

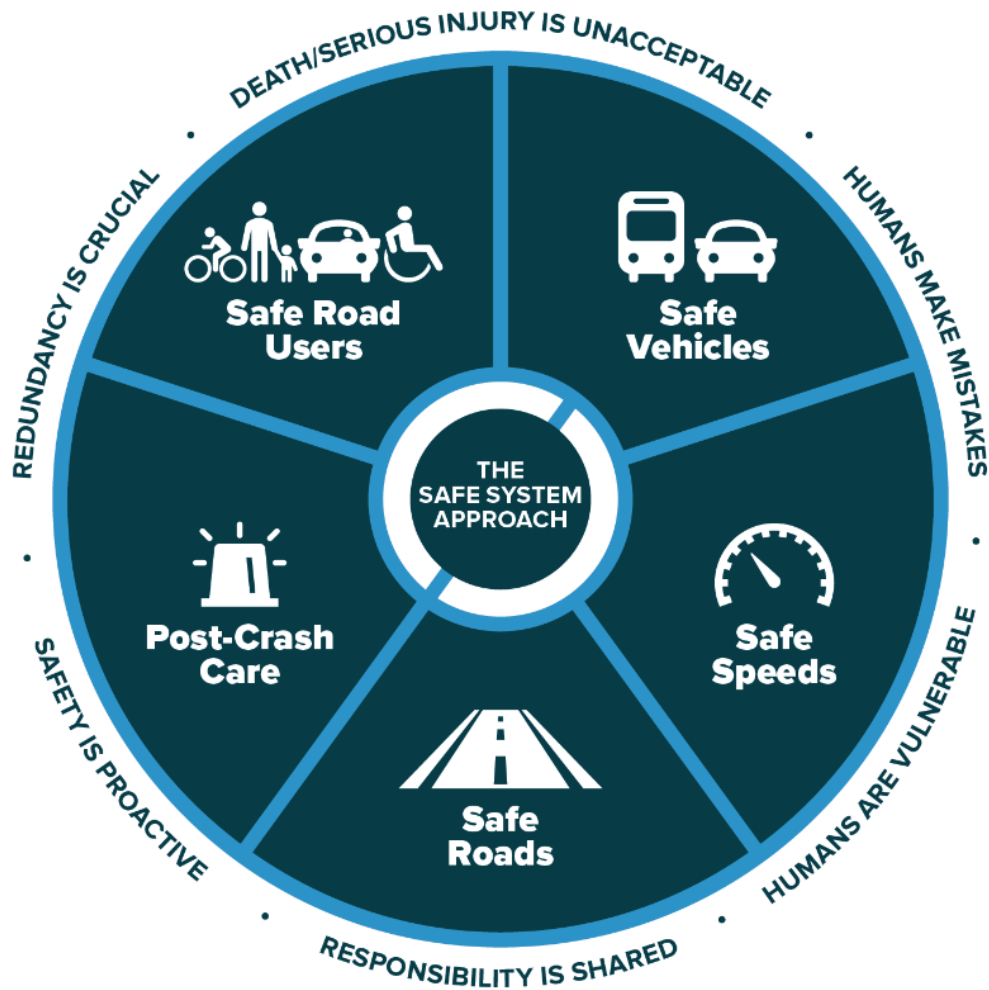


TORTS AND THE SAFE SYSTEM

COMMUNICATING THE SAFE SYSTEM APPROACH IN THE 21ST CENTURY

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FHWA Safe System Approach



FUNDAMENTAL CHANGE IN HOW AGENCIES MAKE DECISION RELATE TO SAFETY

When we focus on the principles and elements of the Safe System how we view safety changes. This translates into changes in manuals, guidance and decision-making practices.

Washington Safe System Approach

WHY DIFFERENT WORDING FROM FHWA?

To be positive and actionable

- The words used are statements without context
- That may work, but it can also be used as an all-inclusive statement
- If used, consider how these words are defined based on specific jurisdictional perspectives and needs (consult counsel)



WHAT CONSTITUTES A LEGAL LIABILITY?

