



## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

#### 49 CFR Part 237

[Docket No. FRA-2025-0129]

RIN 2130-AD28

### Repealing Certain Bridge Load Capacity Evaluation Requirements

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

**ACTION:** Notice of proposed rulemaking (NPRM).

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**SUMMARY:** FRA proposes to eliminate the Federal requirement that defines the process a track owner must follow when scheduling the evaluation of bridges with no load capacity determination. The requirement was intended as a transitional measure to phase in compliance after the bridge safety regulations became effective. The restrictions on the track owner's discretion to determine the process for evaluation of bridge load capacity are no longer necessary because the regulations have been in effect for almost fifteen years and the transitional period for compliance has ended.

**DATES:** Comments on the proposed rule must be received by [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. FRA may consider comments received after that date, but only to the extent practicable.

**ADDRESSES:** *Comments:* Comments related to Docket No. FRA-2025-0129 may be submitted by going to <https://www.regulations.gov> and following the online instructions for submitting comments.

*Instructions:* All submissions must include the agency name, docket number (FRA-2025-0129), and Regulatory Identification Number (RIN) for this rulemaking (2130-AD28). All comments received will be posted without change to

<https://www.regulations.gov>; this includes any personal information. Please see the Privacy Act heading in the **SUPPLEMENTARY INFORMATION** section of this document for Privacy Act information related to any submitted comments or materials.

*Docket:* For access to the docket to read background documents or comments received, go to <https://www.regulations.gov> and follow the online instructions for accessing the docket.

**FOR FURTHER INFORMATION CONTACT:** Yu-Jiang Zhang, Staff Director, FRA Track & Structures Division, FRA, telephone: (202) 570-1508, email: [Yujiang.Zhang@dot.gov](mailto:Yujiang.Zhang@dot.gov); or Veronica Chittim, Attorney Adviser, FRA, telephone: (202) 480-3410, email: [Veronica.Chittim@dot.gov](mailto:Veronica.Chittim@dot.gov).

## **SUPPLEMENTARY INFORMATION:**

### **I. Background**

Consistent with the deregulatory agenda of President Donald J. Trump and Secretary of Transportation Sean P. Duffy, which seeks to unleash America's economic prosperity without compromising transportation safety, FRA is reviewing its regulatory requirements in parts 200 through 299 of title 49, Code of Federal Regulations (CFR). The requirements for FRA-regulated entities to schedule the evaluation of bridges without a load capacity determination are established in 49 CFR part 237, Bridge Safety Standards. Some of the requirements contained in part 237 could be updated to reduce burdens, make technical or conforming changes, or otherwise adjust to advancing technology without any adverse effect on railroad safety. The specific requirement proposed for elimination in this NPRM creates an unnecessary infringement upon a track owner's authority to evaluate bridge load capacity and perform activities related to bridge management. Please review the **SECTION-BY-SECTION ANALYSIS** below for the relevant information related to this proposed change.

### **II. Section-by-Section Analysis**

## *Section 237.71 Determination of Bridge Load Capacities*

This proposed rule would remove the requirement in paragraph (e) that defines the process a track owner must follow when scheduling the evaluation of bridges with no load capacity determination. The existing requirement imposes a restriction on a track owner's ability to establish a bridge management policy (BMP) and evaluate bridge load capacity as the track owner sees fit. The existing regulation requires that an initial determination of load capacity must be completed within five years of the BMP's adoption. At this time, no bridges<sup>1</sup> lack an initial load capacity determination, making this requirement obsolete. This requirement was intended as a transitional measure to phase in compliance after the bridge safety regulations became effective. Removing this regulatory text would remove an obsolete provision from the CFR, improving readability of this CFR part.

### **III. Regulatory Impact and Notices**

#### **A. Executive Order (E.O.) 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures**

FRA has considered the impact of this NPRM under E.O. 12866 (58 FR 51735, Oct. 4, 1993), Regulatory Planning and Review, and DOT Regulatory Policies and Procedures. The Office of Information and Regulatory Affairs within the Office of Management and Budget (OMB) determined that this NPRM is not a significant regulatory action under section 3(f) of E.O. 12866. This proposed rule removes requirements that were originally put in place for a transition period, which has since expired.

