



DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

49 CFR Part 671

[Docket No. FTA-2025-0008]

RIN 2132-AB57

Rail Transit Roadway Worker Protection

AGENCY: Federal Transit Administration (FTA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: In this action, the Federal Transit Administration (FTA) seeks to reduce the regulatory burden on State Safety Oversight Agencies (SSOAs) in conducting oversight of the Roadway Worker Protection (RWP) programs within the jurisdiction of a State. FTA proposes to extend the time period for reporting RWP programs to FTA and to allow SSOAs to complete annual audits simultaneously with other required audits.

DATES: Comments should be filed by [INSERT DATE 30 DAYS AFTER THE DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]. FTA will consider comments received after that date to the extent practicable.

ADDRESSES: You may send comments, identified by docket number FTA-2025-0008 by any of the following methods:

- *Federal Rulemaking Portal:* <https://www.regulations.gov>. Follow the instructions for sending comments.
- *Fax:* (202) 493-2251.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12-140, Washington, DC 20590-0001.

- *Hand Delivery/Courier:* West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.

Instructions: All submissions received must include the agency name and docket number or Regulatory Information Number (RIN) for this rulemaking. All comments received will be posted without change to <https://www.regulations.gov>, including any personal information provided.

Docket: For access to the docket to read background documents or comments received, go to <https://www.regulations.gov>. Background documents and comments received may also be viewed at the U.S. Department of Transportation, 1200 New Jersey Ave. SE, Docket Operations, M-30, West Building Ground Floor, Room W12-140, Washington, DC 20590-0001, between 9 a.m. and 5 p.m. EST, Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: For program matters, contact Jeremy Furrer, Office of Transit Safety and Oversight, FTA, telephone at (202) 366-8929 or jeremy.furrer@dot.gov. For legal matters, contact Heather Ueyama, Attorney Advisor, FTA, telephone at 202-366-7374 or heather.ueyama@dot.gov. Office hours are from 8:30 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

I. Background

On March 25, 2024, FTA published a notice of proposed rulemaking (NPRM) proposing to promulgate a Rail Transit Roadway Worker Protection rule at 49 CFR part 671 that would require rail transit agencies (RTAs) to implement a minimum, baseline RWP program to provide a standardized and consistent approach to protecting roadway workers (89 FR 20605). On October 31, 2024, FTA published a final rule establishing the RWP regulatory framework (89 FR 87166). During the comment period for the NPRM, FTA received comments concerning §

671.25, which address the role of SSOAs in overseeing the RWP program. Based on further consideration, FTA proposes to address some of these comments in this NPRM.

II. Section-by-Section Analysis

To reduce a regulatory burden, FTA proposes to modify 49 CFR § 671.25(a)(2) to allow SSOAs to submit RWP program information to FTA with their annual report. Currently, section 671.25(a)(2) requires SSOAs to submit each RTA's RWP program to FTA within 30 calendar days of approval. In reply to FTA's NPRM published March 25, 2024, FTA received comments from SSOAs recommending FTA add the RWP program submission requirement to the annual reporting process.¹ In the final rule, FTA declined to extend the 30-day submission period responsive to the comments. However, since administering this program, FTA has recognized the 30-day submission requirement is burdensome for SSOAs. In proposing to streamline the submission process by aligning the deadline with the SSOA annual report in section 674.39, FTA seeks to reduce regulatory burden.

FTA also proposes to amend 49 CFR § 671.25(c)(1) to align with industry practice. In section 671.25(c)(1), FTA currently requires SSOAs to conduct an annual audit of the RTA's compliance with its RWP program. FTA explained in the preamble to the final rule (89 FR 87192) that SSOAs are allowed to combine audits "[t]o avoid redundancy," so long as the review meets "the RWP program audit requirements specified at § 671.25(c)." *See also* 89 FR 87211. Furthermore, in reply to a DOT-wide Request for Information seeking public comments on reducing regulatory burden (90 FR 14593), FTA received a comment from the American Public Transportation Association asking FTA to consider modifying section 671.25(c) based on existing audit practice and address the undue burden of completing non-simultaneous audits (Docket No. DOT-OST-2025-0026). FTA proposes to modify section 671.25(c)(1) to ensure this authorization is included in the regulatory text.

