

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

49 CFR Chapter VI

[Docket No. FTA-2014-0012]

RIN: 2132-ZA02

Interim Safety Certification Training Program Provisions

Agency: Federal Transit Administration (FTA), DOT.

Action: Notice of Final Interim Safety Certification Training Provisions.

SUMMARY: This document announces interim safety certification training 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. This document also announces interim safety certification training provisions for public transportation agency personnel who are directly responsible for safety oversight of public transportation systems that receive Federal transit funding. Additionally, the document outlines voluntary, scalable training available to personnel of State Departments of Transportation and personnel directly responsible for safety oversight of urban and rural bus transit systems.

DATES: The interim provisions are effective [INSERT DATE 90 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

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I. Overview

On October 1, 2012, the Moving Ahead for Progress in the 21st Century Act (MAP-21) (Pub. L. 112-141) authorized the Federal Transit Administration (FTA) to develop interim safety certification training provisions (interim program) for: 1) FTA and State agency personnel and their contractor support who conduct safety audits and examinations of public transportation systems; and 2) public transportation agency

personnel who are directly responsible for safety oversight. A notification announcing FTA's proposed implementation of the interim program and request for comments was published in the Federal Register on April 30, 2014. (See 79 FR 24363).

In that document, FTA stated that the focus of the interim program would be directed primarily towards requirements for Federal and State Safety Oversight Agency (SSOA) personnel and their contractor support while designated safety oversight personnel of both rail and non-rail transit agencies that receive FTA funding would be voluntary participants. FTA received comments from nineteen entities regarding its proposed implementation of the interim program. This document addresses comments received and explains changes FTA has made to implement the interim program in response to those comments.

Summary of changes to the proposed interim program

The primary focus for the interim program remains on the training requirements for Federal personnel and their contractor support who conduct safety audits and examinations of public transportation systems, and SSOA personnel and their contractor support who conduct safety audits and examinations of rail transit systems. However, as recommended by commenters, FTA is expanding the interim program pursuant to 49 U.S.C. 5329(c)(2), to also require rail transit agency employees who are directly responsible for safety oversight as mandatory instead of voluntary participants. Compliance with the interim program will remain a grant condition for applicable recipients of Federal transit funding.

Additionally, as a result of comments received, FTA has revised the interim program to recognize the experience and training of those safety professionals who have

already completed the curriculum for the Transit Safety Security Program (TSSP) certificate program. These participants will only be required to complete specific Safety Management System (SMS) courses and applicable technical training in accordance with section V of this document. For those who have not yet completed the TSSP program, FTA is updating the curriculum to include an emphasis on SMS tools and techniques to promote the development, implementation and oversight of SMS safety policies, risk management, safety assurance, and safety promotion programs and initiatives. The revised curriculum will continue to support the requirements of 49 CFR part 659, by also providing for organization-wide safety policy, formal methods of identifying hazards and controlling their potential consequences, continual assessment of safety risk, and an effective employee safety reporting system.

Recognizing that safety enhancement and promotion is of universal interest to the public transportation industry, FTA continues to encourage recipients with both bus and rail transit systems, as well as bus-only systems, to *voluntarily* participate in appropriate components of the interim provisions and to continue to avail themselves of FTA-sponsored voluntary bus safety training programs.

As a reminder, pursuant to 49 U.S.C. 5329(c)(1), FTA will establish the permanent Public Transportation Safety Certification Training Program (PTSCTP) through the rulemaking process. To that end, FTA issued an Advance Notice of Proposed Rulemaking (ANPRM) on all aspects of FTA's safety authority, including the training program, which was published in the **Federal Register** on October 3, 2013. (78 FR 61251, available at: <http://www.gpo.gov/fdsys/pkg/FR-2013-10-03/pdf/2013->

[23921.pdf](#)). FTA is reviewing the comments received on the ANPRM and is developing, among other proposals, a notice of proposed rulemaking for the PTSCTP.

Until the PTSCTP final rule is promulgated, the interim program will be in effect. In the meantime, FTA periodically may revise the interim program following an opportunity for public notice and comment.