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<sup>1</sup> At this time, the load rating for all applicable railroad bridges should have been captured by the implementation of a compliant BMP. FRA notes, however, that there may be instances where a railroad carrier has a BMP in place, but a load rating may not have been completed on one of numerous bridges covered by that BMP. FRA seeks comment on this assumption.

FRA analyzed the potential costs and benefits of this proposed rule. Because this proposed rule would remove obsolete requirements, it imposes no additional burdens on regulated entities. Moreover, this rule would provide benefits, improving readability of this CFR part.

### **B. E.O. 14192 (Unleashing Prosperity Through Deregulation)**

E.O. 14192 (90 FR 9065, Jan. 31, 2025), Unleashing Prosperity Through Deregulation, requires that for “each new [E.O. 14192 regulatory action] issued, at least ten prior regulations be identified for elimination.”<sup>2</sup> Implementation guidance for E.O. 14192 issued by OMB (Memorandum M-25-20, Mar. 26, 2025) defines two different types of E.O. 14192 actions: an E.O. 14192 deregulatory action, and an E.O. 14192 regulatory action.<sup>3</sup>

An E.O. 14192 deregulatory action is defined as “an action that has been finalized and has total costs less than zero.” This proposed rulemaking is expected to have total costs less than zero, and therefore it would be considered an E.O. 14192 deregulatory action upon issuance of a final rule. While FRA affirms that the amendment proposed in this NPRM has a cost that is negligible or “less than zero” consistent with E.O. 14192, FRA still requests comment on the extent of the cost savings for the changes proposed in this NPRM.

### **C. Regulatory Flexibility Act and E.O. 13272**

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996,<sup>4</sup> requires Federal agencies to consider the effects of the regulatory action on small business and other small entities and to minimize any significant economic impact. Accordingly, DOT policy requires an

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<sup>2</sup> Executive Office of the President. *Executive Order 14192 of January 31, 2025. Unleashing Prosperity Through Deregulation.* 90 FR 9065–9067 (Feb. 6, 2025).

<sup>3</sup> Executive Office of the President. Office of Management and Budget. Guidance Implementing Section 3 of Executive Order 14192, Titled “Unleashing Prosperity Through Deregulation.” Memorandum M-25-20. Mar. 26, 2025.

<sup>4</sup> Pub. L. 104–121, 110 Stat. 857 (Mar. 29, 1996).

analysis of the impact of all regulations on small entities, and mandates that agencies strive to lessen any adverse effects on these businesses. The term *small entities* comprises small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000 (5 U.S.C. 601(6)).

No regulatory flexibility analysis is required, however, if the head of an Agency or an appropriate designee certifies that the rule will not have a significant economic impact on a substantial number of small entities. This proposed rule would not preclude small entities from continuing practices that comply with proposed part 237; it merely offers flexibilities to track owners with respect to bridge management and bridge load capacity determination that could result in benefits, if a small entity or other regulated entity chooses to utilize those flexibilities. By extending this regulatory relief, many regulated entities, including small entities, would experience benefits. Consequently, FRA certifies that the proposed action would not have a significant economic impact on a substantial number of small entities.

In accordance with section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121, 110 Stat. 857), FRA wants to assist small entities in understanding this proposed rule so they can better evaluate its effects on themselves and participate in the rulemaking initiative. If the proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

**D. Paperwork Reduction Act**

This proposed rule offers regulatory flexibilities, and it contains no new information collection requirements, in accordance with the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.*, therefore, an information collection submission to OMB is

not required. The recordkeeping and reporting requirements contained in part 237 became effective when it was approved by OMB on February 27, 2023. The OMB control number is 2130-0586, and OMB approval expires on February 28, 2026.

#### **E. Environmental Assessment**

FRA has analyzed this rule for the purposes of the National Environmental Policy Act of 1969 (NEPA). In accordance with 42 U.S.C. 4336 and DOT NEPA Order 5610.1C, FRA has determined that this rule is categorically excluded pursuant to 23 CFR 771.118(c)(4), “[p]lanning and administrative activities that do not involve or lead directly to construction, such as: [p]romulgation of rules, regulations, and directives.” This rulemaking is not anticipated to result in any environmental impacts, and there are no unusual or extraordinary circumstances present in connection with this rulemaking. Pursuant to Section 106 of the National Historic Preservation Act and its implementing regulations, FRA has determined this undertaking has no potential to affect historic properties. FRA has also determined that this rulemaking does not approve a project resulting in a use of a resource protected by Section 4(f).

