

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in SFHAs
<b>Region I</b>				
Massachusetts: Haverhill, City of, Essex County.	250085	April 30, 1974, Emerg; February 16, 1983, Reg; July 19, 2018, Susp	July 19, 2018 ....	July 19, 2018.
<b>Region V</b>				
Ohio:				
Fairfield County, Unincorporated Areas	390158	March 21, 1977, Emerg; April 17, 1989, Reg; July 19, 2018, Susp	.....do* .....	Do.
Lancaster, City of, Fairfield County .....	390161	July 28, 1975, Emerg; May 1, 1980, Reg; July 19, 2018, Susp	.....do .....	Do.
Pickerington, City of, Fairfield and Franklin Counties.	390162	June 11, 1976, Emerg; August 5, 1991, Reg; July 19, 2018, Susp	.....do .....	Do.
<b>Region VI</b>				
Oklahoma:				
Billings, Town of, Noble County .....	400347	September 8, 1983, Emerg; June 19, 1985, Reg; July 19, 2018, Susp	.....do .....	Do.
Tribe of Ponca Indians of Oklahoma, Noble and Kay Counties.	400239	N/A, Emerg; July 15, 2008, Reg; July 19, 2018, Susp	.....do .....	Do.
Red Rock, Town of, Noble County .....	400135	June 12, 1975, Emerg; May 25, 1978, Reg; July 19, 2018, Susp	.....do .....	Do.
<b>Region IX</b>				
California:				
Elk Grove, City of, Sacramento County	060767	N/A, Emerg; October 15, 2001, Reg; July 19, 2018, Susp	.....do .....	Do.
Folsom, City of, Sacramento County ....	060263	March 10, 1977, Emerg; January 6, 1982, Reg; July 19, 2018, Susp	.....do .....	Do.
Rancho Cordova, City of, Sacramento County.	060772	N/A, Emerg; September 15, 2004, Reg; July 19, 2018, Susp	.....do .....	Do.
Sacramento County, Unincorporated Areas.	060262	March 31, 1972, Emerg; March 15, 1979, Reg; July 19, 2018, Susp	.....do .....	Do.

do = Ditto.

Code for reading third column: Emerg.—Emergency; Reg.—Regular; Susp.—Suspension.

Dated: June 29, 2018.

**Michael M. Grimm,**

*Assistant Administrator for Mitigation, Federal Insurance and Mitigation Administration, Department of Homeland Security, Federal Emergency Management Agency.*

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**BILLING CODE 9110–12–P**

**DEPARTMENT OF TRANSPORTATION**

**Federal Transit Administration**

**49 CFR Part 672**

[Docket No. FTA–2015–0014]

**RIN 2132–AB25**

**Public Transportation Safety Certification Training Program**

**AGENCY:** Federal Transit Administration (FTA), DOT.

**ACTION:** Final rule.

**SUMMARY:** The Federal Transit Administration is issuing a final rule for the Public Transportation Safety Certification Training Program to provide revised minimum training requirements for Federal and State

personnel and contractors who conduct safety audits and examinations of transit systems and for transit agency personnel and contractors who are directly responsible for safety oversight. The revised requirements reduce the number of training hours required by the interim training program.

**DATES:** The effective date of this rule is August 20, 2018.

**FOR FURTHER INFORMATION CONTACT:** For program issues, contact FTA, Office of Transit Safety and Oversight (telephone: 202–366–1783 or email: [FTASafetyPromotion@dot.gov](mailto:FTASafetyPromotion@dot.gov)). For legal issues, contact Bruce Walker, FTA, Office of Chief Counsel (telephone: 202–366–9109 or email: [Bruce.Walker@dot.gov](mailto:Bruce.Walker@dot.gov)). Office hours are Monday through Friday from 8 a.m. to 6 p.m. (EST), except Federal holidays.

**SUPPLEMENTARY INFORMATION:**

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**I. Executive Summary**

In the Moving Ahead for Progress in the 21st Century Act (MAP–21) (Pub. L. 112–141, July 6, 2012), Congress directed FTA to establish a comprehensive Public Transportation Safety Program (codified at 49 U.S.C. 5329), one element of which is the Public Transportation Safety Certification Training Program (PTSCTP). As a first step to implementing the PTSCTP, FTA developed requirements for the interim safety certification training program (interim training program) which became effective on May 28, 2015 (*see* 80 FR 10619). FTA then published a notice of proposed rulemaking (NPRM) in the **Federal Register** on December 3, 2015 (80 FR 75639), which generally proposed to adopt the interim training program requirements for the PTSCTP final rule. As noted in Appendix A, the requirements in this final rule reduce the number of required training hours from a total of 181 hours (22.625 days) to 143 hours (17.875 days).

More recently, Congress enacted the Fixing America’s Surface Transportation Act (“FAST”) (Pub. L. 114–94, Dec. 4, 2015). FAST did not make any amendments to 49 U.S.C. 5329(c)(1), the

statute authorizing the PTSCTP, that would affect today's rulemaking. Therefore, for convenience and accurate context, this rule will refer to MAP-21 throughout the preamble for consistency with the NPRM.

Today's rule revises the minimum training requirements for State Safety Oversight Agency (SSOA) personnel and contractors who conduct safety audits and examinations of public transportation systems that receive Federal transit funds. The rule also provides minimum training requirements for transit agency employees who are directly responsible for safety oversight of public transportation systems that receive Federal transit funds. Although not subject to this rule, pursuant to 49 U.S.C. 5329(c)(1), FTA personnel and contractors who conduct safety audits and examinations of rail public transportation systems will adhere to the applicable SSOA training requirements listed in Appendix A.

#### A. Statutory Authority

This rulemaking is issued under the authority of 49 U.S.C. 5329(c)(1), which requires the Secretary of Transportation to establish a public transportation safety certification training program for Federal and State employees, or other designated personnel, who conduct safety audits and examinations of public transportation systems, and employees of public transportation agencies directly responsible for safety oversight. The Secretary is authorized to issue regulations to carry out the general provisions of this statutory requirement pursuant to 49 U.S.C. 5329(c)(2) and (f)(7).

#### B. Summary of Major Provisions

Today's rule adds a new part 672, Public Transportation Safety Certification Training Program, to title 49 of the Code of Federal Regulations. The purpose of the rule is to provide minimum requirements to enhance the proficiency of transit safety oversight professionals. In general, FTA maintained much of what was proposed in the NPRM. The mandatory training requirements apply to personnel who conduct safety audits and examinations of rail transit systems, and transit personnel with direct safety oversight responsibility of rail transit systems. Participation in the PTSCTP remains voluntary for State personnel, employees of bus transit agencies and the contractors directly responsible for safety oversight of public bus transportation systems.

#### C. Costs and Benefits

In general, FTA has retained the approach to costs contained in the NPRM. FTA quantified, to the extent possible, the costs associated with this rule. FTA expects that the codification of the PTSCTP will help promote a safety culture within the transit industry. This safety culture should help instill a transit agency-wide appreciation for shared goals, shared beliefs, best practices, and positive and vigilant attitudes towards safety.

Where appropriate, FTA has modified the analysis for this rule from that of the NPRM. For example, in response to comments, FTA revised the hourly wage rate upward to better reflect average labor rates including benefits within the public transportation sector and factored in modest travel costs for attendance. Also, FTA has eliminated the 36-hour Transit System Security course and the 2-hour SMS Gap online course as mandatory components of the PTSCTP program. This change has resulted in a reduced burden on course participants. The regulatory analysis is conducted in two parts. First, under Executive Order 12866, by comparing the costs of issuing the rule in relation to practice prior to MAP-21 and second, under Executive Order 13771, since this final rule is considered a deregulatory action due to the reduction in existing safety training requirements.

FTA used data from the Transportation Safety Institute (TSI) and reviewed the public transit workforce's participation in FTA's voluntary safety training programs to establish a maximum and minimum number of personnel, including contractors, that would be affected by the PTSCTP. The interim training program on which this rule is modeled became effective on May 28, 2015. Thus far, enrollment in the interim training program aligns with the assumptions FTA posed in the NPRM.

To determine annual costs for recipients to implement PTSCTP requirements, we continue with a minimum and maximum case scenario. For the minimum case, we maintain an assumption that all designated personnel under this program have received the Transit Safety and Security Program (TSSP) Certificate and require only the safety management system (SMS) portion of the coursework described in Appendix A of this rule. For the maximum case, we assume no one subject to the rule has a TSSP Certificate. In this scenario, all designated personnel will have to complete both the TSSP (minus the Transit System Security (TSS) course)

and SMS coursework over a three (3) year period. However, in response to comments, some travel costs are now included for attending courses if participants are unable to attend locally. Also, since TSSP training was previously provided by TSI, the cost of that cannot be attributed to this final rule. The cost numbers were adjusted accordingly. As a result of the changes above, and extending the analysis period to ten years instead of three to include refresher training and staff turnover, the maximum cost estimate is adjusted to approximately \$1.0 million annualized at 7 percent discount rate instead of the undiscounted \$2.6 million per year over a three year period as noted in the NPRM.

This final rule will replace the interim safety training program provisions issued in February 2015. The final rule eliminates two training provisions as mentioned above. The cost of the final rule therefore reduces the costs of the interim provisions by over \$51,000 over a ten year period, discounted at a 7 percent rate for the minimum case scenario and \$1.6 million respectively for the maximum case scenario, resulting in a net benefit for the agencies. This results in an annualized cost savings (benefits) of \$7,300 and \$2,258 respectively for the two scenarios at the 7 percent discount rate.

We note that these costs do not reflect costs associated with any additional countermeasures that better trained personnel will take to increase safety that they would not have identified prior to the training. Pursuant to 49 U.S.C. 5329(e)(6)(C)(iv), recipients may use up to 0.5 percent of their FTA formula funds to cover up to 80 percent of costs of PTSCTP eligible expenditures.

#### II. Rulemaking Background

On October 3, 2013, FTA issued an Advance Notice of Proposed Rulemaking (ANPRM) in the **Federal Register** on all aspects of FTA's safety authority, including the training program. (See 78 FR 61251 at <http://www.gpo.gov/fdsys/pkg/FR-2013-10-03/pdf/2013-23921.pdf>). FTA noted that there are discrete and different skill-sets required for those who perform safety audit and examination functions compared to those who are directly responsible for safety oversight. Recognizing this distinction, FTA outlined its vision for the PTSCTP which included a wholly new FTA-sponsored training curriculum to enhance the technical proficiency of each category of these safety professionals.