¹ FTA received comments from the Texas Department of Transportation (Comment ID No. FTA-2023-0024-5680), the Pennsylvania Department of Transportation (Comment ID No. FTA-2023-0024-7147), and the Transit Safety Oversight Association (Comment ID No. FTA-2023-0024-7174).

Based on the foregoing, and to ensure consistency with Administration priorities, including Executive Order 14192 (“Unleashing Prosperity Through Deregulation”), FTA seeks to implement this deregulatory action to reduce the regulatory burden on RTAs and SSOAs.

III. Regulatory Analyses and Notices

A. Executive Orders 12866 and 13563 (Regulatory Review)

E.O. 12866 (“Regulatory Planning and Review”), as supplemented by E.O. 13563 (“Improving Regulation and Regulatory Review”), directs Federal agencies to assess the benefits and costs of regulations and to select regulatory approaches that maximize net benefits when possible. It also directs the Office of Management and Budget (OMB) to review significant regulatory actions, including regulations with annual economic effects of \$100 million or more. OMB has determined the proposed rule is not significant within the meaning of Executive Order 12866 and has not reviewed the rule under that order.

The proposed rule would allow SSOAs to conduct their annual audits of RTA RWP programs simultaneously with other reviews. SSOAs could conduct the audits simultaneously with annual or triennial ASP reviews, for example, if the reviews meet RWP program audit requirements. The proposed rule would also allow SSOAs to submit RWP program information with their annual reports rather than within 30 calendar days of approval.

The proposed rule would result in cost savings for SSOAs and RTAs by streamlining auditing requirements. The rule would affect 31 SSOAs and 64 RTAs in operation as of May 30, 2025. In 2024, FTA estimated that SSOAs would spend 40 hours auditing each RTA RWP program, for a total of 2,560 hours per year. FTA estimates that allowing SSOAs to conduct the audits with other reviews would reduce the time needed from 40 hours to 20 hours, or 1,280 hours total. Allowing SSOAs to submit RWP program information with annual reports could result in additional cost savings as well.

To estimate cost savings, FTA used May 2024 occupational wage data from the Bureau of Labor Statistics, the latest available as of May 2025, in the “Transit and Ground Passenger

Transportation” industry (North American Industry Classification System code 485000).² To estimate the wages of agency staff completing the auditing requirements, FTA used the “General and Operations Managers” job category (code 11-1021). FTA used median hourly wages (\$42.45) as a basis for the estimates, multiplying the wages by 1.62 ($\$42.45 \times 1.62 = \68.69) to account for employer benefits.³

Over the next ten years, the rule would result in annual cost savings of \$87,000 (1,280 hours x \$68.69) in undiscounted 2024 dollars, \$73,000 at a 3 percent discount rate, and \$58,000 at a 7 percent discount rate, discounted to 2024.

B. Executive Order 14192 (Deregulatory Action)

E.O. 14192 (“Unleashing Prosperity Through Deregulation”) requires that for “each new [E.O. 14192 regulatory action] issued, at least ten prior regulations be identified for elimination.” Implementation Guidance for E.O. 14192, issued by OMB (Memorandum M-25-20, March 25, 2025) defines an E.O. 14192 deregulatory action as “an action that has been finalized and has total costs less than zero.”

This proposed rule, if finalized, is expected to have total costs less than zero, and therefore is expected to be an E.O. 14192 deregulatory action.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) requires Federal agencies to assess the impact of a regulation on small entities unless the agency determines that the regulation is not expected to have a significant economic impact on a substantial number of small entities.

² Bureau of Labor Statistics. 2025. “May 2024 National Occupational Employment and Wage Estimates: United States: NAICS 485000—Transit and Ground Passenger Transportation.” <https://data.bls.gov/oes/#/industry/485000>.

³ Multiplier derived using Bureau of Labor Statistics data on employer costs for employee compensation in December 2024 (<https://www.bls.gov/news.release/ecec.htm>). Employer costs for state and local government workers averaged \$63.46 an hour, with \$39.22 for wages and \$24.23 for benefit costs. To estimate full costs from wages, one would use a multiplier of $\$63.46/\39.22 , or 1.62.