II. Public Comments on the Proposed Interim Safety Certification Training Provisions and FTA's Response

On April 30, 2014, FTA published a Federal Register document requesting public comment on its proposed implementation of the interim safety certification training provisions of MAP-21 (*see* 79 FR 24363). FTA received comments from nineteen entities, including trade associations, State Departments of Transportation (State DOTs) public transportation providers, and individuals. This document addresses the comments received and discusses changes FTA has made to the interim safety certification training provisions in response to public comments.

FTA initially proposed that the interim program contain distinct mandatory and voluntary components. Each mandatory participant was to complete a series of training on SMS principles, tools and techniques. The proposed curriculum for the interim program would be organized around a series of competencies and basic skills that supported training gaps indicated through a review of National Transportation Safety Board (NTSB) accident investigations, SSOA audits, FTA's Program Oversight reviews, annual reports submitted by SSOAs, FTA's National Transit Database (NTD) assessments and special studies.

In addition, FTA proposed that Federal and SSOA personnel and their respective contractor support would be required to develop technical training plans to address the competency areas specific to the rail transit system(s) for which they exercised safety oversight responsibility (e.g., track inspections, safety systems and technologies, traction power, etc.). FTA proposed that both voluntary and mandatory participants would be able to complete the interim program requirements, on average within three years from initial enrollment, and annual recertification thereafter. Relative to cost, FTA noted that a majority of the cost to participate in the proposed interim program would be an eligible expenditure of Federal financial assistance provided under sections 5307, 5311, and 5329 grants.

Below are the questions FTA posed for public comment in the Federal Register document, the public's response to those questions, and FTA's response and revisions to the interim program as a result of the public comments:

1. Are there existing safety certification programs other than those described in this document that FTA should consider for personnel with direct safety oversight of transit systems?

Fourteen entities responded to this question noting the existence of other safety certification programs that address SMS principles that FTA should consider. Specific reference was made to the National Safety Council, World Safety Organization, Transportation Safety Institute, the American Society of Safety Engineers, Board of Certified Safety Professionals, National Association of Safety Professionals, Federal

Railroad Administration (FRA), NTSB, vehicle manufacturer training and certification programs, and safety classes offered through colleges, universities, and technical schools.

Commenters recommended that FTA provide ‘transfer credit’ for those who have completed the appropriate certification requirements from these or similar programs. Some commenters indicated that FTA’s proposed implementation was unreasonable because it did not leverage the existing TSSP Certificate program. They noted that over 700 transit industry personnel have received certificates through the TSSP program. These commenters indicated that the TSSP curriculum already covers a significant number of the competencies that FTA listed in the Appendix to the Federal Register document.

FTA Response: Upon further review and evaluation of existing FTA-sponsored safety training, FTA concurs with the commenters who recommended that FTA leverage its existing TSSP Certificate programs for the interim program. To that end, FTA is revising the interim safety certification training provisions to include credit for those safety professionals who already have completed the requirements for a TSSP Certificate. These participants will need only complete the supplemental SMS courses noted in Section V of this document within three years of the effective date of the interim program. In addition, SSOA personnel and their respective contractor support will be required to complete the technical training requirement.

FTA also agrees that the existing TSSP Certificate curriculum should be revised to incorporate the SMS principles FTA has adopted, rather than FTA creating an entirely new curriculum for the interim program. Thus, the training required for participants who

have not completed TSSP Certificate training will be very similar to the current TSSP Certificate curriculum, except that the curriculum will be modified to also include SMS principles. These participants would also need to complete the applicable technical training. Similarly, safety professionals who have begun, but not yet completed, the requirements for a TSSP certificate only will need to complete the remaining revised TSSP courses and the supplemental SMS courses noted in Section V. As with the current TSSP program, the revised TSSP program and the additional courses may be completed within three years of the date of enrollment in the TSSP Certificate program.

Although commenters identified other non-FTA-sponsored SMS safety certification training programs for consideration, at this time FTA will not evaluate non-FTA-sponsored training for credit under the interim program. Credit for this type of training will be evaluated for consideration as FTA develops requirements for the proposed rule for the PTSCTP. However, as recommended by commenters, SSOAs will be able to include non-FTA-sponsored technical training as part of the technical training plan they will provide to FTA for evaluation as discussed in Section V of this document.