On April 30, 2014, FTA published a document in the **Federal Register** requesting comment on its proposed vision for the interim training program. A number of the proposed requirements for the interim training program were based partly on recommendations provided by commenters to the ANPRM (see 79 FR 24363). FTA evaluated comments received in response to the document and promulgated the final interim training program requirements in a **Federal Register** document dated February 27, 2015 (see 80 FR 10619).

On December 3, 2015, FTA published a **Federal Register** document proposing to adopt the interim training program as the requirements for the PTSCTP (see 80 FR 75639). FTA reviewed comments to the NPRM and with this document promulgates the PTSCTP rule as 49 CFR part 672. This rule primarily applies to recipients of Chapter 53 funding; however, pursuant to 49 U.S.C. 5329(c)(1), the SSOA training requirements listed in Appendix A also apply to FTA personnel and contractors that conduct safety audits and examinations of rail transit systems.

### III. Summary of NPRM Comments and FTA Responses

FTA proposed to utilize the interim training program requirements as the foundation for the PTSCTP. Similar to the interim training program, FTA proposed that the initial focus of the PTSCTP should be on enhancing the technical proficiency of safety oversight professionals in the rail transit industry. However, recognizing that safety is a priority for all public transit providers, safety oversight personnel of other modes of public transportation were encouraged to participate voluntarily. For that reason, FTA proposed that the initial *mandatory* PTSCTP requirements provide safety management system and technical training for Federal and SSOA personnel and their contractors, and rail transit agency personnel directly responsible for safety oversight of rail transit systems. Safety oversight personnel of recipients such as State Departments of Transportation (DOTs) and bus transit providers would be voluntary participants.

Nineteen commenters responded to the NPRM as follows: Seven (7) public transportation agencies; three (3) State Safety Oversight Agencies; one (1) member of the public; one (1) Federal safety agency; two (2) national safety associations; two (2) national public transportation associations; two (2) State Department of Transportations (DOTs); and, one (1) letter representing five (5) State DOTs. FTA reviewed all comments and noted that only one

commenter provided remarks that were not responsive to the scope of the NPRM. Following is a summary of the comments received and FTA's responses.

#### *Section 672.1 Purpose*

FTA proposed to implement 49 U.S.C. 5329(c)(1), by establishing a uniform curriculum of safety certification training to enhance the technical proficiency of individuals who are directly responsible for safety oversight of public transportation systems not subject to the safety oversight requirements of another Federal agency. FTA also noted that the rule would not preempt a State from implementing its own safety certification training requirements for public transportation systems subject to its jurisdiction.

A commenter to this section expressed appreciation for FTA's effort to adopt a uniform training curriculum and establish guidelines for all individuals who are directly responsible for safety oversight of public transportation agencies. Another commenter noted that FTA's framework provides a training standard for system safety and ensures a basic level of competency in SMS across the public transportation industry.

*FTA Response:* Upon review, FTA determined the proposed text requires clarification and is revising the text of paragraph (a) to include reference to personnel who conduct safety audits and examinations of public transportation agencies in this section. Additionally, the phrase "not subject to the safety oversight requirements of another Federal agency" that was proposed in the NPRM is not included in the final rule because the definition for "public transportation agency" indicates this exception. The remainder of the proposed text is included in the final rule.

#### *Section 672.3 Scope and Applicability*

FTA proposed that in general, the rule would apply to all recipients of Federal public transportation funding under Chapter 53 of Title 49 of the United States Code. FTA noted, however, in order to manage Federal and local resources, the initial mandatory requirements would apply to SSOA personnel and contractors conducting safety audits and examinations, as well as Rail Transit Agency (RTA) personnel directly responsible for safety oversight of rail transit systems not subject to the requirements of the Federal Railroad Administration. All other recipients of Chapter 53 funding would be able to participate voluntarily in the PTSCTP.

In response to the NPRM, one commenter disagreed with FTA's approach and recommended that both rail and bus transit system personnel be required participants in the PTSCTP. The commenter noted that motor vehicle crashes are the second-leading cause of unintentional death in the United States. The commenter stated that bus operations would benefit from defensive driving training as well as SMS and other specific safety training.

Conversely, commenters affiliated with State DOTs and small bus transit providers agreed that FTA should not require safety oversight personnel from these entities to be mandatory participants. Many of these commenters referred to the excellent safety record of bus transit providers to support the exclusion of these entities from mandatory PTSCTP participation. The commenters stated that FTA should limit regulatory burdens on States and subrecipient transit agencies that receive funding for rural transit. Several commenters indicated that the final rule should expressly affirm that it does not apply to bus service providers other than on a voluntary basis.

A few commenters indicated that the rule should be revised to include FTA personnel and its contractors that conduct safety audits and examinations as mandatory participants. These commenters noted that FTA should be subject to the same training requirements as SSOA employees and contractors.

*FTA Response:* FTA continues to believe the initial focus of the PTSCTP should be on rail public transit providers and the Federal and State personnel who conduct safety audits and examinations. As noted in the preamble of the ANPRM published in 2013, the intent is to initially focus regulatory efforts on those responsible for safety oversight of rail transit systems. FTA adopted this approach because the increased potential for catastrophic accidents, loss of life, and property damage associated with rail transit warranted the most immediate attention (see 78 FR 61252).

FTA reiterates that although the initial regulatory focus is primarily on rail safety, safety in the bus transit industry will not be ignored. In addition, FTA continues to expand resources and partner with groups that promote bus safety. Recognizing that resources must be expended judiciously and enforcement efforts must be prioritized, FTA believes the current safety environment within the bus transit industry supports the option for voluntary participation in FTA's safety training program.

However, it is important to note that FTA is developing a more systematic safety reporting regime for the public transit industry. FTA is also increasing its capability for reviewing and analyzing safety data and trends across the industry. Should analysis of safety data and trends indicate increased safety risk in the bus transit industry, FTA retains authority to implement mandatory training requirements for bus transit safety oversight personnel.

In response to commenters who indicated this rule should apply also to FTA personnel conducting safety audits and examinations, FTA notes this rulemaking applies specifically to recipients of Federal transit funds under Chapter 53, Title 49 of the United States Code. However, FTA agrees that FTA personnel and contractors should observe the same training requirements as SSOA personnel and contractors. Accordingly, pursuant to 49 U.S.C. 5329(c)(1), this final rule requires FTA safety oversight personnel and contractors that conduct safety audits and examinations of rail fixed guideway public transportation systems to adhere to the same SSOA training courses noted in Appendix A. For the reasons herein, the text proposed in the NPRM is included in the final rule with clarifying edits. In paragraph (b), the phrase “that are not subject to the requirements of the Federal Railroad Administration (FRA)” was removed because the definition of “rail fixed guideway public transportation systems” includes the statement that such systems are not subject to FRA’s jurisdiction. The text of paragraphs (a) and (c) are included in the final rule as proposed in the NPRM.

#### Section 672.5 Definitions

This section proposed definitions for some key terms in the rule. Many of the terms carry the same or similar meaning as used in other FTA documents. Additionally, some new terms were proposed with definitions consistent with common use.

Seven commenters responded to this section. One commenter stated that the term “contractor” should be revised to include RTA contractors that implement the RTA’s safety program. Another commenter indicated the definition should be broadened to include all those who provide contracted services, supplies, or equipment to FTA recipients. Yet another commenter indicated the definition should be revised to include individuals and entities that perform safety-related tasks for an RTA through contract or other agreement.

Two commenters indicated the terms “safety audit” and “safety examination” required clarification. One questioned whether there is a practical difference between an examination conducted as part of the audit and the analysis of acts performed in conjunction with the examination. The other commenter indicated the definition for both terms require more specificity in order to distinguish between the activities associated with the terms and clarify who performs an examination.

A commenter indicated that the definition for “designated personnel” should be revised to include FTA safety oversight personnel and contractors in order to make them subject to this rule. Other commenters indicated that FTA needed to provide more clarity regarding the definition for “directly responsible for safety oversight” relative to RTA designated personnel. Another commenter suggested that the definition for “State Safety Oversight Agency” should not include reference to 49 CFR part 659 since that rule is set to expire.

**FTA Response:** FTA believes the definition for “contractor” proposed in the NPRM sufficiently describes entities that provide safety audit and examination services to FTA and SSOAs. However, FTA agrees with commenters who indicated the definition should be amended to include contractors that provide services to public transportation agencies. FTA also amended section 672.13 to include RTA contractors.

With regard to commenters who recommended revising the definition for “designated personnel” to include FTA personnel and contractor support, as noted earlier, this rule generally applies to FTA recipients; therefore, FTA personnel and contractors are not included in this definition. However, as noted with the “contractor” definition, subparagraph (1) of this definition is revised to also include contractors that provide safety oversight services to rail transit agencies.

FTA concurs with commenters regarding the definition for “directly responsible for safety oversight.” For clarity, FTA is revising the definition of the term relative to section 672.13(a), in recognition that RTA safety oversight personnel are already quite familiar with the safety oversight program requirements pursuant to 49 CFR part 659.

With regard to the terms “safety audit” and “safety examination”, FTA agrees with those commenters who indicated the proposed definition for both terms should be reconciled. The terms are not unknown nor uncommon to those responsible for safety oversight

of RTA systems. FTA, SSOA, and RTA personnel are familiar with activities associated with safety audits and examinations as the terms relate to 49 CFR part 659 requirements, as well as the new SSO program rule at 49 CFR part 674. Further, it is unreasonable to interpret the term “examination” as it appears 49 U.S.C. 5329(c)(1) to refer to anything other than examinations related to the safety of public transportation systems. Therefore, to remain consistent with the terms as they appear in statute, the term safety audit will be included in the final rule but the term “safety examination” will be modified to “examination” to align with the definition as it appears in 49 CFR 670.5. It is also noted that safety audits and examinations will generally be conducted by Federal and/or State personnel and contractors.

Lastly, FTA agrees in part with the commenter who suggested the definition of “State Safety Oversight Agency” should be revised in reference to 49 CFR part 659. FTA notes 49 U.S.C. 5329(d)(2) provides an RTA’s System Safety Program Plan (SSPP) developed pursuant to 49 CFR part 659 shall remain in effect until FTA publishes a final rule for Public Transportation Agency Safety Plans. SSOAs will continue to oversee RTAs’ SSPPs until the RTAs are required to adopt Public Transportation Agency Safety Plans in compliance with the future final rulemaking under 49 U.S.C. 5329(d). In recognition of this fact, this definition is revised in the final rule to include reference to the new rule at 49 CFR part 674, as well as 49 CFR part 659. The remaining definitions proposed in the NPRM are included in this rule with minor edits to certain terms to ensure consistency with other FTA safety rulemakings.