FTA has determined that the proposed rule would not have a significant effect on a substantial number of small entities. The proposed rule would streamline auditing and reporting requirements for SSOAs and RTAs. Under the Regulatory Flexibility Act, public-sector organizations and local governments qualify as small entities if they serve a population of less than 50,000. RTAs do not qualify as small entities because they all operate in urbanized areas with populations of more than 50,000, and SSOAs do not qualify because they are state agencies.

D. Unfunded Mandates Reform Act of 1995

FTA has determined that this rule would not impose unfunded mandates, as defined by the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4). This rule does not include a Federal mandate that may result in expenditures of \$100 million or more in any one year, adjusted for inflation, by State, local, and tribal governments in the aggregate or by the private sector.

E. Executive Order 13132 (Federalism Assessment)

E.O. 13132 (“Federalism”) requires agencies to assure meaningful and timely input by State and local officials in the development of regulatory policies that may have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. This action has been analyzed in accordance with the principles and criteria contained in E.O. 13132 and FTA determined this action will not have a substantial direct effect or sufficient federalism implications on the States. FTA also determined this action will not preempt any State law or regulation or affect the States' ability to discharge traditional State governmental functions.

F. Paperwork Reduction Act

In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501, *et seq.*) (PRA), and the White House Office of Management and Budget's (OMB) implementing regulation at 5 CFR 1320.8(d), FTA will not seek a revision to an approved OMB information

collection 2132-0584 as there is no change in burden or cost associated with this new regulatory action.

G. National Environmental Policy Act

Federal agencies are required to adopt implementing procedures for the National Environmental Policy Act (NEPA) that establish specific criteria for, and identification of, three classes of actions: (1) Those that normally require preparation of an Environmental Impact Statement, (2) those that normally require preparation of an Environmental Assessment, and (3) those that are categorically excluded from further NEPA review. This rule qualifies for categorical exclusions under 23 CFR 771.118(c)(4) (planning and administrative activities that do not involve or lead directly to construction). FTA has evaluated whether the rule will involve unusual or extraordinary circumstances and has determined that it will not.

H. Executive Order 13175 (Tribal Consultation)

FTA has analyzed this rule under E.O. 13175 (“Consultation and Coordination with Indian Tribal Governments”) and believes that it will not have substantial direct effects on one or more Indian tribes; will not impose substantial direct compliance costs on Indian tribal governments; and will not preempt tribal laws. Therefore, a tribal summary impact statement is not required.

I. Executive Order 13211 (Energy Effects)

FTA has analyzed this action under E.O. 13211 (“Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use”). FTA has determined that this action is not a significant energy action under that order and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Therefore, a Statement of Energy Effects is not required.

J. Privacy Act

Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on

behalf of an association, business, labor union, etc.). You may review U.S. DOT's complete Privacy Act Statement in the Federal Register published on April 11, 2000 (65 FR 19477).

K. Regulation Identifier Number (RIN)

A Regulation Identifier Number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document can be used to cross-reference this rule with the Unified Agenda.

List of Subjects in 49 CFR Part 671

Mass transportation, Reporting and recordkeeping requirements, Safety, Transportation.

For the reasons stated in the preamble, FTA proposes to amend title 49, Code of Federal Regulations, part 671, as set forth below:

PART 671—RAIL TRANSIT ROADWAY WORKER PROTECTION

1. The authority citation for part 671 continues to read as follows:

Authority: 49 U.S.C. 5329, 49 CFR 1.91.

2. Amend § 671.25 by revising paragraphs (a)(2) and (c)(1) to read as follows:

§ 671.25 State safety oversight agency.

(a) ***

(2) The SSOA must submit the current approved RWP program for each RTA in its jurisdiction to FTA annually with the annual report required by 49 CFR 674.39.

(c) *Annual RWP program audit.*

(1) The SSOA must conduct an annual audit of the RTA's compliance with its RWP program, including all required RWP program elements, for each RTA that it oversees. This review may be conducted in conjunction with the review and approval of the RTA's Public Transportation Agency Safety Plan or any other review or audit.

Issued in Washington, DC, under authority delegated in 49 CFR 1.91.

Tariq Bokhari,

Acting Administrator.

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