



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), U.S. Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: The Federal Transit Administration (FTA) is publishing a final rule amending the Rail Transit Roadway Worker Protection (RWP) regulation. This final rule extends the time period for State Safety Oversight Agencies (SSOA) to report RWP programs to FTA and allows SSOAs to complete annual audits simultaneously with other required audits.

DATES: This rule is effective **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

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.

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. Executive Summary
- II. Statutory Authority
- III. Section-by-Section Analysis
- IV. Notice of Proposed Rulemaking and Response to Comments
 - A. Section 671.25(a)(2) – Submission of RWP Program Information

B. Section 671.25(c)(1) – Annual RWP Audit

V. Regulatory Analyses and Notices

I. **Executive Summary**

This final rule amends the RWP regulation at 49 CFR part 671 to reduce regulatory burden and align with industry practice. The final rule amends § 671.25(a)(2) to allow SSOAs to submit RWP program information to FTA with their annual report. The rule amends § 671.25(c)(1) to align with industry practice by allowing SSOAs to conduct the required annual audit of a rail transit agency's (RTA) RWP program in conjunction with other required reviews or audits. In addition, the final rule incorporates a technical correction in § 671.41(c)(9) to revise an incorrect cross-reference.

II. **Statutory Authority**

Congress directed FTA to establish a Public Transportation Safety Program in the Moving Ahead for Progress in the 21st Century Act (Pub. L. No. 112-141) (MAP-21), which was reauthorized by the Fixing America's Surface Transportation Act (FAST Act) (Pub. L. No. 114-94) and the Infrastructure Investment and Jobs Act (Pub. L. No. 117-58). FTA is authorized to regulate public transportation systems that receive Federal financial assistance under Chapter 53 of Title 49, United States Code (U.S.C.). FTA's safety program is authorized by 49 U.S.C. 5329.

Under 49 U.S.C. 5329(f)(7) FTA is authorized to issue rules to carry out the Public Transportation Safety Program, and 49 U.S.C. 5329(b)(2) directs FTA to develop and implement a National Public Transportation Safety Plan (National Safety Plan) that includes minimum safety standards to ensure the safe operation of public transportation systems. While FTA has previously published a National Safety Plan document that includes only voluntary standards, 49 U.S.C. 5329(f) provides FTA with the discretion and authority to issue mandatory minimum standards to ensure the safe operation of public transportation systems. Accordingly, on October 31, 2024, FTA promulgated the RWP final rule, codified at 49 CFR part 671, which established

minimum safety standards for rail transit RWP to ensure the safe operation of public transportation systems and to prevent safety events, fatalities, and injuries to transit workers who may access the roadway in the performance of work (89 FR 87166).

III. Section-by-Section Analysis

To reduce regulatory burden, FTA is modifying 49 CFR 671.25(a)(2) to allow SSOAs to submit RWP program information to FTA with their annual report. Previously, section 671.25(a)(2) required SSOAs to submit each RTA's RWP program to FTA within 30 calendar days of approval. In reply to FTA's notice of proposed rulemaking (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 October 2024 RWP 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.

FTA also amends 49 CFR 671.25(c)(1) to align with industry practice. In section 671.25(c)(1), FTA previously required SSOAs to conduct an annual audit of the RTA's compliance with its RWP program. FTA explained in the preamble to the October 2024 RWP 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 § 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 is modifying § 671.25(c)(1) to ensure this

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).

authorization is included in the regulatory text.

FTA also amends § 671.41(c)(9) to remove an incorrect cross-reference to § 671.37 (Good faith safety challenge) and replace it with a cross-reference to § 671.39 (Risk-based redundant protections). This correction is consistent with the original intent of the section and with FTA practice.

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

IV. Notice of Proposed Rulemaking and Response to Comments

On July 1, 2025, FTA issued an NPRM for Rail Transit Roadway Worker Protection (RWP) to seek comments on proposed changes to §§ 671.25(a)(2) and (c)(1). (90 FR 28695). The public comment period for the NPRM closed on July 31, 2025. FTA received four comment submissions to the rulemaking docket. Commenters included one State, two industry associations, and one individual. Some comments within these submissions were outside the scope of this rulemaking, and FTA does not respond to comments in this final rule that were outside the scope. FTA thanks the industry associations that provided these comments and will take them into consideration for the future. FTA reviewed all relevant comments and took them into consideration. Below, the NPRM comments and FTA’s responses are subdivided by their corresponding sections of the rule and subject matter.

A. Section 671.25(a)(2) – Submission of RWP Program Information

Comments: One industry association, one SSOA, and one individual expressed support for FTA’s proposed modification to § 671.25(a)(2), which would allow SSOAs to submit RWP program documentation for each RTA in its jurisdiction to FTA annually with the SSOA’s annual report. The industry association also recommended FTA revise the proposed language in § 671.25(a)(2) from “with the annual report required by 49 CFR 674.39” to “as part of the annual report required by 49 CFR 674.39.” It argued this would explicitly connect the RWP program

submission requirement with the existing SSOA annual reporting requirement under 49 CFR 674.39.