#### Section 672.11 Designated Personnel Who Conduct Safety Audits and Examinations

FTA proposed that the SSOA identify personnel who conduct safety audits and examinations of the RTA(s) subject to its jurisdiction. In general, those identified would be SSOA employees and contractors whose duties include on-site safety audits and examinations of rail public transportation systems. FTA proposed this would include the SSOA managers and supervisors with direct authority over such SSOA personnel.

FTA proposed that once identified, designated personnel would have 3 years to complete the applicable PTSCTP training requirements. FTA also proposed that designated personnel would be required to complete at least

one hour of refresher training every 2 years after completing the initial mandatory training. FTA further proposed that the SSOA would have discretion to determine the subject area and duration for such training. FTA also proposed that the interim training program requirements become the initial training requirements for this rule. The interim requirements were republished as Section IV of the NPRM. However, FTA did not seek comment on the curriculum of the interim training program since it was developed through public notice and comment and effective only since May 28, 2015.

Five commenters responded to this section. One commenter indicated that State personnel, such as commissioners and directors, should not be required to participate in the PTSCTP requirements. The commenter stated that these individuals do not actually conduct safety audits and examinations of the rail transit systems under their jurisdiction. Other commenters indicated that FTA personnel and contractors should be included as designated personnel.

Regarding refresher training, several commenters felt the two-year interval for refresher training was sufficient. However, one commenter disagreed with the two-year timeframe, indicating that more robust refresher training should be required annually with a minimum requirement of at least four hours of training. The commenter also stated that the initial timeframe for completing PTSCTP requirements should be less than the three years FTA proposed. One commenter recommended that FTA be more specific as to the required elements for refresher training. Another commenter stated that FTA should require at least one class of refresher training every two years without identifying a time limit for the class. Yet another commenter stated that refresher training should at minimum include the “technical training component” and “knowledge of agency” elements outlined in Section IV of the NPRM.

*FTA Response:* In general, FTA believes those with direct management and supervisory responsibility of SSOA personnel and contractors that conduct safety audits and examinations should be subject to the PTSCTP training requirements. However, as indicated by a commenter, there are SSOA management personnel who do not directly oversee SSOA personnel and contractors. Conversely, there are managers and supervisors who do. In either case, FTA recognizes an SSOA is better situated to determine which managers and supervisors require

technical knowledge or perform functions identified in the technical training plan each SSOA is required to develop to comport with 49 U.S.C. 5329(e)(3)(E). For example, knowledge of railroad components is required only by those individuals actually conducting the examinations and audits of those specific railroad components, but not necessarily knowledge required of SSOA managers.

In short, some SSOA managers and supervisors will not be subject to PTSCTP requirements; however, those with direct supervisory responsibility of SSOA personnel and contractors subject to this part should share a common framework for understanding issues of risk and mitigation. For that reason, these managers and supervisors should at minimum undertake the SMS and TSSP curriculum identified in Appendix A. As indicated earlier, the SSOA will consult with FTA as it develops its technical training plan. This consultation should assist the SSOA with determining which of its personnel and contractor support should participate in the PTSCTP. However, FTA does not expect directors or commissioners, or similar State DOT personnel not involved in the day-to-day operations of an SSOA to be identified as designated personnel.

In response to comments suggesting the proposed three-year timeframe for completing the initial PTSCTP requirements is too long, FTA notes that RTAs and SSOAs already engage in significant safety training including the voluntary TSSP which underpins the PTSCTP requirements. FTA disagrees that the PTSCTP requirements should be completed in less than three years. FTA believes such a requirement would unduly burden recipients while not significantly contributing to public transportation safety. Furthermore, FTA notes that 49 U.S.C. 5329 provides additional tools that FTA can utilize if it finds that targeted training or remedial action is required immediately.

In response to comments regarding proposed refresher training requirements, from the onset FTA has stated its intent to take a comprehensive approach to safety training requirements. FTA recognizes there will be safety training requirements in other rules FTA is implementing for the National Public Transportation Safety Program (National Safety Program) which may apply also to some PTSCTP participants. FTA continues to believe that refresher training should be relevant to a recipient’s specific circumstances and the recipient is in the best position to determine the subject

matter and timeframe allotted for such training. In addition, FTA will provide guidance to assist recipients with identifying relevant subject matter for safety oversight refresher training.

FTA believes the proposed requirements are sufficient and that a one-year training completion requirement or annual refresher training requirement would not provide significant value considering other safety training initiatives will be occurring during the same timeframe. For these reasons, the proposed rule text is included in the final rule except FTA omitted paragraph (c), which provided that the Reference Document was available on the FTA website. The training curriculum and requirements are now found in Appendix A to this rule.

#### *Section 672.13 Designated Personnel of Public Transportation Agencies*

In the NPRM, FTA proposed that a recipient be required to identify its personnel whose job function is “directly responsible for safety oversight” of the public transportation system. FTA noted that the unique organizational framework of public transit systems does not reasonably allow for uniform designation of positions or functions that are “directly responsible for safety oversight.”

FTA stated that once identified, designated personnel would have three years to complete the applicable training for the PTSCTP. FTA also proposed that designated personnel would be required to complete at least one hour of refresher training every two years following the completion of the initial PTSCTP requirements. FTA further stated that RTA personnel would be mandatory participants while State DOT and bus transit system personnel would be voluntary participants. All recipients would have discretion to determine the subject area and time for biannual refresher training. Seven commenters provided responses to this section. In general, commenters responded to FTA’s proposed timeframe for completing the PTSCTP requirements; however, two commenters indicated they were unable to locate the specific requirements of the Reference Document.

One commenter stated that employees of rail systems should be required to meet the training requirements as soon as possible in order to ensure the safest transit operations for passengers. Several other commenters indicated that the three-year period for completing the required training should be extended because of potential scheduling conflicts. The commenters noted that

FTA's course availability is not always conducive to transit personnel being able to attend the training. Some commenters also indicated that there may be instances where the course location could interfere with attendance. One commenter suggested that FTA provide its training schedule as far in advance as possible in order to assist recipients with minimizing travel costs. The commenter also recommended that FTA increase the number of online courses.

One commenter indicated that FTA should not require the Transit System Security (TSS) course as a mandatory component of the PTSCTP curriculum since security matters are not generally under the purview of safety oversight personnel. Two commenters noted that the proposed rule required rail transit agencies to provide technical training to SSOA personnel and suggested that FTA instead develop specific rail transit technical training courses.

Regarding the requirement to identify personnel who are directly responsible for safety oversight, one commenter recommended that such personnel be limited to policymaking officials with broad safety accountabilities, rather than each employee who has a function or duty specific to an agency's safety plan. The commenter suggested that the rule apply only to those individuals who are accountable for the overall development, implementation, and review of the agency's safety program. Another commenter indicated that FTA use an approach in which it amplifies an SMS model where implementation of the agency safety plan is the shared responsibility of every position within the system (*i.e.*, safety, operations, maintenance, human resources, training, and administration). The commenter further suggested that FTA provide guidance, or identify criteria to assist agencies with objectively identifying staff subject to the PTSCTP requirements.

*FTA Response:* As noted in response to the section above, FTA disagrees with commenters who suggested that three years is not enough time to complete the required training. FTA has no indication that the current level of course offerings will not support completion of the requirements within three years. Review of the registration data website for interim training program registration indicates a significant number of those enrolling in the PTSCTP have already completed all, or some portion of the required TSSP component of the certificate program. However, FTA is providing additional course delivery dates to alleviate the potential burden due to the perceived lack of availability.

To facilitate course availability and predictability, FTA will continue to expand its capacity for delivering the PTSCTP curriculum at sites around the country and publish schedules as early as possible. Where appropriate, FTA will also work on expanding web based courses to increase training opportunities and further reduce costs associated with the PTSCTP.

Regarding SSOA training by RTAs, FTA did not propose a requirement for RTAs to provide technical training to SSOA personnel. However, FTA encourages SSOAs and RTAs to engage in joint training as much as practicable. This collaboration will only serve to promote a common framework of knowledge and improve communication between the RTA and the State regulator. Any training agreements between SSOAs and RTAs will be developed between the respective parties. If an RTA incurs additional expenses when including SSOA personnel with its training, then the parties can negotiate reimbursement for such expenses since SSOA training is an eligible expenditure of 49 U.S.C. 5329(e) grant funds.

FTA disagrees with commenters who suggested that FTA identify designated personnel for public transportation agencies. As commenters indicated in response to question 52 of the ANPRM that preceded the NPRM to this rule, each agency has its specific organizational construct and assignment of safety oversight functions. FTA continues to believe that each agency should have discretion to determine which functions and positions are directly responsible for safety oversight of the agency. However, FTA will provide guidance to assist RTAs with objectively identifying such personnel.

FTA agrees with commenters who indicated that employees who are in a position to be accountable for the development, implementation, and review of the agency's safety program should participate in the PTSCTP. This would also include RTA contractors. But the designation should not be limited only to personnel with management responsibility for the agency's safety plan. The designation should also include staff with primary responsibility for developing, implementing, and monitoring the agency's safety plan, as well as personnel who implement and execute SSOA requirements at the RTA. Depending on the size and organizational framework of the agency, this could be a few personnel or a sizable office or branch. The following guidance is provided to assist RTAs with identifying designated personnel:

*SSOA's Program Standard*—Processes and procedures an RTA must have in place to comply with the standard: Who at the RTA is responsible for developing, implementing or maintaining the following elements of the program standard?

- (1) Program management;
- (2) Program standard development;
- (3) Program policy and objectives;
- (4) Oversight of the agency safety plans and internal safety reviews (who will respond to the SSOA if the SSOA determines the plans are inadequate?);
- (5) Triennial SSOA audits of Rail Public Transportation Agency Safety Plans (who will participate in the audit process and follow up on any findings or recommendations?);
- (6) Accident notification (who is responsible for making appropriate notifications to FTA, SSOAs or when applicable FRA?);
- (7) Investigations (who will conduct internal accident investigations or coordinate RTA investigations in accordance with the SSO program standard and any agreements in effect?), (if the RTA does not agree with elements of an SSOA report, who will submit a written dissent from the report?);

- (8) Corrective action plans (CAPs) (who is responsible for developing and carrying out the CAPs required by the SSOA?), (who will manage an issued CAP, identifying steps to minimize, control, correct, or eliminate the risks and hazards identified by the CAP, the schedule for taking those actions, and the individuals responsible for taking those actions?), (who will periodically report to the SSOA on its progress in carrying out the CAP?), (who will collect, track, and analyze data on occurrences to develop leading indicators, to prevent the likelihood of future events, and to inform the practice of SMS across the RTA?).