- You have a **duty** to maintain a reasonably safe highway for ordinary travel
- A duty to correct exists when you knew or should have known have about a condition, and **you failed in the duty** to correct in a reasonable time
- **Damages** were caused to the plaintiff as a result of the breach of duty
- The condition was a **proximate cause** to the injury



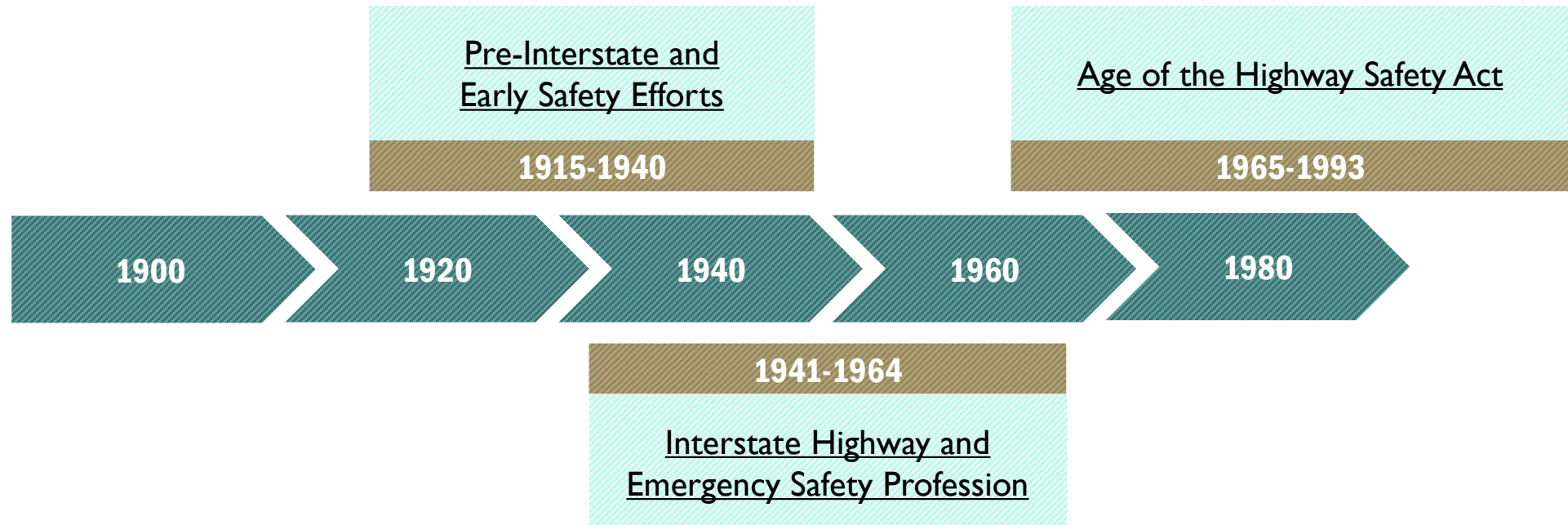
WHAT IS
SAFETY?

WHO DECIDES
WHAT IS SAFE?



DON'T WE
INCREASE TORT
LIABILITY WITH
THE SAFE SYSTEM?