2. How should FTA consider such additional training and certification programs in finalizing the interim provisions?

Twelve of the fourteen entities who commented on this question indicated that FTA should allow experienced personnel who have already completed safety training requirements to be ‘grandfathered’ from the requirements of the interim program and receive credit for their certifications and experience. A few commenters noted that some of these safety professionals often are utilized as instructors for FTA-sponsored training.

Two of the commenters indicated that FTA should not attempt to implement the interim program with significantly new and different requirements because SSO programs must continue to comply with 49 CFR part 659 until three years after the final SSOA rule becomes effective.

FTA Response: As noted in the response to Question 1 above, FTA agrees in part that credit for existing safety certification and training should be granted for the interim program. As noted in Section V of this document, FTA has revised the training requirements for all participants who have obtained a TSSP Certificate. However, as stated above, FTA will not evaluate and provide credit for alternative certification programs offered through other non-FTA-sponsored programs. As the final rule for the PTSCTP is developed, FTA will revisit this recommendation.

FTA disagrees with those commenters who suggested that the interim program should not include significantly new and different requirements at this time. FTA recognizes that 49 CFR part 659 remains in effect for the near-term and that the TSSP curriculum for rail certification was developed to support the systems management requirements of part 659. However, the current TSSP curriculum is not fully adaptable to the SMS framework FTA has adopted. FTA believes the revised TSSP curriculum and the SMS training noted in Section V of this document aligns systems management and SMS training while addressing those gaps identified with the current TSSP curriculum.

3. FTA sought comment on the proposal to require Federal and SSOA personnel and their contractor support to participate in the interim program but allow the voluntary

participation of public transportation personnel with direct safety oversight responsibilities.

FTA received comments from eighteen entities regarding this proposal. Five commenters indicated that all public transportation safety personnel with direct oversight responsibility should be required to participate in the interim program. Eleven commenters specifically recommended that personnel directly responsible for safety oversight of rail transit systems should be required to participate in the interim program. Three commenters indicated that personnel directly responsible for bus safety on the State level or rural bus transit systems should not be required participants in the interim program. One of these commenters noted that the bus transit systems operating within its State were small, rural providers that do not have the resources to participate in the proposed voluntary curriculum of the interim program.

A number of the commenters indicated that both SSOA personnel and rail transit personnel should receive the same SMS-centric training. These commenters suggested that if rail transit personnel are not required to participate in the interim program, it could result in disjointed implementation of the SMS safety requirements that FTA is introducing across the rail transit industry. These commenters noted that rail transit agency safety oversight personnel should have a strong understanding of both SMS principles and the technical components of their systems which lead to more effective safety management.

Five commenters also noted that voluntary training requirements for rail transit personnel could result in a lack of participation by these safety partners. They indicated

that voluntary participation could be a disincentive for public transit systems to host such training. Commenters noted that FTA's current training delivery model relies on local public transportation systems to host FTA-sponsored training events and voluntary participation could inadvertently increase the costs associated with the training. Three commenters also noted that joint SSOA and rail transit system participation in the interim program could facilitate cooperative relationships between State regulators and the regulated community.

One commenter suggested that at a minimum, the Chief Safety Officer (or equivalent) of rail transit agencies and their staff should be required to obtain certification. Other commenters indicated that FTA should determine which rail transit personnel should be designated directly responsible for safety oversight, including the chief executive and board of directors. Lastly, one commenter indicated that the interim program should include personnel involved with the design and construction of rail transit systems.

FTA Response: FTA concurs with the commenters who recommended that rail transit system personnel with direct safety oversight responsibility should be required participants in the interim safety certification training program. FTA agrees with those who noted that both SSOA personnel and rail transit system personnel should receive the same or similar training in order to more effectively implement safety management principles. To that end, pursuant to the authority of 49 U.S.C. 5329(c)(2), the interim requirements noted in Section V also will apply to rail transit system personnel who are directly responsible for safety oversight. However, rail transit systems will not be required to submit technical training plans to FTA.