FTA recognizes recipients may have questions as to which positions or functions should be designated as PTSCTP participants. Recipients may contact FTA via email at [FTASafetyPromotion@dot.gov](mailto:FTASafetyPromotion@dot.gov) for assistance.

For the reasons herein, proposed paragraph (a) is revised to include RTA contractors and the phrase "not subject to the safety oversight of another Federal agency" is removed because the definition of "rail fixed guideway public transportation systems" includes the statement that such systems are not subject to FRA's jurisdiction. Paragraphs (b) and (c) are included in the final rule as proposed in the NPRM and proposed paragraph (d) is omitted now that the PTSCTP curriculum and training

requirements are listed in Appendix A to this rule.

#### *Section 627.15 Evaluation of Prior Certification and Training*

In the NPRM, FTA acknowledged that participants who have completed safety training from entities other than FTA should be able to have that training reviewed to determine if it is equivalent to the competencies of the PTSCTP curriculum. To that end, FTA proposed that a participant provide official documentation to FTA from the organization that conducted the training. FTA stated that the documentation should indicate the date(s) and subject matter of the training. In addition, the participant would be required to provide a narrative summary of the training objectives and the competencies obtained as a result of the training.

Six commenters responded to this section. In general, commenters agreed that FTA should review other safety training for PTSCTP equivalency. However, most did not agree with FTA's proposed process. Three commenters indicated that FTA should proactively evaluate training provided by other organizations. Commenters indicated the participant should not have to describe how the training meets the competency of the PTSCTP curriculum. One commenter recommended that FTA "grandfather" existing transit agency personnel who possess five years of experience executing the requirements of 49 CFR part 659. The commenter also stated that FTA should provide PTSCTP credit for personnel who possess a Certified Safety Professional credential/license. Another commenter suggested that FTA broadly and favorably consider equivalent training requests from those holding safety credentials, and degrees in safety. Lastly, one commenter noted that FTA should establish an objective measure for evaluating prior training and certification that is predictable, transparent, and fast.

*FTA Response:* In general, FTA agrees with commenters who indicated there should be an expedited and transparent process for evaluating safety training provided by entities other than FTA. To that end, FTA continues to refine its process for evaluating a participant's prior safety training. At this time, FTA is not prepared to provide independent approval of prior safety training or safety professional certifications without the participant providing official documentation and describing how the training or designation meets the objectives of the specific requirements of the PTSCTP. As the training program matures, FTA

anticipates that it will offer a list of courses and training that meet the PTSCTP requirements. Accordingly, the final rule includes the text as proposed in the NPRM.

#### *Section 672.21 Records*

In the NPRM, FTA noted that an essential requirement of any training program is the maintenance of adequate records of training. To that end, FTA proposed to maintain an electronic record of each PTSCTP participant via its online enrollment process. However, FTA stated that the recipient would be required to ensure that its personnel periodically update their information with his or her course completion information. Designated personnel can enroll for the program and update their individual training records as they complete the applicable training requirements by following the instructions provided at FTA's training website. The following web address provides participants with enrollment and registration information: <https://www.transit.dot.gov/regulations-and-guidance/safety/safety-training>. Further, each recipient will be responsible for maintaining an updated training record for its designated personnel.

Additionally, FTA proposed that each SSOA maintain training records to document the technical training of its designated personnel for at least five years from the date the record is created. FTA noted this documentation would assist the SSOA in complying with the grant requirements in accordance 49 U.S.C. 5329(e)(3)(E) by documenting that SSOA personnel and contractors have received training to perform requisite safety oversight functions.

FTA received three comments to this section. One commenter indicated this section should be revised to require FTA to also maintain records of its personnel and contractors that are subject to PTSCTP training requirements. Commenters agreed that designated personnel should enroll through FTA's safety database; however, two commenters indicated that FTA should be responsible for updating the participant's training completion information, not the recipient.

One commenter stated that an SSOA should not be responsible for maintaining training records for its contractors. The commenter stated that SSOAs should be able to require a contractor to provide certification showing the contractor has completed the required training. The commenter suggested that once a contractor has provided the initial documentation, the SSOA should not be required to maintain their training records and the

contractor should be responsible for maintaining their own records. The commenter also indicated that SSOA management should be able to rely on the FTA database to track the progress and status of SSOA personnel and contractors without the need for additional tracking mechanisms.

*FTA Response:* FTA concurs with commenters who indicated that FTA should administer and maintain the records for PTSCTP participants. However, FTA's ability to access participant training records for the PTSCTP does not relieve a recipient of the responsibility for ensuring its designated personnel, including its contractors, are in compliance with this part. The recipient is in the best position to ensure its designated personnel are timely updating course completion information. Furthermore, this process will assist the recipient with certifying compliance with this part.

FTA also agrees that a recipient, including an SSOA, should not be responsible for developing and maintaining training records for contractors. The contractor should be responsible for documenting and maintaining training records for its personnel. However, the recipient is responsible for ensuring its contractors comply with this part. To that end, a recipient may require its contractors to provide timely training documentation for contractor personnel subject to this part. To assist with grant documentation requirements, an SSOA should retain records of both its personnel and contractors in accordance with the timeframe prescribed in section 672.21(c) of this part.

As noted previously, this rule does not apply to FTA personnel and contractors. However, training records for FTA personnel are maintained in accordance with Federal standards; therefore, FTA disagrees with commenters who indicated this section should be revised to apply to FTA. However, as indicated by commenters, paragraph (b) is amended by replacing the term "maintain" with the term "retain" in reference to an SSOA's responsibility for the training records of its contractors. Paragraph (a) is included in the final rule as proposed, but subparagraphs (c)(1) through (5) are not included because Appendix A provides information required for SSOA technical training records.

#### *Section 672.23 Availability of Records*

FTA proposed a requirement for the safekeeping and limited release of information maintained in accordance with the requirements of this part. FTA



stated that information maintained in the training records should not be released without the consent of the participant for whom the record is maintained, except in limited circumstances. FTA further noted that a participant should receive a copy of his or her training records without cost to him or her upon request.

In the NPRM, FTA stated that a recipient would be required to provide appropriate Federal and SSOA personnel access to all of the recipient's facilities where required training is conducted. In addition, the recipient would be required to grant access to all training records required to be maintained by this part to appropriate U.S. Department of Transportation personnel and appropriate State officials who are responsible for safety oversight of public transportation systems. Additionally, a recipient would provide information regarding a participant's training when requested by the National Transportation Safety Board when such request is made as part of an accident investigation.

*FTA Response:* FTA received no comments directly related to this section. Accordingly, the text proposed in the NPRM is included in the final rule.

#### *Section 672.31 Requirement To Certify Compliance*

FTA noted in the NPRM that recipients are required annually to certify their compliance with Federal grant requirements as a condition for receiving Federal funding. FTA proposed that recipients for whom the PTSCPT training requirements are mandatory should self-certify compliance with this part through the annual FTA certification and assurances process. FTA proposed that the recipient identify someone within the organization as authorized to certify compliance with this part on behalf of the recipient.

One commenter to this section stated that FTA should annually certify its compliance with the PTSCPT requirements. Two other commenters indicated that similar to FTA's current annual certification and assurance process, a recipient's chief executive, such as the General Manager or equivalent, should be the official authorized to certify compliance. One of the commenters stated that a recipient's board of directors primarily performs policy-setting duties and should not be asked to certify safety compliance as it would be beyond their scope. Lastly, one commenter asked if the annual certification requirement also applied to SSOAs.

*FTA Response:* The proposed rule stated that the recipient's governing body or authority should identify the person responsible for certifying the recipient's compliance with this part. FTA did not indicate that the governing body or chief executive would specifically have to certify the recipient's compliance with this part.

Currently, recipients undergo FTA's annual self-certification and assurance process as a condition of receiving Federal transit funds administered through FTA (see <https://www.fta.dot.gov/funding/grantee-resources/certifications-and-assurances/certifications-assurances>). Each recipient, including an SSOA, is required to annually certify compliance with numerous Federal requirements as a condition for receiving Chapter 53 funds. However, FTA is not a recipient; therefore, FTA is not included in the annual certification process. For recipients however, annual certification of compliance with this part will now be included with FTA's annual certifications and assurance. Consequently, a recipient is required to designate an authorized representative for the purpose of signing the certification on behalf of the recipient. Accordingly, the text proposed in the NPRM is included in the final rule.

#### *Section 672.33 Compliance as a Condition of Financial Assistance*

This section was proposed in the NPRM to outline options available to FTA when a recipient does not comply with the requirements of this part. This section indicated the Administrator's discretion to withhold Federal funds and provided a notice and comment period for recipients.

Two commenters responded to this section. One commenter suggested the section be revised to include its applicability to SSOAs unless they are considered recipients. The other commenter indicated that absent clarification regarding how to identify designated personnel there is the possibility for an uneven identification of personnel across different agencies which could lead to a situation, where in hindsight, the Administrator may decide that a recipient has failed to comply with the requirements.

*FTA Response:* FTA has reviewed this section in conjunction with the provisions of the Public Transportation Safety Program Safety Program (see 49 CFR part 670). FTA has determined that the provisions therein provide a recipient with sufficient notice and due process regarding the Administrator's authority and enforcement actions for noncompliance with this part.

Therefore, FTA is not including proposed section 672.33 in this final rule.

#### *Appendix A: Public Transportation Safety Certification Training Program*

FTA proposed adopting the interim training program requirements listed in Section IV of the NPRM as the initial training requirements for the PTSCPT. FTA noted that the interim requirements were developed with public notice and comment and only became effective on May 28, 2015. For that reason, FTA only requested comments about the effectiveness of the curriculum and technical training requirements.

A number of commenters addressed FTA's proposed implementation of the PTSCPT and its applicability which we have already discussed; however, one commenter directly addressed the effectiveness of the proposed curriculum. The commenter noted that FTA should not require the Transit System Security (TSS) course as a mandatory component of the PTSCPT curriculum since security matters are not generally under the purview of safety oversight personnel.

*FTA Response:* FTA agrees with the commenter and has revised the PTSCPT curriculum so that the TSS course is no longer a required component. FTA recognizes the value of the TSS course and will continue to offer it, but concurs that security is not within the general scope of training required to implement 49 U.S.C. 5329(c)(1) safety oversight requirements. Additionally, FTA has determined that the course objectives for the 2-hour online "SMS Gap course" training are now included in the online "SMS Awareness" course and the "SMS Principles for Transit" course; therefore, it is no longer a requirement.