FEDERAL SAFETY APPROACH HAS EVOLVED

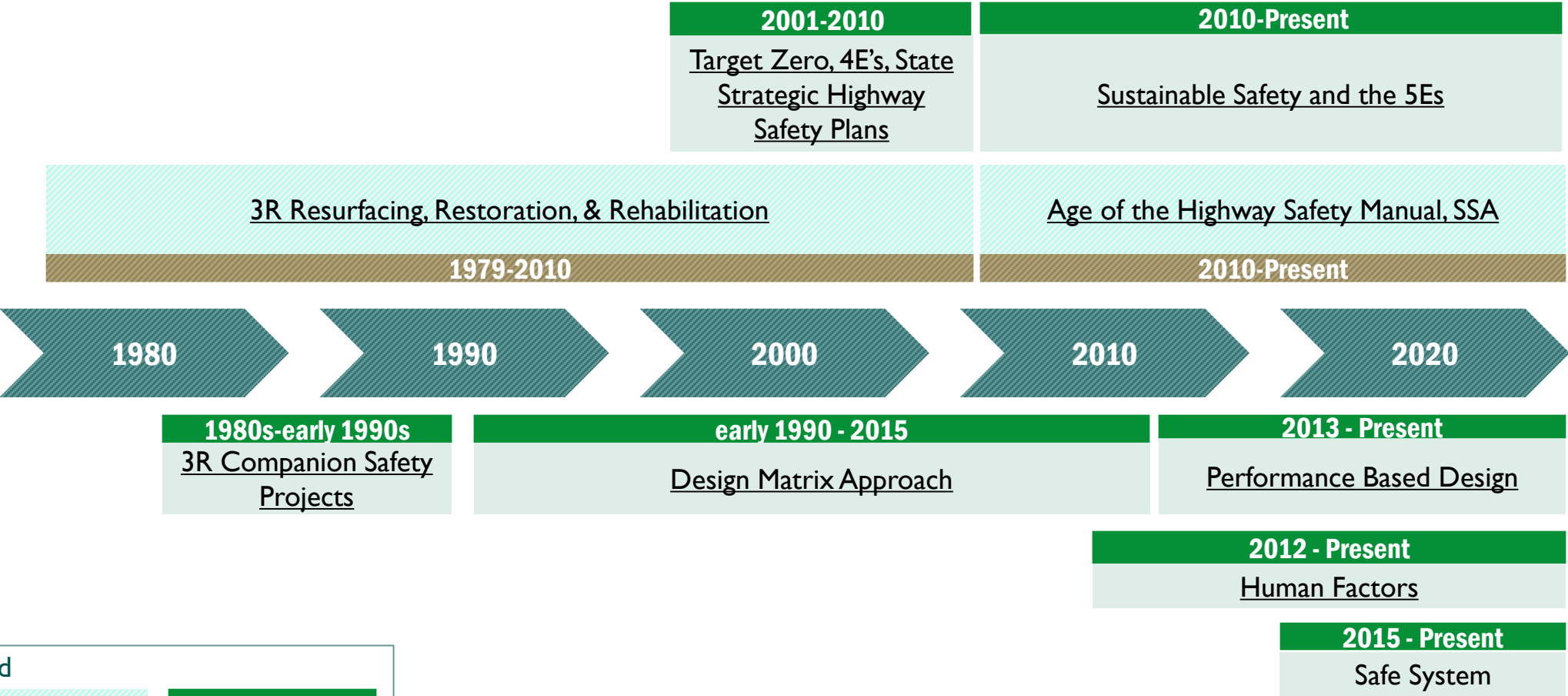


Legend

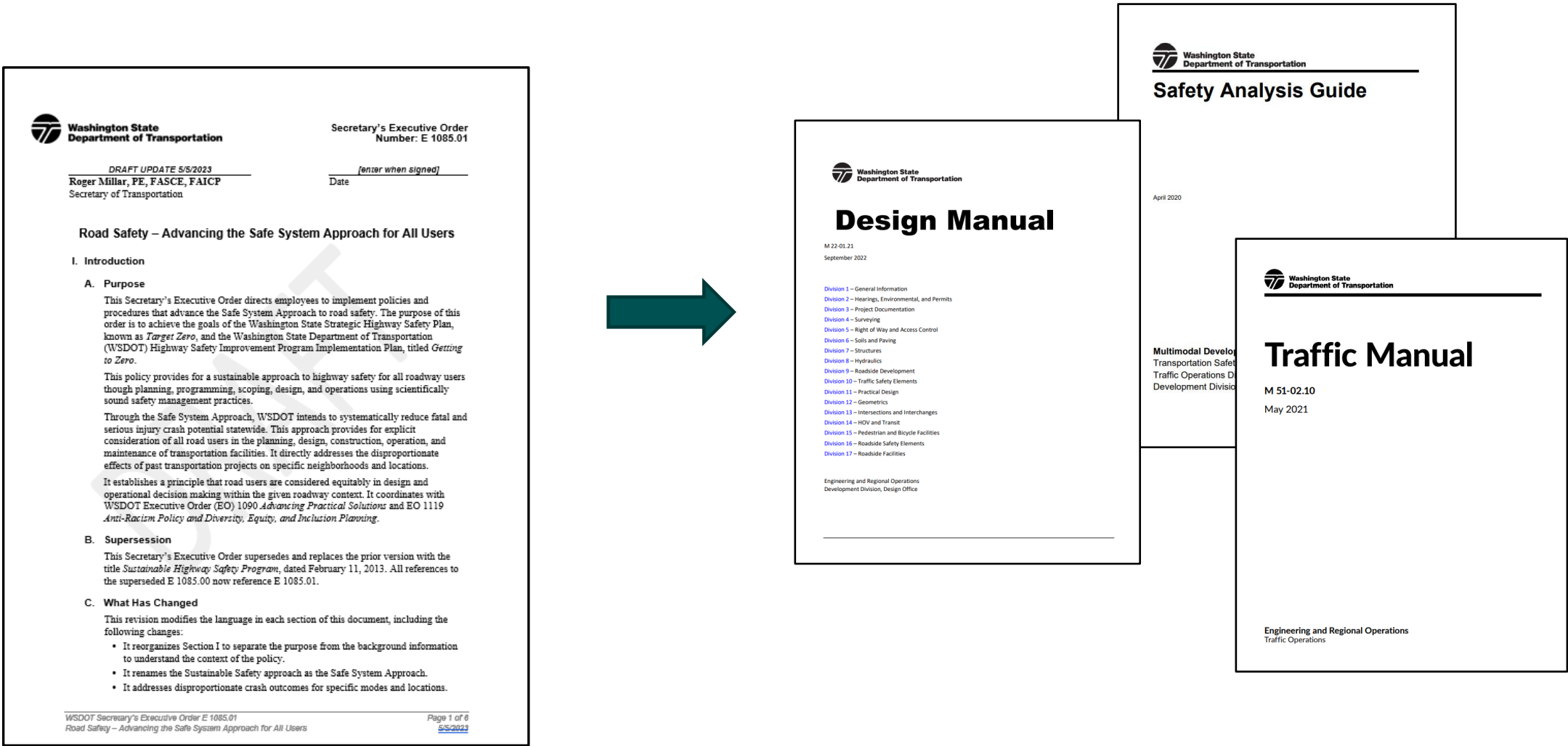
Federal Initiatives

WSDOT Initiatives

STATES HAVE EVOLVED WITH THE FEDERAL EVOLUTION



EXECUTIVE POLICY - OPERATIONAL POLICIES



CONSIDERING TRADEOFFS BETWEEN TRADITIONAL AND THE SAFE SYSTEM APPROACH

Traditional

Standards - nominal

Congestion Reduction

Multilane, multileg intersections to reduce total vehicle crashes

Unprotected left turns, free right turns to reduce congest, increase free flow speeds

Signal Warrants, volume based, considerations for crashes and other road users

85% speed, pace car, design speed

Wide lanes, emergency parking for vehicles, reduced turbulence

Roadside design to reduce fatal and serious crashes

Safe System

Continuum - substantive

Mobility, but not at the expense of safety

Roundabout to reduce fatal and serious crashes for all road users,

Increased exposure, conflicts, speeds and crash potential for walking and biking, leading pedestrian intervals

Roundabout first policy, change in intersection control evaluation, compact roundabouts

$KE = (\frac{1}{2})MV^2$, Injury Minimization, Target Speeds

Time to cross, self enforcing roads, walking and biking separation

Roadside design to reduce fatal and serious crash potential

IMPLEMENTING THE SAFE SYSTEM EFFECTIVELY

The Safe System will take time to achieve; it is important to have a means to prioritize projects and strategies for reducing crash potential and very importantly how to communicate your processes.

In documentation, outline how context, modal mix, and road user design is considered in tradeoff analysis. For instance, walking and biking changes may influence geometric design differently than in the past

Provide a process for decision making, documentation and how it can be done to reduce liability and erroneous conclusions

Address the use of opinions versus factual approaches in planning, programming, design, maintenance, operations.

Larger updates provide opportunities to address vague and opinion-based guidelines, criteria and standards.

Risk Managers and Legal Experts are available to assist with wording in both cases.

THE SAFE SYSTEM APPROACH NEED NOT INCREASE RISK



- Tort risk exists in all that you do, consider what you say and how you say it.
- Provide facts, Not opinions!
- State positive action, versus negative problems.
- Consider a person who understand risk reviewing manual changes, planning documents, etc.
- Use NCHRP LRD83

JUST THE FACTS MA'AM!





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