On the other hand, FTA does not concur with the recommendation that FTA should determine which specific persons or positions within a rail transit system should be designated as having direct responsibility for safety oversight. Similar to the designation of safety sensitive personnel noted in the FTA Drug and Alcohol regulations, 49 CFR part 655, FTA believes that each rail transit system is in a better position to determine which of its personnel has direct responsibility for safety oversight. FTA understands that the unique organizational framework of each rail transit system does not allow for uniform designation of the same position or function as having direct responsibility for safety oversight. For this reason, each rail transit system will designate its personnel who are required to participate in the interim program based on the function(s) of their position.

For those commenters who indicated that bus recipients should not be required participants, FTA reiterates that since one of the initial objectives of the interim program is to develop the technical proficiency of rail transit personnel with direct safety oversight responsibility, at this time, non-rail safety oversight personnel are not mandatory participants in the interim program. FTA encourages State DOT personnel and bus transit system personnel who are directly responsible for safety oversight of bus transit systems to voluntarily participate in the interim program. We further emphasize that participation by small rural bus-only transit providers in any component of the interim program will be strictly voluntary. Hence, the scale and level of participation will be left to the discretion of these entities.

In response to the comment to expand required participants to include personnel involved with the design and construction of rail transit operating systems, FTA notes

that MAP-21 does not require their participation in the interim program. Hence, FTA will not require their participation in the interim program.

4. Are there segments of the existing TSSP program that might be utilized to address the gaps and proposed competencies identified by FTA?

FTA received comments from twelve entities on this question. Two commenters indicated that FTA did not present sufficient information in the Federal Register document to support its assertion that gaps exist between the TSSP program and the competencies listed in Appendix A that supported the curriculum for the interim program. Two other commenters noted that FTA has not published MAP-21 regulatory safety requirements; therefore, FTA is not yet able to determine what deficiencies exist. They indicated that FTA had not presented sufficient evidence to warrant significant departure from the current FTA-sponsored training.

Ten of the commenters suggested that FTA take another look at the TSSP curriculum and other FTA-sponsored training before implementing a new and untested training regime. Two of these commenters noted that FTA should wait until it has gained sufficient knowledge and experience, and developed the internal capacity before implementing an extensive new safety certification training program.

One commenter noted that SMS should not replace current FTA-sponsored training which is based in part on Military Standard 882 series, the military's system safety program. Two commenters also noted that the all-hazards training in the TSSP program is complementary to the SMS-framework that FTA wishes to advance through the interim program.

FTA Response: As noted in our response in Questions 1 and 2, FTA concurs with the commenters who indicated that requirements for the interim program should include credit for those who have already completed the requirements for a TSSP Certificate. To that end, as reflected in Section V of this document, FTA has revised the interim program to incorporate this recommendation. We also reiterate that FTA recognizes the benefit of the systems-based all-hazards training of the TSSP Certificate program and will retain those provisions in the TSSP curriculum as it is revised.

Responding to those commenters who indicated FTA has not provided evidence to support the interim program, we note that as stated in the April 30, 2014 Federal Register document, FTA identified training gaps based on review of SSOA audits, FTA program oversight reviews, annual reports submitted by SSOAs, special studies, and FTA's NTD assessments, as well as investigations conducted by the NTSB, and Government Accountability Office reports. FTA continues to find that these references sufficiently document support for the competencies and curriculum developed for the interim program. That review indicated gaps relative to the TSSP curriculum and the SMS framework FTA has adopted for its safety programs. However, based on the recommendation of commenters, FTA reassessed the TSSP Certificate curriculum and agrees with those commenters who noted that it sufficiently reflects a number of SMS principles and should be included in the interim program. To that end, FTA determined that those who have already completed the TSSP Certificate program will be required to complete only the supplemental SMS courses noted in Section V of this document. FTA believes this revised approach to the interim program reasonably responds to those

commenters who indicated that the program, as initially proposed, failed to consider the extensive experience and training already achieved by transit safety professionals.

