follow-up on issues being tracked and to perform inspections and interviews at the Ohio RTAs. Topics for these visits are set based on priorities from the ongoing risk monitoring process.

First level of escalation. Once the ODOT SSO program staff identify something that appears to be a potentially significant hazardous condition, this situation is discussed directly with RTA staff and management. Often, there are several issues at the same time that are discovered and considered important for RTA attention and resolution. These risk-related issues are typically and almost always resolved at this level of discussion and interaction. The ODOT SSO program documents these observations, inspections, interviews, planned resolutions, and continues to monitor for resolution and whether or not the risk issues are properly resolved over time.

Second level of escalation. If after some appropriate period of time, the ODOT SSO program staff continue to observe a pattern of potentially significant risk issues already communicated to the Ohio RTA, further communication will be made with the Ohio RTA. This is typically performed through a formal letter from the ODOT Office of Transit Administrator to the Chief (Accountable) Executive of the Ohio RTA. This letter provides the risk issues that were of concern to the ODOT SSO program staff with a formal request to respond to the letter including an explanation of how the Ohio RTA plans to address the identified concerns from the ODOT SSO program. If the explanations from the Ohio RTA are reasonable/acceptable, the issues and responses are documented and risk monitoring continues. If the Ohio RTA determines that the identified risk issues need more attention, then the ODOT SSO program requires the Ohio RTA to develop appropriate corrective actions that are agreed to and then tracked to completion. The response to a letter from the ODOT SSO program might require a response from one to four weeks depending on the complexity of the identified risks. Experience has shown that the initial response from the Ohio RTA is typically within one week.

Third level of escalation. The Ohio Revised Code (ORC) 5501.56 provides direction to each Ohio RTA in regards to the requirement for a formal Safety Program including a requirement to “minimize, control, correct, or eliminate any identified and investigated hazardous condition within a time period specified by the department and in accordance with a plan approved by the department.” This ORC section also requires that the Ohio RTA “provide all necessary assistance to the department as required to allow the department to conduct or participate in appropriate on-site investigations of accidents and hazardous conditions or audits at the transit agency.”

The ODOT SSO program has direction in the ORC 5501.55 to “enforce the correction of identified hazardous conditions and plans to minimize, control, correct, or eliminate those identified hazardous conditions in a timely manner agreed upon within corrective action plans.”

Based on these requirements in the ORC, if an Ohio RTA does not properly respond (in scope or timeframe) to requests and direction provided by the ODOT SSO program in terms of risk identification and proper resolution, this situation will escalate to the senior management of ODOT. Additional communication between ODOT senior management and the Ohio RTA will continue. If at any time during this level of escalation that these risk issues cannot be resolved because of a lack of cooperation or responsiveness from the Ohio RTA, the ultimate responsibility for enforcement will escalate over some period of time to the Ohio Attorney General’s Office for a violation of the ORC.

Imminent Threat to Public Safety. Any time the ODOT SSO Program becomes aware of an Imminent Threat to Public Safety at an Ohio RTA, immediate communications with the RTA Safety Department (and other appropriate RTA departments, as needed) and ODOT Office of Transit management will be completed to determine if the threat is truly imminent and what the next steps might be. If ODOT management concurs that it is necessary, immediate actions to address the imminent threat to public safety up to and including shutting down the rail system at the Ohio RTA will be ordered.

Local Offices: If at any time that the ODOT SSO Program staff need to be present for some length of time at one of the Ohio RTAs because of an ongoing event and/or investigation, the local ODOT District Offices will be used to support required activities. District 8 (SORTA) – 505 S. State Route 741 – Lebanon, OH 45036 or District 12 (GCRTA) – 5500 Transportation Blvd. – Garfield Heights, OH 44125.

Updates:

- October 27, 2016 – initial release
- January 28, 2019 – minor word changes, no significant content changes.