For clarity, FTA is renaming the "SMS Principles for Rail Transit" to "SMS Principles for Transit" in order to reflect its broader applicability across the industry. In addition, the "SMS Principles for SSO Programs" course is currently under development and is not expected to be available by the effective date of this rule; therefore, participants will have three years from the course's date of availability to complete it. The curriculum for the PTSCPT is revised accordingly and appears as Appendix A to this part and is no longer referred to as the Reference Document as noted in the NPRM. FTA will continue to evaluate the effectiveness of the PTSCPT requirements and should FTA determine revisions are warranted, FTA will seek public comment prior to doing so.



#### IV. Revised Regulatory Evaluation

Before MAP-21, FTA funded and supported a wide variety of safety training at no direct cost to the transit industry and participants engaged in the training on a voluntary basis. Subsequently, MAP-21 mandated that FTA develop an interim training safety certification program to enhance the technical qualifications of designated personnel directly responsible for safety oversight of public transportation systems in advance of a final rule for the Public Transportation Safety Certification Training Program. FTA noted that the interim program requirements were a condition of receiving Federal grant funding under sections 5307, 5311, and 5329 of title 49, United States Code. Although the interim program was not promulgated as a rulemaking, pursuant to 49 U.S.C. 5334(k), FTA sought public comment on the interim provisions. It was noted that most of a participant's cost in the interim program would be an eligible expenditure of Federal financial assistance provided under sections 5307, 5311, and 5329 grants and no cost benefit analysis was conducted. FTA will now incorporate many components of the interim program in the final rule for the PTSCPT; however, with a lessened regulatory burden for required participants.

The regulatory analyses below include the cost estimates for the final rule as required by Executive Order 12866 (Regulatory Planning and Review), using pre-MAP-21 estimates as the base line with revisions based on comments to the NPRM. The analysis also includes a deregulatory action cost estimate as required by Executive Order 13771 (Reducing Regulation and Controlling Regulatory Costs), as the cost of the final rule is less than the cost of the interim rule.

For the initial analysis to assess the costs for the PTSCPT, FTA first reviewed data from the Transportation Safety Institute (TSI) the organization that provides FTA sponsored training for transit grantees and stakeholders. Using the TSI attendance data for the transit safety courses and knowledge of how SSOAs and rail transit agencies are organized, FTA developed a maximum and minimum number of personnel, to include employees and contractors that would be affected by the PTSCPT. FTA also reviewed the number of FTA personnel who participate in safety audits and examinations and determined the number of FTA personnel that would be required to undergo some level of training and certification.

In developing annual costs for personnel that would attend the PTSCPT, FTA assumed a minimum and maximum case scenario. Under the minimum case scenario, it is assumed that no additional staff will take the TSSP other than the ones who are already doing so. The TSI data prior to MAP-21 shows that on average 250 individuals attended the four TSSP courses, ranging from 175 attendees for transit rail incident investigations to 345 attendees for the transit rail system safety course. Given the total number of transit and SSOA entities, there were between two to three individuals per agency on average attending the courses already. The only additional training taken would be for the Safety Management System curriculum. In addition, to meet the requirements of this rule, the agencies would need to apply for certification for courses attended at TSI or at another venue and to maintain records of the training completed. The cost of the additional effort is included below.

The maximum case scenario assumes a higher number of attendees than the current practice and assumes no prior completion of safety training. This scenario is being presented to show the cost of the rule if the level of attendance increases due to the publication of this final rule and if the training already taken by individuals does not satisfy the TSSP course requirements under this final rule.

FTA notes that this analysis includes only the costs that could be quantified, which are those costs associated with the training, certification and record keeping. It does not reflect costs associated with any additional countermeasures that better trained personnel might take to increase safety that they would not have identified prior to taking the training.

The initial cost-benefit analysis was provided in the NPRM for public comment. Several commenters asked if additional Federal funding would be available to pay for the training and asked why additional funding is not available for RTAs, but available to SSOAs.

*FTA Response:* Funding determinations are made by Congress through statutory parameters for Chapter 53 recipients, including RTAs. In this instance, the training costs associated with the PTSCPT are an eligible expense for the Federal grants available to RTAs. However, Congress has provided funding for the State Safety Oversight program to eliminate the conflict of interest inherent between SSOAs and RTAs when RTAs provide funding to SSOAs that provide oversight

of these RTAs. Furthermore, the incremental cost per RTA is not expected to be significant considering many agency employees already undertake or have completed most of the required courses. Additionally, much of the new SMS training is available online at no additional monetary cost, except staff time.

Several commenters noted the additional cost burden of travel to meet the training requirements if the courses are not available locally or online. One commenter indicated that its costs could be approximately \$3,000 per course per employee to take the TSSP courses. It was also mentioned that employees will be away from their jobs to attend the training and this will result in loss of productivity. One commenter requested that costs be shown on a per capita basis for each recipient instead of the aggregate estimate reflected in the NPRM.

*FTA Response:* FTA does not expect agencies to incur significant additional travel costs since much of the SMS training is available online and FTA plans to increase its capacity to deliver training locally, which will provide more opportunities to attend without incurring additional expenses. FTA will also make training schedules available earlier to support improved scheduling. However, recognizing there may be occasions where travel may be required; FTA is including estimated travel costs in the revised assumptions for this rule.

Regarding cost estimates (labor cost), the assumptions herein reflect the loss of individual productivity to attend the training. It is anticipated that this cost will be regained through benefits from improved safety performance of the agencies. However, FTA notes that it is a challenge to project costs per recipient because each recipient is responsible for identifying which of its safety oversight personnel will be required participants. Furthermore, participants will have varying degrees of requirements to fulfill depending on their prior TSSP participation.

To determine aggregate costs, FTA made the following revisions to its analysis. FTA is now using the hourly wage rate for a transit manager from the 2016 Bureau of Labor Statistics to represent the average cost for personnel attending the training. The wage rate is adjusted to account for benefits and other employee compensation cost to reflect the full agency cost. The revised estimate also considers travel costs, assuming that 5 percent of required participants may not be able to attend courses locally. Furthermore, the Transit System Security (TSS) is eliminated, thus reducing the required

training from 140 hours over three years to 104 hours over the same period. The TSS training remains available for participants, but is optional.

Additionally, FTA has eliminated the 2-hour SMS Gap course, which reduces the number of SMS training from 41 hours over three years to 39 hours over the same period. This results in lower personnel training costs relative to PTSCPT compliance costs, but does not significantly reduce FTA's cost for providing the training.

For the minimum case, we continued with the assumption that all designated

personnel under this program had already completed the required courses and would require only the SMS portion of the curriculum. This assumption is supported given the popularity of the TSSP within the industry. It is supported further by the level of voluntary participation of transit industry personnel obtained from current graduation/attendance data at TSI.

For the maximum case, we continue with the assumption that no one subject to the rule has a TSSP Certificate. In this

case, all designated personnel would have to take and complete both the TSSP (minus the TSS course) and SMS coursework over the allotted three-year period. The table below shows the estimated counts used in our analysis. To simplify the analysis, we assume that the total designated personnel under this rule would undertake one-third of the total coursework each year. The required training would be completed over a period of three years.

ESTIMATED UNIVERSE OF POTENTIAL SSOA, RAIL TRANSIT AGENCY, AND FTA PERSONNEL

	Minimum	Maximum
SSOA Personnel .....	70	120
Rail Transit Agency Personnel .....	200	340
FTA Personnel .....	40	40
<b>Total .....</b>	<b>310</b>	<b>500</b>

Next, we determined the training by course that would be required of each person within the scope of the PTSCPT.

TSSP Curriculum

The TSSP consists of three courses.<sup>1</sup> The Table below lists the courses and duration.

TSSP COURSEWORK REQUIRED  
[Completed within a 3 year period]

TSSP courses	Hours
Rail System Safety .....	36
Rail Incident Investigation .....	36
Transit System Security (TSS) (no longer mandatory but available as a voluntary course) .....	0
Effectively Managing Transit Emergencies .....	32
<b>Total .....</b>	<b>104</b>

SMS Curriculum

The SMS curriculum consists of two in-person courses and two online

training sessions. While SSO personnel will be required to now take 39 hours of total training, rail transit agency

personnel will no longer be required to take the 2 hour SMS Gap course.

SMS COURSEWORK—IN-CLASS AND ONLINE REQUIRED  
[Completed within a 3 year period]

SMS courses	Hours
SMS Awareness .....	1
Safety Assurance .....	2
SMS Gap (no longer mandatory) .....	0
SMS Principles for Transit .....	20
SMS Principles for SSO Programs .....	16
<b>Total .....</b>	<b>39</b>

Wage Rates

An average wage rate of \$86.11 is assumed for those taking training under

<sup>1</sup> The TSSP has two tracks, one for rail and one for bus-based transport. Since the PTSCPT is optional for bus-based transit we do not address those costs or benefits in the analysis.

this program, based on 2016 Bureau of Labor Statistics data on average wages for transit managers, including an

<sup>2</sup> Bureau of Labor Statistics, Occupational Employment Statistics for Urban Transit Systems (485100), General and Operations Managers (11-1021), May 2014. The average hourly wage of

adjustment for benefits and other employee compensation costs.<sup>2</sup> Using this wage assumption, we have revised

\$55.18 was multiplied by a benefits adjustment of 1.56.

Lower Bound and Upper Bound costs for attendance as depicted in the table below.

ANNUAL COSTS FOR ATTENDANCE OF SSOA, RAIL TRANSIT AGENCY, AND FTA PERSONNEL WITHIN A 3-YEAR PERIOD

	Number of personnel	Hourly rate	Training time (hours)	Annual attendance costs (total costs divided by 3)
Lower Bound Mandatory Cost/Year .....	310	\$86.11	39 SSOA-FTA, 23 RTA .....	\$255,174
Upper Bound Mandatory Cost/Year .....	500	86.11	143 SSOA-FTA, 127 RTA .....	1,896,156
			120 .....	

In addition to the training requirements for certification, RTA personnel are required to attend one hour of training every two years to maintain the certification of their own choosing. This would add an ongoing annual cost of \$13,347 for the minimum case scenario and just over \$21,527 for the maximum case scenario.

Travel Costs

To allow for situations where staff are unable to attend local training, travel costs are estimated. Based on current air and hotel rates, and hourly wage rate of \$86.11, transportation cost of \$600 and lodging and meals of \$250 per day and travel time cost of \$690 for eight hours of travel time is estimated. It is unknown how many participants would need to travel to attend training.