In response to the commenter who indicated that FTA should not replace the current training program for 49 CFR part 659, which is in part based on the Military Standard 882 series, FTA notes that the revised interim program includes the TSSP Certificate curriculum that was developed to support part 659. Therefore, FTA will proceed with implementing the interim program in accordance with 49 U.S.C. 5329(c)(2).

5. Is it possible to reduce the time commitment or other burdens associated with the proposed interim provisions, while still providing the necessary SMS and technical training? What additional or alternative training should be considered, and why?

FTA received comments from seventeen entities on this question. Many of these commenters recommended that FTA leverage the TSSP Certificate program with web-based SMS training as a more appropriate course of action for implementing interim safety certification training, and include a test-out option for those capable of demonstrating proficiency in the relevant training competencies.

Three commenters noted that FTA should reevaluate the need for 144 hours of SMS-related training that was initially proposed. Other commenters indicated that the three-year timeframe proposed for completing the interim program was impractical based on the timeline between introducing the interim program and implementing the PTSCTP requirements. Three commenters noted that the proposed annual recertification for the interim program would not be realistic and would be an unnecessary administrative

compliance burden. Two of the commenters indicated that FTA should provide more specific information regarding recertification/refresher training.

Several commenters also recommended that FTA develop all of the training and host both technical and classroom training at various rail transit systems across the country. Three commenters suggested that FTA adopt the web-based training model used by the Pipeline and Hazardous Materials Safety Administration (PHMSA).

One commenter suggested that training requirements for rural and tribal bus transit providers should focus on driver training, drug and alcohol compliance, vehicle maintenance and standards, and the outcome data reported to the NTD. Another commenter recommended that FTA use a “train-the-trainer” approach for training delivery as a means of reducing cost and increasing convenience by expanding the availability of training sites. Lastly, other commenters indicated that FTA should cover the costs associated with the interim program.

FTA Response: As noted in Section V of this document, the revised curriculum for the interim program adopts the recommendation to reduce the administrative burden for required participants by providing some of the SMS training in a web-based format. Additionally, FTA will grant credit for those participants who have completed the TSSP Certificate program. This action will reduce the administrative burden associated with achieving certification for personnel who have completed the TSSP program from 144 hours over a three-year period to approximately 36 hours per person across a three-year timeframe. FTA has determined that this reduction will not compromise safety because the targeted safety professionals have already achieved much of the requisite safety

training through the TSSP Certificate program and any gaps relative to SMS principles will be remediated through participation in the SMS training requirements noted in Section V of this document.

FTA recognizes that requiring the participation of rail transit system personnel who are directly responsible for safety oversight increases the number of required participants. However, as noted in the April 30, 2014 Federal Register notification, FTA's records show that over 800 industry personnel have already completed the TSSP Certificate program. As a result, many will only need to complete the supplemental SMS courses and web-based training. FTA believes the revised program strikes an appropriate balance for those experienced professionals who have already received a TSSP Certificate, while providing a solid foundation for new safety oversight professionals who will participate in future FTA-sponsored safety training.

Additionally, FTA concurs with the commenters who indicated that annual refresher training for the interim program would be an unnecessary burden since the PTSCTP rule will likely be in effect by the time most participants have completed the requirements of the interim program. To address this concern, recertification will be required two years after the initial certification instead of one year as initially proposed. FTA continues to find that it is reasonable that the initial requirements of the interim program be completed within a three-year timeframe.

Regarding training delivery, FTA believes its current training delivery model of allowing public transportation systems to host FTA-sponsored training onsite is effective for the transit industry. FTA believes this practice increases participation and provides a

training environment that is relevant to the subject matter. FTA notes that the PHMSA web-based training delivery model cannot fully cross-walk to the training objectives of the interim program because many of the FTA-sponsored courses require in-person delivery. However, FTA recognizes the benefits associated with web-based training and has revised some of the interim program curriculum to include web-based training. As the PTSCTP rule is developed, FTA will look to incorporate additional web-based training where practical.