#### **F. Federalism Implications**

This proposed rule will not have a substantial 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. Thus, in accordance with E.O. 13132, “Federalism” (64 FR 43255, Aug. 10, 1999), preparation of a Federalism Assessment is not warranted.

#### **G. Unfunded Mandates Reform Act of 1995**

This proposed rule would not result in the expenditure, in the aggregate, of \$100,000,000 or more, adjusted for inflation, in any one year by State, local, or Indian Tribal governments, or the private sector. Thus, consistent with section 202 of the

Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4, 2 U.S.C. 1532), FRA is not required to prepare a written statement detailing the effect of such an expenditure.

#### **H. Energy Impact**

E.O. 13211 requires Federal agencies to prepare a Statement of Energy Effects for any “significant energy action.”<sup>5</sup> FRA has evaluated this proposed rule in accordance with E.O. 13211 and determined that this proposed rule is not a “significant energy action” within the meaning of E.O. 13211.

#### **I. E.O. 13175 (Tribal Consultation)**

FRA has evaluated this proposed rule in accordance with the principles and criteria contained in E.O. 13175, Consultation and Coordination with Indian Tribal Governments, dated November 6, 2000. The proposed rule would not have a substantial direct effect on one or more Indian tribes, would not impose substantial direct compliance costs on Indian tribal governments, and would not preempt tribal laws. Therefore, the funding and consultation requirements of E.O. 13175 do not apply, and a tribal summary impact statement is not required.

#### **J. International Trade Impact Assessment**

The Trade Agreement Act of 1979<sup>6</sup> prohibits Federal agencies from engaging in any standards or related activities that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles. The statute also requires consideration of international standards, and where appropriate, that they be the basis for U.S. standards. This rulemaking is purely domestic in nature and is not expected to affect trade opportunities for U.S. firms doing business overseas or for foreign firms doing business in the United States.

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<sup>5</sup> 66 FR 28355 (May 22, 2001).

<sup>6</sup> 19 U.S.C. ch. 13.

## **K. Privacy Act Statement**

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to <http://www.regulations.gov>, as described in the system of records notice, DOT/ALL-14 FDMS, accessible through [www.transportation.gov/privacy](http://www.transportation.gov/privacy). To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

## **L. Rulemaking Summary**

As required by 5 U.S.C. 553(b)(4), a summary of this rule can be found at [regulations.gov](http://www.regulations.gov), Docket No. FRA-2025-0129, in the SUMMARY section of this proposed rule.

## **List of Subjects in 49 CFR Part 237**

Bridge safety, Railroad safety

## **The Proposed Rule**

For the reasons discussed in the preamble, FRA proposes to amend part 237 of chapter II, subtitle B of title 49, Code of Federal Regulations as follows:

### **PART 237—BRIDGE SAFETY STANDARDS**

1. The authority citation for part 237 continues to read as follows:

**Authority:** 49 U.S.C. 20102-20114; 28 U.S.C. 2461 note; Div. A, Sec. 417, Pub. L. 110-432, 122 Stat. 4848; and 49 CFR 1.89.

2. Amend § 237.71 by revising and republishing paragraphs (e) through (g) to read as follows:

**§ 237.71 Determination of bridge load capacities.**

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(e) Where a bridge inspection reveals that, in the determination of the railroad bridge engineer, the condition of a bridge or a bridge component might adversely affect the ability of the bridge to carry the traffic being operated, a new capacity shall be determined.

(f) Bridge load capacity may be expressed in terms of numerical values related to a standard system of bridge loads, but shall in any case be stated in terms of weight and length of individual or combined cars and locomotives, for the use of transportation personnel.

(g) Bridge load capacity may be expressed in terms of both normal and maximum load conditions. Operation of equipment that produces forces greater than the normal capacity shall be subject to any restrictions or conditions that may be prescribed by a railroad bridge engineer.

Issued in Washington, DC.

**Kyle D. Fields,**

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[FR Doc. 2025-12169 Filed: 6/27/2025 4:15 pm; Publication Date: 7/1/2025]