However, training is frequently provided by FTA across the country and agencies have three years in which to complete the training; therefore, only a small percentage are expected to travel. FTA estimated the cost assuming that only 5 percent of the required participants may travel to another location to attend a course out of state. The table below shows the annual travel costs for attending safety training courses.

ANNUAL TRAVEL COST TO ATTEND THE TRAINING

Personnel required to travel to attend training	Number of personnel	Travel cost per person	Total annual travel cost
Lower Bound (5%) .....	4	\$4,078	\$18,282
Upper Bound (5%) .....	8	11,694	89,852

Administrative Costs

To comply with the requirements of the final rule, SSOAs and RTAs will incur time to designate appropriate staff for training; seek evaluation for safety training previously taken to ensure compliance with FTA requirements; keep records of training completed and ensure certification. The total annual costs of these activities are estimated to be \$212,735. The same cost estimate is applied to the lower and upper bound, although the cost would be higher for the lower bound since the course evaluation will not be needed if all personnel attend the new training, as assumed for the upper bound estimates.

administering the coursework for the PTSCPT. First, we reviewed the course catalog for TSI and determined the percentage of courses required by the PTSCPT of the total courses offered—a little more than one-fourth (six courses plus three online courses out of 21 total courses or about 29 percent) of the total course offerings would be required of the combined TSSP/SMS training under this rule. Furthermore, of the total days of coursework offered by TSI, 30 percent were attributable to the TSSP/SMS coursework. To be conservative, we used a 30 percent weighting for allocating fixed costs and allocated full costs where we were able to identify costs resulting from the TSSP and/or SMS training components. Using data from FTA's budget for TSI, the cost for

the administration of courses, contract costs, and costs for the development of new coursework, we developed the program costs. We factored no facility costs as regional transit agencies or FTA Regional Offices host courses. Lastly, no tuition fees are associated with taking the coursework for public agency employees, other than a small fee for course materials.

The total cost for FTA to deliver the courses required under PTSTCP was about \$1.4 million. However, since the TSSP training was previously provided prior to MAP-21, this cost is excluded from estimating the incremental cost of this rule. SMS training courses have been more recently developed to support safety goals, thus that is the only cost included here.

TSI PROGRAM COSTS ASSOCIATED WITH TSSP AND SMS COURSEWORK

Contract Services .....	\$211,600
Equipment, Supplies, Other* .....	33,291
Travel (Other than Course Delivery)* .....	7,886
Course Delivery .....	186,744
Indirect at 19% .....	106,332
<b>Total Program .....</b>	<b>665,974</b>

\* Weighted Cost Allocation.

The total annual cost of providing the SMS training is estimated to be \$665,974 per year. Table below shows

the total annual cost of the final rule over the first three years.

TOTAL ANNUAL COSTS FOR THE PTSCTP OVER A 3 YEAR CERTIFICATION PERIOD

	SSOA and RTA costs	TSI costs	Total costs
Aggregate COSTS MIN .....	\$486,191	\$665,974	\$1,152,166
Aggregate COSTS MAX .....	2,198,743	665,974	2,864,717

After completing the required training over the three-year period, RTA staff are required to complete an hour of refresher training every two years. These costs will incur beyond the three-year period discussed above. Similarly, any new personnel joining the agencies would be required to complete the training. To estimate the cost of training for the new staff, we used the rate of separations published in the U.S. Bureau of Labor Statistics monthly report, Job Opening and Labor Turnover. Using the rate of separation (quits, layoffs and discharges) of 1.8 percent for State and local government employees, excluding education, over the period September 2016 to September 2017, we estimated the number of staff requiring training after the third year. The annual cost of the refresher training and the new personnel is about \$34,000 for the minimum case and \$83,000 for the maximum case beyond the first three years. Using a ten year period of analysis, the total present value cost of the final rule is \$8.4 million at 7 percent discount rate for the minimum case scenario and \$3.4 million at 7 percent discount rate for maximum scenario. At the 7 percent discount rate, the annualized costs are \$0.48 million and \$1.2 million for the minimum and maximum scenario. The annualized cost for the minimum and the maximum case, at 3 percent discount rate is \$0.42 million and \$1.03 million respectively.

Potential Benefits

Since the interim provisions have been in effect for only a short time, we were unable to generate any estimate of their benefits. Thus, to assess the benefits for the PTSCTP, we considered how the training required in this rulemaking could strengthen the State Safety Oversight program, since better trained personnel would be expected to take actions that are likely to lead to decreased safety risks.

While the TSSP has been available for some time, it was an optional certification that many SSOA, rail, and bus safety oversight personnel sought out of self-initiative. With the delineation of a mandatory pool of safety oversight employees, FTA hopes to unify and harmonize the provision of safety-related activities across SSOAs and rail transit agencies. In this way, this pool of employees will gain knowledge to identify and control hazards with the ultimate goal of decreasing incidents. Additionally, FTA expects that the codification of the PTSCTP will help promote a safety culture within the transit industry. This safety culture should help instill a transit agency-wide appreciation for shared goals, shared beliefs, best practices, and positive and vigilant attitudes towards safety.

It may be difficult to quantify the effects of a positive safety culture, as a safety culture will develop over time. Characteristics of a positive safety culture include: Actively seeking out

information on hazards; employee training; information exchanges; and understanding that responsibility for safety is shared. While the returns on investment in training should be fairly quick, establishing, promoting, and increasing safety in an industry that is already very safe is difficult to predict with any certainty.

Comparison of the Cost of the Final Rule With the Interim Provisions

On February 27, 2015, FTA issued a notice of interim safety certification training program provisions for Federal and State Safety Oversight Agency personnel and their contractor support who conduct safety audits and examinations of public transportation systems not otherwise regulated by another Federal agency. The proposed final rule will replace the provisions outlined in the interim notice. The training program outlined in this final rule will eliminate two requirements; the Transit System Security course and the SMS Gap online course. Rail security is not under FTA's authority, so it is not a training requirement mandated by 49 U.S.C. 5329. The SMS Gap course requirement is eliminated because many of the elements of this course are included in the SMS Principles for Transit. This reduces the burden of the final rule compared to the interim provisions enacted in February 2015. The table below shows the annual cost of the Interim Rule and the Final rule.

PUBLIC TRANSPORTATION SAFETY CERTIFICATION TRAINING PROGRAM—HOURS AND COST DECREASE

Training requirements	Interim rule	Final rule	Difference between rules
Safety Management System (SMS) Gap Course (Hours) <sup>3</sup> .....	4 41	39	-2
Transit System Security (TSS) Course (days) <sup>5</sup> .....	140	104	-36
Total .....	181	143	-38
Minimum Case Scenario Present Value Cost (7%) .....	\$3,447,233	\$3,395,753	-\$51,480
Maximum Case Scenario Present Value Cost (7%) .....	\$10,022,279	\$8,436,102	-\$1,586,177
Minimum Case Scenario Mandatory Annualized Cost (7%) .....	\$490,808	\$483,479	-\$7,330
Maximum Case Scenario Annualized Cost ((7%)) .....	\$1,426,947	\$1,201,111	-\$225,836

Over a ten-year period, the final rule reduces the cost of the rule by \$51,480 at the minimum case scenario and \$1.6 million at the maximum case scenario using a discount rate of 7 percent. The annualized cost reductions of the final rule are \$7,330 for the minimum case and \$225,836 for the maximum case, using a 7 percent discount rate, resulting in a net benefit for the training participants. The reduced training requirements will not hinder the effectiveness of the safety training program since the participants will receive much of the relevant content through other courses or by other requirements, not covered under this rule certification requirements.

**V. Regulatory Analyses and Notices**

*Regulatory Flexibility Act and Executive Order 13272*

This rule was developed in accordance with Executive Order 13272 (Proper Consideration of Small Entities in Agency rulemaking) and DOT’s policies and procedures to promote compliance with the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) which requires an agency to review regulations to assess the impact on small entities. In compliance with the Regulatory Flexibility Act, FTA has evaluated the likely effects of the

proposals set forth in this rule on small entities. This rule will apply to recipients of public transportation grants under 49 U.S.C. Chapter 53. Section 5329(e)(6) permits recipients of rural and urbanized area formula funds to use Federal funds to cover up to 80 percent of the PTSCPT costs. Additionally, FTA believes many of the PTSCPT participants will be eligible to receive credit for prior safety training which will further reduce the cost and impact associated with this rulemaking. For these reasons, FTA certifies that this action will not have a significant economic impact on a substantial number of small entities.

*Executive Order 12866 (Regulatory Planning and Review), Executive Order 13563 (Improving Regulation and Regulatory Review), and DOT Regulatory Policies and Procedures*

Executive Orders 12866 and 13563 direct Federal agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits—including potential economic, environmental, public health and safety effects, distributive impacts, and equity. Executive Order 13563 emphasizes the importance of quantifying both costs

and benefits, reducing costs, harmonizing rules, and promoting flexibility.

FTA has determined this rulemaking is not a significant regulatory action within the meaning of Executive Order 12866, Executive Order 13563, and the U.S. Department of Transportation’s regulatory policies and procedures (DOT Order 2100.5 dated May 22, 1980, 44 FR 11034, Feb. 26, 1979). FTA has determined that this rulemaking is not economically significant. The proposals set forth in this rulemaking will not result in an effect on the economy of \$100 million or more. The requirements set forth in the rulemaking will not adversely affect the economy, interfere with actions taken or planned by other agencies, or generally alter the budgetary impact of any entitlements, grants, user fees, or loan programs.

*Executive Order 13771*

As indicated in the cost-benefit analysis above and the summary chart below, this final rule is considered an Executive Order 13771 deregulatory action because it reduces the cost of complying with FTA’s Interim Safety Certification and Training Program (interim program) requirements promulgated in accordance with 49 U.S.C. 5329(c)(2) (see 80 FR 10619).

Training requirements	Interim rule	Final rule	Difference between rules
Safety Management System (SMS) Course (Hours) <sup>6</sup> .....	741	39	-2
Transit Safety and Security (TSS) Course (days) <sup>8</sup> .....	140	104	-36
Total .....	181	143	-38
Minimum Case Scenario Present Value Cost (7%) .....	\$3,447,233	\$3,395,753	-\$51,480
Maximum Case Scenario Present Value Cost (7%) .....	\$10,022,279	\$8,436,102	-\$1,586,177
Minimum Case Scenario Mandatory Annualized Cost (7%) .....	\$490,808	\$483,479	-\$7,330
Maximum Case Scenario Annualized Cost ((7%)) .....	\$1,426,947	\$1,201,111	-\$225,836

*Unfunded Mandates Reform Act of 1995*

This rulemaking would not impose unfunded mandates as defined by the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4, March 22, 1995, 109 Stat. 48). The cost of training to comply with this rule is an eligible expenditure of Federal financial assistance provided to recipients under 49 U.S.C. Chapter 53. This rulemaking will not result in the expenditure by State, local, and tribal governments, in the aggregate, or

by the private sector, of \$155 million or more in any one year.