In response to the recommendation for the focus of rural bus training requirements, FTA notes that the interim program does not preclude any rural or tribal bus transit agency from continuing to focus on the training needs most relevant to its organization. It is important to note that much of this training is already supported through FTA-sponsored programs for bus safety and technical assistance.

FTA also supports the recommendation that the interim program adopt a train-the-trainer process. While it is not feasible to develop and implement a train-the-trainer process for the interim program, FTA will consider this recommendation as the agency develops the proposed rule for the PTSCTP.

With regard to the recommendation that FTA fully fund all costs associated with the interim program, FTA notes that Congress specifically authorized recipients of funds under 49 U.S.C. 5307 and 5311 to use up to 0.5 percent of their Federal formula funds to cover up to 80 percent of the cost of participation by an employee with direct safety oversight responsibility. The FTA ELearning courses are free to public agency staff and the FTA sponsored in-person training charges a small materials fee but does not charge

tuition to public agency staff. In addition, recipients of funds pursuant to 49 U.S.C. 5329 are authorized to use grant funds to pay for up to 80 percent of the cost of participation by an SSOA employee. Therefore, FTA is statutorily precluded from funding more than 80 percent of the cost for participating in the interim program.

6. Is it possible to reduce the time commitment or other burdens associated with the proposed technical training requirements proposed for SSOA personnel and their contractors? Is there additional or alternative technical training that should be considered, and why?

Fifteen entities responded to this question. Seven commenters suggested that FTA develop the technical training component for the interim program instead of the SSOAs. Three commenters recommended that FTA reinstate the annual SSO training conference and workshop which would assist FTA in delivering training to the SSOAs. Another commenter recommended that SSOAs and rail transit agencies form partnerships with other subject matter experts to conduct technical training best suited for their respective systems.

Commenters also suggested that credit should be given for existing training and experience, including allowing credit for technical knowledge gained during audits and review of transit maintenance and inspection activities, and that the SSOA should determine the time required for conducting technical training. One commenter also recommended that FTA provide guidance on the level of proficiency expected for the technical program.

Two commenters requested clarification regarding the training requirements for SSOAs that are responsible for transit systems in multiple jurisdictions. Two other commenters indicated that FTA should take responsibility for determining the appropriate certification requirements for SSOA contractor support with a national certification process. One commenter also noted that the State should be allowed to determine the length of initial and refresher technical training required for its SSOA personnel. Lastly, two commenters suggested that FTA should fund the cost of the interim program beyond the Federal funds provided for under section 5329 grants.

FTA Response: As indicated by a number of commenters, the SSOAs and rail transit systems already are engaged in activities that promote technical training competencies. Based on public comment, FTA has reviewed the proposed process for developing and conducting technical training requirements for the interim program. Recognizing that more enhanced technical training of FTA, SSOA, and rail transit personnel is an objective of MAP-21, FTA continues to believe that technical training should be tailored to the rail transit system(s) under the SSOA's jurisdiction. With that in mind, FTA concurs with commenters who indicated that each SSOA should determine the specific number of hours of initial and refresher technical training that should be performed by its safety oversight personnel and contractor support.

However, FTA does not agree that FTA should develop and deliver the technical training for the interim program. In the April 30, 2014 Federal Register document, FTA identified specific competencies common to rail transit systems. FTA believes each SSOA is in a better position to determine how it plans to train to those competency areas. The SSOA is better situated to determine the specifics of its technical training

requirements based on the characteristics of the rail systems under its jurisdiction. This approach will allow the SSOA and the rail transit system to collaborate on training issues specific to the physical and operational characteristics of the rail systems and to align training plans with the competency areas identified by FTA.

With regard to developing the SSOA training plan, FTA notes that one objective of the technical training plan is to align the technical training with the SSO certification work plans that most States have submitted to FTA as part of the requirements under 49 U.S.C. 5329(e). In the technical training plan, the SSOA will identify how its personnel and contractor support will train to the competencies of the technical training component in Section V of this document. Those SSOA's with rail transit systems in multiple jurisdictions will have the option of developing a consolidated technical training plan or preparing separate plans for each rail transit system. FTA will provide technical assistance to the SSOAs in developing the technical training plan and provide a web-based template to assist with this process.