FTA Response: FTA appreciates the support for its proposal. FTA also appreciates the industry association's recommended revision but declines to adopt the suggestion. The rule language, as proposed, sufficiently and clearly conveys the connection between the RWP program submission and the SSOA annual report.

B. Section 671.25(c)(1) – Annual RWP Audit

Comments: Two industry associations, one SSOA, and one individual provided comments expressing support for FTA's proposed modification to § 671.25(c)(1), which would allow agencies to conduct the annual RWP program audit in conjunction with the review and approval of an RTA's Agency Safety Plan or other review or audit.

One of the industry associations further suggested revising FTA's proposed language in § 671.25(c)(1) to state that SSOAs may conduct the RWP program audit in conjunction with the triennial audit required by 49 CFR 674.31. The commenter argued that this approach would ensure there are no duplicative audit reports and would be more effective and efficient.

FTA Response: FTA appreciates the comments supporting FTA's proposal. However, FTA disagrees with the industry association commenter's suggested revision. Under the proposed § 671.25(c)(1), the SSOA has the flexibility to incorporate the annual RWP audit into the review and approval of the RTA's Agency Safety Plan "or any other review or audit," including the triennial audit required under part 674. An explicit reference to the triennial audit is, therefore, unnecessary. Due to the safety risk inherent with roadway work, FTA maintains the requirement for an annual RWP program audit. Annual audits ensure that the SSOA is involved and actively informed regarding the RTA's RWP program performance and provides a consistent and independent mechanism to verify that programs are being properly implemented and are achieving their intended safety outcomes. Thus, while an SSOA may incorporate the audit of the RWP program into an existing triennial audit of the RTA, it must conduct an RWP program

audit on an annual basis.

V. Regulatory Analyses and Notices

Executive Orders 12866 and 13562 (Regulatory Review)

Executive Order (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 rule is not significant within the meaning of E.O. 12866 and has not reviewed the rule under that order.

The final rule allows 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 final rule also allows SSOAs to submit RWP program information with their annual reports rather than within 30 calendar days of approval.

The final rule will result in cost savings for SSOAs and RTAs by streamlining auditing requirements. The rule will 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 will 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 will result in annual cost savings of \$87,000 (1,280 hours \times \$68.69) in undiscounted 2024 dollars, \$73,000 at a three percent discount rate, and \$58,000 at a seven percent discount rate, discounted to 2024.

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 final rule is an E.O. 14192 deregulatory action with total costs less than zero.

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.

The rule will streamline auditing and reporting requirements for SSOAs and RTAs.

² Bureau of Labor Statistics, “May 2024 National Occupational Employment and Wage Estimates: United States: NAICS 485000—Transit and Ground Passenger Transportation” (2025), available at <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.

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. This rule will have a small cost saving impact due to streamlining auditing and reporting requirements for SSOAs and RTAs. FTA has determined the final rule will not have a significant effect on a substantial number of small entities.

Unfunded Mandates Reform Act of 1995

FTA has determined that this rule will 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.

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.

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.

National Environmental Policy Act

The Department has analyzed the environmental impacts of this rulemaking pursuant to the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*). FTA has determined that this rule is categorically excluded pursuant to 23 CFR 771.118(c)(4).

Categorical exclusions are categories of actions that the agency has determined normally do not significantly affect the quality of the human environment and, therefore, do not require either an environmental assessment (EA) or environmental impact statement (EIS). See DOT Order 5610.1D § 9. In analyzing the applicability of a categorical exclusion, the agency must also consider whether extraordinary circumstances are present that would warrant the preparation of an EA or EIS. *Id.* § 9(b). This rulemaking, which extends the time period for State Safety Oversight Agencies (SSOA) to report RWP programs to FTA and allows SSOAs to complete annual audits simultaneously with other required audits, is categorically excluded pursuant to 23 CFR 771.118(c)(4): “[p]lanning and administrative activities not involving or leading directly to construction, such as: promulgation of rules, regulations, directives, or program guidance.” FTA does not anticipate any environmental impacts, and there are no extraordinary circumstances present in connection with this rulemaking.

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.

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.

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. Department of Transportation's complete Privacy Act Statement in the *Federal Register* published on April 11, 2000 (65 FR 19477).

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 amends title 49 CFR 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) * * *

(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.

* * * * *

3. Amend § 671.41 by revising paragraph (c)(9) to read as follows:

§ 671.41 RWP training and qualification program.

* * * * *

(c) * * *

(9) Rules and procedures for redundant protections identified under § 671.39 and how they are applied to RWP; and

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Issued in Washington, D.C., under authority delegated in 49 CFR 1.91.

Jamie Pfister,

Acting Executive Director.