*Executive Order 12372 (Intergovernmental Review)*

The regulations effectuating Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities were applied during this rulemaking.

*Executive Order 13132 (Federalism)*

This rulemaking has been analyzed in accordance with the principles and criteria established by Executive Order 13132, and FTA has determined that this rulemaking would not have sufficient Federalism implications to warrant the preparation of a Federalism assessment. FTA has also concluded that this rulemaking would not preempt any State law or State regulation or affect the States’ abilities to discharge

<sup>3</sup> FTA eliminated the “SMS Gap” course as part of the mandatory curriculum for the final rule since the “SMS Principles for Transit” course includes similar objectives.

<sup>4</sup> The number of hours of training for the SMS Principles for Rail Transit course (“SMS Principles for Transit” in final rule) was incorrectly cited in the interim rule as 16 hours instead of 20 hours, this has been corrected in the final rule.

<sup>5</sup> Based on public comment FTA eliminated the TSS course as part of the mandatory curriculum for the final rule.

<sup>6</sup> FTA eliminated the “SMS Gap” course as part of the mandatory curriculum for the final rule since the “SMS Principles for Transit” course includes similar objectives.

<sup>7</sup> The number of hours of training for the SMS Principles for Rail Transit course (“SMS Principles for Transit” in final rule) was incorrectly cited in the interim rule as 16 hours instead of 20 hours, this has been corrected in the final rule.

<sup>8</sup> Based on public comment FTA eliminated the TSS course as part of the mandatory curriculum for the final rule.

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 OMB regulation at 5 CFR 1320.8(d), FTA is seeking approval from OMB for the Information Collection Request abstracted below. In order to comply with the requirements to implement the PTSCTP in accordance with 49 U.S.C. 5329(c)(1), this rulemaking requires recipients to provide information to FTA regarding the participation of their respective designated personnel as abstracted below. Designated personnel would provide enrollment information, periodically update compliance with PTSCTP training requirements, and where applicable, submit supporting documentation of prior training for credit towards PTSCTP training requirements. All recipients of mandatory PTSCTP requirements would annually certify compliance with the PTSCTP requirements. Additionally, SSOAs would be required to develop annual technical training plans for FTA approval. The plans would support the SSOA requirement to demonstrate that applicable SSOA personnel are qualified to perform safety audits and examinations.

The information collection would be different for each type of recipient (Federal government personnel, Federal contractors, SSOAs and their contractors, and rail transit agencies). Therefore, the paperwork burden would vary. For example, the burden on SSOAs would be proportionate to the number of rail transit agencies within that State, and the size and complexity of those rail transit systems. This would affect the number of personnel designated for participation. FTA proposes to bear the cost associated with the development and maintenance of the website.

*Type of Review:* OMB Clearance. New information collection request.

*Respondents:* Currently there are 30 States with 60 rail fixed guideway public transportation systems in engineering, construction, and operations. The PRA estimate is based on participation in the PTSCTP by a total of 30 States and 60 rail transit agencies. In addition, we estimate participation by 35–45 SSOA contractors and approximately 30 Federal personnel and contractors.

*Frequency:* Information will be collected through the website on an ongoing basis throughout the year. Participants must complete training requirements within 3 years and

refresher training every 2 years. Certification of compliance will be required annually.

*Estimated Total Annual Burden Hours:* In the first year of the program, we estimate a total burden of between 5,209 (minimum) and 5,909 (maximum) hours, depending on how many individuals are required to participate. Annually, each SSOA would devote between 88–91 hours to information collection activities including the development and submission of training plans to FTA. SSOA contractors would devote approximately 140–180 hours to information collection activities. These activities would have a combined total of 2,780–2,920 hours, depending on how many individuals are required to participate. The mandatory participants affected by 49 U.S.C. 5329(c)(1) and today’s rulemaking include 60 rail fixed guideway public transportation systems which would spend an estimated annual total of between 2,060 (minimum) and 2,620 (maximum) hours on information collection activities in the first year, or approximately 34–44 hours each. Finally, FTA is expected to expend approximately 249 hours in furtherance of the PTSCTP in the first year, and Federal contractors will spend an estimated four (4) hours each, for a combined total of approximately 369 hours in the first year. For this rule, OMB has issued control number 2132–0578.

#### *National Environmental Policy Act*

The National Environmental Policy Act of 1969 (42 U.S.C. 4321, *et seq.*) requires Federal agencies to analyze the potential environmental effects of their proposed actions in the form of a categorical exclusion, environmental assessment, or environmental impact statement. This rulemaking is categorically excluded under FTA’s environmental impact procedure at 23 CFR 771.118(c)(4), pertaining to planning and administrative activities that do not involve or lead directly to construction, such as the promulgation of rules, regulations, and directives. FTA has determined that no unusual circumstances exist in this instance, and that a categorical exclusion is appropriate for this rulemaking.

#### *Executive Order 12630 (Taking of Private Property)*

This rulemaking will not affect a taking of private property or otherwise have taking implications under Executive Order 12630.

#### *Executive Order 12898 (Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations)*

Executive Order 12898 directs every Federal agency to make environmental justice part of its mission by identifying and addressing the effects of all programs, policies, and activities on minority populations and low-income populations. The USDOT environmental justice initiatives accomplish this goal by involving the potentially affected public in developing transportation projects that fit harmoniously within their communities without compromising safety or mobility. Additionally, FTA has issued a program circular addressing environmental justice in public transportation, C 4703.1, *Environmental Justice Policy Guidance for Federal Transit Administration Recipients*. This circular provides a framework for FTA grantees as they integrate principles of environmental justice into their transit decision-making processes. The Circular includes recommendations for State Departments of Transportation, Metropolitan Planning Organizations, and public transportation systems on (1) How to fully engage environmental justice populations in the transportation decision-making process; (2) How to determine whether environmental justice populations would be subjected to disproportionately high and adverse human health or environmental effects of a public transportation project, policy, or activity; and (3) How to avoid, minimize, or mitigate these effects.

#### *Executive Order 12988 (Civil Justice Reform)*

This action meets the applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988 to minimize litigation, eliminate ambiguity, and reduce burden.

#### *Executive Order 13045 (Protection of Children)*

FTA has analyzed this rulemaking under Executive Order 13045. FTA certifies that this rule will not cause an environmental risk to health or safety that may disproportionately affect children.

#### *Executive Order 13175 (Tribal Consultation)*

FTA has analyzed this rulemaking under Executive Order 13175 and finds that the action will not have substantial direct effects on one or more Indian tribes; will not impose substantial direct compliance costs on Indian tribal governments; will not preempt tribal laws; and will not impose any new

consultation requirements on Indian tribal governments. Therefore, a tribal summary impact statement is not required.

*Executive Order 13211 (Energy Effects)*

FTA has analyzed this rulemaking under Executive Order 13211 and has determined that this action is not a significant energy action under the Executive Order, given that the action 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*

In accordance with 5 U.S.C. 553(c), U.S. DOT solicits comments from the public to better inform its rulemaking process. U.S. DOT posts these comments, without edit, including any personal information the commenter provides, to [www.regulations.gov](http://www.regulations.gov), as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at [www.dot.gov/privacy](http://www.dot.gov/privacy).

*Statutory/Legal Authority for This Rulemaking*

This rulemaking is issued under the authority of 49 U.S.C. 5329(c)(1) as amended, which requires the Secretary of Transportation to prescribe a public transportation safety certification training program for Federal and State employees, and other designated personnel, who conduct safety audits and examinations of public transportation systems and employees of public transportation agencies directly responsible for safety oversight. The Secretary is authorized to issue regulations to carry out the general provisions of this statutory requirement pursuant to 49 U.S.C. 5329(f)(7).

*Regulation Identification Number*

A regulation identification 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 set forth in the heading can be used to cross-reference this action with the Unified Agenda.

**List of Subjects in 49 CFR Part 672**

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

**K. Jane Williams,**

*Acting Administrator.*

■ For the reasons set forth in the preamble, and under the authority of 49 U.S.C. 5329(c), 5329(f), and the

delegation of authority at 49 CFR 1.91, FTA hereby amends Chapter VI of Title 49, Code of Federal Regulations, by adding part 672 to read as follows:

**PART 672—PUBLIC TRANSPORTATION SAFETY CERTIFICATION TRAINING PROGRAM**

**Subpart A—General Provisions**

Sec.

- 672.1 Purpose.  
672.3 Scope and applicability.  
672.5 Definitions.

**Subpart B—Training Requirements**

- 672.11 Designated personnel who conduct safety audits and examinations.  
672.13 Designated personnel of public transportation agencies.  
672.15 Evaluation of prior certification and training.

**Subpart C—Administrative Requirements**

- 672.21 Records.  
672.23 Availability of records.

**Subpart D—Compliance and Certification Requirements**

- 672.31 Requirement to certify compliance.  
Appendix A to Part 672—Public Transportation Safety Certification Training Program

**Authority:** 49 U.S.C. 5329(c) and (f), and 49 CFR 1.91.

**Subpart A—General Provisions**

**§ 672.1 Purpose.**

(a) This part implements a uniform safety certification training curriculum and requirements to enhance the technical proficiency of individuals who conduct safety audits and examinations of public transportation systems operated by public transportation agencies and those who are directly responsible for safety oversight of public transportation agencies.

(b) This part does not preempt any safety certification training requirements required by a State for public transportation agencies within its jurisdiction.

**§ 672.3 Scope and applicability.**

(a) In general, this part applies to all recipients of Federal financial assistance under 49 U.S.C. chapter 53.

(b) The mandatory requirements of this part will apply only to State Safety Oversight Agency personnel and contractors that conduct safety audits and examinations of rail fixed guideway public transportation systems, and designated personnel and contractors who are directly responsible for the safety oversight of a recipient's rail fixed guideway public transportation systems.

(c) Other FTA recipients may participate voluntarily in accordance with this part.

**§ 672.5 Definitions.**

As used in this part:

*Administrator* means the Federal Transit Administrator or the Administrator's designee.

*Contractor* means an entity that performs tasks on behalf of FTA, a State Safety Oversight Agency, or public transportation agency through contract or other agreement.