In addition, FTA concurs with those commenters who indicated that credit should be granted for prior technical training and experience including technical knowledge gained through audits and examinations. FTA also concurs that some of the technical training competencies may be achieved through web-based training. To that end, SSOAs may leverage such training as they develop their technical training plan. FTA also will look to develop technical training courses for e-learning delivery. As these courses come online they can be incorporated in the technical training plan. Also, FTA will consider reconvening the SSOA workshops which could provide opportunities to conduct technical training.

In response to the recommendation that FTA provide a national certification for contractors who support SSOAs with conducting audits and examinations, FTA notes that the SSOA is responsible for ensuring that its contractors are qualified to perform the requirements of their respective contracts. Contractor personnel performing safety audits and examinations for the SSOA will be required to participate in the same interim safety certification training program noted in Section V as SSOA personnel; therefore, no additional certification process is required.

Regarding the issue of FTA funding all costs associated with training for the SSO program, FTA notes that Congress has provided for cost-sharing with the States for section 5329 funding for the SSO program. Specifically, Congress has limited the Government share of funding to 80 percent of the cost; therefore, FTA is precluded from funding all of an SSOA's costs for participating in the interim program.

III. Purpose

The interim safety certification training provisions are designed to advance FTA's proposed adoption of SMS to improve the safety of public transportation. (See FTA Dear Colleague letter dated May 13, 2013, available at:

http://www.fta.dot.gov/newsroom/12910_15391.html). The interim provisions consist of: 1) a required training program promoting SMS and ensuring technical competencies for FTA personnel and contractors who conduct safety audits and examinations and SSOA personnel and contractors who conduct safety audits and examinations of rail transit systems not subject to FRA regulation; 2) a required training program that includes promoting the adoption of SMS for designated rail transit systems employees who are directly responsible for safety oversight; and 3) a voluntary component for

personnel who are directly responsible for safety oversight of non-rail transit systems (e.g., passenger ferry, bus, bus rapid transit, and community transportation providers).

IV. Applicability

Pursuant to 49 U.S.C. 5329(c)(2), the interim safety certification training provisions will apply to the following covered personnel and will be effective until FTA issues a final rule for the PTSCTP:

(1) FTA personnel and contractors who conduct safety audits and examinations of public transportation systems;¹

(2) SSOA personnel and contractors who conduct safety audits and examinations of rail fixed guideway public transportation systems not subject to FRA regulation. In accordance with 49 U.S.C. 5329(e)(3)(E), each SSOA will designate its covered personnel or positions responsible for conducting the applicable safety audits and examinations and identify them in its annual FTA certification reporting requirements;²

(3) Designated employees of recipients with rail transit systems subject to 49 CFR part 659 who are *directly* responsible for safety oversight.³

(a) Each recipient will designate its covered personnel who are *directly* responsible for safety oversight of its rail transit system.

(b) At a minimum, covered personnel should include the Chief Safety Officer and the primary staff directly responsible for safety oversight of the recipient's rail transit system. Directly responsible means safety staff who participate in the

¹ FTA anticipates that this category will include approximately 40 FTA personnel and contractors.

² FTA anticipates that this category will include approximately 70 to 120 SSOA personnel and contractors.

³ FTA anticipates that this category will include approximately 340 rail transit agency personnel.

development, implementation or maintenance of the requirements of the oversight agency's program standard.

(4) The following personnel may *voluntarily* participate in the applicable interim safety certification training provisions:⁴

(a) Personnel employed by recipients of Federal transit funds who are directly responsible for safety oversight of non-rail transit systems (e.g., passenger ferry, bus, bus rapid transit, and community transportation providers); and

(b) Personnel of State DOTs or other State entities that receive Federal transit funds, who are directly responsible for safety oversight of non-rail transit systems such as passenger ferry, bus, bus rapid transit, and community transportation providers.