*Designated personnel* means:

(1) Employees and contractors identified by a recipient whose job function is directly responsible for safety oversight of the public transportation system of the public transportation agency; or

(2) Employees and contractors of a State Safety Oversight Agency whose job function requires them to conduct safety audits and examinations of the rail fixed guideway public transportation systems subject to the jurisdiction of the agency.

*Directly responsible for safety oversight* means public transportation agency personnel whose primary job function includes the development, implementation and review of the agency's safety plan, and/or the SSOA requirements for the rail fixed guideway public transportation system pursuant to 49 CFR parts 659 or 674.

*Examination* means a process for gathering or analyzing facts or information related to the safety of a public transportation system.

*FTA* means the Federal Transit Administration.

*Public transportation agency* means an entity that provides public transportation service as defined in 49 U.S.C. 5302 and that has one or more modes of service not subject to the safety oversight requirements of another Federal agency.

*Rail fixed guideway public transportation system* means any fixed guideway system as defined in § 674.7 of this chapter.

*Recipient* means a State or local governmental authority, or any other operator of a public transportation system receiving financial assistance under 49 U.S.C. chapter 53.

*Safety audit* means a review or analysis of safety records and related materials, including, but not limited to, those related to financial accounts.

*State* means a State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, Guam, American Samoa, and the Virgin Islands.

*State Safety Oversight Agency (SSOA)* means an agency established by a State



that meets the requirements and performs the functions specified by 49 U.S.C. 5329(e) and the regulations set forth in 49 CFR parts 659 and 674.

#### Subpart B—Training Requirements

##### § 672.11 Designated personnel who conduct safety audits and examinations.

(a) Each SSOA shall designate its personnel and contractors who conduct safety audits and examinations of public transportation systems, including appropriate managers and supervisors of such personnel, that must comply with the applicable training requirements of Appendix A to this part.

(b) Designated personnel shall complete applicable training requirements of this part within three (3) years of their initial designation. Thereafter, refresher training shall be completed every two (2) years. The SSOA shall determine refresher training requirements which must include, at a minimum, one (1) hour of safety oversight training.

##### § 672.13 Designated personnel of public transportation agencies.

(a) Each recipient that operates a rail fixed guideway public transportation system shall designate its personnel and contractors who are directly responsible for safety oversight and ensure their compliance with the applicable training requirements set forth in Appendix A to this part.

(b) Each recipient that operates a bus or other public transportation system not subject to the safety oversight of another Federal agency may designate its personnel who are directly responsible for safety oversight to participate in the applicable training requirements as set forth in Appendix A to this part.

(c) Personnel designated under paragraph (a) of this section shall complete applicable training requirements of this part within three (3) years of their initial designation. Thereafter, refresher training shall be completed every two (2) years. The recipient shall determine refresher training requirements which must include, at a minimum, one (1) hour of safety oversight training.

##### § 672.15 Evaluation of prior certification and training.

(a) Designated personnel subject to this part may request that FTA evaluate safety training or certification previously obtained from another entity to determine if the training satisfies an applicable training requirement of this part.

(b) Designated personnel must provide FTA with an official transcript

or certificate of the training, a description of the curriculum and competencies obtained, and a brief statement detailing how the training or certification satisfies the applicable requirements of this part.

(c) FTA will evaluate the submission and determine if a training requirement of this part may be waived. If a waiver is granted, designated personnel are responsible for completing all other applicable requirements of this part.

#### Subpart C—Administrative Requirements.

##### § 672.21 Records.

(a) *General requirement.* Each recipient shall ensure that its designated personnel are enrolled in the PTSCTP. Each recipient shall ensure that designated personnel update their individual training record as he or she completes the applicable training requirements of this part.

(b) *SSOA requirement.* Each SSOA shall retain a record of the technical training completed by its designated personnel in accordance with the technical training requirements of Appendix A to this part. Such records shall be retained by the SSOA for at least five (5) years from the date the record is created.

##### § 672.23 Availability of records.

(a) Except as required by law, or expressly authorized or required by this part, a recipient may not release information pertaining to designated personnel that is required by this part without the written consent of the designated personnel.

(b) Designated personnel are entitled, upon written request to the recipient, to obtain copies of any records pertaining to his or her training required by this part. The recipient shall promptly provide the records requested by designated personnel and access shall not be contingent upon the recipient's receipt of payment for the production of such records.

(c) A recipient shall permit access to all facilities utilized and records compiled in accordance with the requirements of this part to the Secretary of Transportation, the Federal Transit Administration, or any State agency with jurisdiction over public transportation safety oversight of the recipient.

(d) When requested by the National Transportation Safety Board as part of an accident investigation, a recipient shall disclose information related to the training of designated personnel.

#### Subpart D—Compliance and Certification Requirements

##### § 672.31 Requirement to certify compliance.

(a) A recipient of FTA financial assistance described in § 672.3(b) shall annually certify compliance with this part in accordance with FTA's procedures for annual grant certification and assurances.

(b) A certification must be authorized by the recipient's governing board or other authorizing official, and must be signed by a party specifically authorized to do so.

#### Appendix A to Part 672—Public Transportation Safety Certification Training Program

##### A. Required Curriculum Over a Three-Year Period

(1) *FTA/SSOA personnel and contractor support, and public transportation agency personnel with direct responsibility for safety oversight of rail fixed guideway public transportation systems:*

(a) One (1) hour course on SMS Awareness—e-learning delivery (all required participants)

(b) Two (2) hour courses on Safety Assurance—e-learning delivery (all required participants)

(c) Twenty (20) hours on SMS Principles for Transit (all required participants)

(d) Sixteen (16) hours on SMS Principles for SSO Programs (FTA/SSOA/contractor support personnel only)

(e) TSSP curriculum (minus Transit System Security (TSS) course) (all required participants—credit will be provided if participant has a Course Completion Certificate of previously taken TSSP courses)

(i) Rail System Safety (36 hours)

(ii) Effectively Managing Transit Emergencies (32 hours)

(iii) Rail Incident Investigation (36 hours)

(2) *FTA/SSOA/contractor support personnel (technical training component):*

(a) Each SSOA shall develop a technical training plan for designated personnel and contractor support personnel who perform safety audits and examinations. The SSOA will submit its proposed technical training plan to FTA for review and evaluation as part of the SSOA certification program in accordance with 49 U.S.C. 5329(e)(7). This review and approval process will support the consultation required between FTA and SSOAs regarding the staffing and qualification of the SSOAs' employees and other designated personnel in accordance with 49 U.S.C. 5329(e)(3)(D).

(b) Recognizing that each rail fixed guideway public transportation system has unique characteristics, each SSOA will identify the tasks related to inspections, examinations, and audits, and all activities requiring sign-off, which must be performed by the SSOA to carry out its safety oversight requirements, and identify the skills and knowledge necessary to perform each task at that system. At a minimum, the technical training plan will describe the process for

receiving technical training in the following competency areas appropriate to the specific rail fixed guideway public transportation system(s) for which safety audits and examinations are conducted:

- (i) Agency organizational structure
- (ii) System Safety Program Plan and Security Program Plan
- (iii) Knowledge of agency:
  - (I) Territory and revenue service schedules
  - (II) Current bulletins, general orders, and other associated directives that ensure safe operations
  - (III) Operations and maintenance rule books
  - (IV) Safety rules
  - (V) Standard Operating Procedures
  - (VI) Roadway Worker Protection
  - (VII) Employee Hours of Service and Fatigue Management program
  - (VIII) Employee Observation and Testing Program (Efficiency Testing)
  - (IX) Employee training and certification requirements
  - (X) Vehicle inspection and maintenance programs, schedules and records
  - (XI) Track inspection and maintenance programs, schedules and records
  - (XII) Tunnels, bridges, and other structures inspection and maintenance programs, schedules and records
  - (XIII) Traction power (substation, overhead catenary system, and third rail), load dispatching, inspection and maintenance programs, schedules and records
  - (XIV) Signal and train control inspection and maintenance programs, schedules and records
- (c) The SSOA will determine the length of time for the technical training based on the skill level of the designated personnel relative to the applicable rail transit agency(s). FTA will provide a template as requested to assist the SSOA with preparing and monitoring its technical training plan

and will provide technical assistance as requested. Each SSOA technical training plan that is submitted to FTA for review will:

- (i) Require designated personnel to successfully:
  - (I) Complete training that covers the skills and knowledge needed to effectively perform the tasks.
  - (II) Pass a written and/or oral examination covering the skills and knowledge required for the designated personnel to effectively perform his or her tasks.
  - (III) Demonstrate hands-on capability to perform his or her tasks to the satisfaction of the appropriate SSOA supervisor or designated instructor.
- (ii) Establish equivalencies or written and oral examinations to allow designated personnel to demonstrate that they possess the skill and qualification required to perform their tasks.
  - (iii) Require biennial refresher training to maintain technical skills and abilities which includes classroom and hands-on training, as well as testing. Observation and evaluation of actual performance of duties may be used to meet the hands-on portion of this requirement, provided that such testing is documented.
  - (iv) Require that training records be maintained to demonstrate the current qualification status of designated personnel assigned to carry out the oversight program. Records may be maintained either electronically or in writing and must be provided to FTA upon request.
  - (v) Records must include the following information concerning each designated personnel:
    - (I) Name;
    - (II) The title and date each training course was completed and the proficiency test score(s) where applicable;
    - (III) The content of each training course successfully completed;

(IV) A description of the designated personnel's hands-on performance applying the skills and knowledge required to perform the tasks that the employee will be responsible for performing and the factual basis supporting the determination;

(V) The tasks the designated personnel are deemed qualified to perform; and

(VI) Provide the date that the designated personnel's status as qualified to perform the tasks expires, and the date in which biennial refresher training is due.

(vi) Ensure the qualification of contractors performing oversight activities. SSOAs may use demonstrations, previous training and education, and written and oral examinations to determine if contractors possess the skill and qualification required to perform their tasks.

(vii) Periodically assess the effectiveness of the technical training. One method of validation and assessment could be through the use of efficiency tests or periodic review of employee performance.

#### **B. Voluntary Curriculum**

*Bus transit system personnel with direct safety oversight responsibility and State DOTs overseeing safety programs for subrecipients:*

- (a) SMS Awareness—e-learning delivery
- (b) Safety Assurance—e-learning delivery
- (c) SMS Principles for Transit
- (d) Courses offered through the TSSP Certificate (Bus)
  - i. Effectively Managing Transit Emergencies
  - ii. Transit Bus System Safety
  - iii. Fundamentals of Bus Collision Investigation

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