V. Interim Safety Certification and Training Requirements.

A. Required Curriculum Over a Three-Year Period:

- FTA/SSOA personnel and contractor support, and rail transit agency personnel with direct responsibility for safety oversight of rail transit systems not subject to FRA regulation:
 - One (1) hour course on SMS Awareness – e-learning delivery (all required participants)
 - Two (2) hour course on Safety Assurance – e-learning delivery (all required participants)
 - Two (2) hour SMS Gap course (e-learning for existing TSSP Certificate holders)
 - SMS Principles for Rail Transit (2 days – all required participants)

⁴ FTA anticipates that this will include approximately 2000 personnel.

- SMS Principles for SSO Programs (2 days – FTA/SSOA/contractor support personnel only)
- Revised TSSP with SMS Principles Integration (not required of current TSSP Certificate holders – 17.5 days for all other covered personnel)
 - Rail System Safety
 - Effectively Managing Transit Emergencies
 - Transit System Security
 - Rail Incident Investigation

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

Each SSOA shall develop a technical training plan for covered 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€(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€(3)(D).

SSOA’s should submit their technical training plan to FTA via the following website: safety.fta.dot.gov no later than [INSERT DATE 90 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. FTA will provide technical assistance on a one-on-one basis after the technical training plans are submitted and reviewed.

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 from the rail transit agencies in the following competency areas appropriate to the specific rail fixed guideway system(s) for which safety audits and examinations are conducted:

- Agency organizational structure
- System Safety Program Plan and Security Program Plan
- Knowledge of agency:
 - Territory and revenue service schedules
 - Current bulletins, general orders, and other associated directives that ensure safe operations
 - Operations and maintenance rule books
 - Safety rules
 - Standard Operating Procedures
 - Roadway Worker Protection

- Employee Hours of Service and Fatigue Management program
- Employee Observation and Testing Program (Efficiency Testing)
- Employee training and certification requirements
- Vehicle inspection and maintenance programs, schedules and records
- Track inspection and maintenance programs, schedules and records
- Tunnels, bridges, and other structures inspection and maintenance programs, schedules and records
- Traction power (substation, overhead catenary system, and third rail), load dispatching, inspection and maintenance programs, schedules and records
- Signal and train control inspection and maintenance programs, schedules and records

The SSOA will determine the length of time for the technical training based on the skill level of the covered personnel relative to the applicable rail transit agency(s). FTA will provide a template on its website 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:

- Require covered personnel to successfully:
 - Complete training that covers the skills and knowledge the covered personnel will need to effectively perform his or her tasks.

- Pass a written and/or oral examination covering the skills and knowledge required for the covered personnel to effectively perform his or her tasks.
 - Demonstrate hands-on capability to perform his or her tasks to the satisfaction of the appropriate SSOA supervisor or designated instructor.
- Establish equivalencies or written and oral examinations to allow covered personnel to demonstrate that they possess the skill and qualification required to perform their tasks.
 - 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.
 - Require that training records be maintained to demonstrate the current qualification status of covered 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.
 - Records must include the following information concerning each covered personnel:
 - Name;

- The title and date each training course was completed and the proficiency test score(s) where applicable;
 - The content of each training course successfully completed;
 - A description of the covered 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;
 - The tasks the covered personnel is deemed qualified to perform; and
 - Provide the date that the covered personnel's status as qualified to perform the tasks expires, and the date in which biennial refresher training is due.
- 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.
- 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 5311 sub-recipients
 - FTA-sponsored Bus Safety Programs
 - One (1) hour course on SMS Awareness – e-learning delivery
 - SMS for Bus Operations
 - TSSP Certificate (Bus)

VI. Paperwork Reduction Act

In February 2014, in compliance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501 *et seq.*) and the Office of Management and Budget (OMB) implementing regulation at 5 CFR 1320.13, FTA received approval from OMB for an Information Collection for the State Safety Oversight Program (Information Collection number 2132-0558). The recordkeeping necessary to comply with the interim program would be consistent with the recordkeeping required for SSOA and rail fixed guideway public transportation agency training in the approved information collection.

VII. Next Steps

1. FTA will host an informational webinar discussing the interim training program on or about 45 days after publication.
2. Covered personnel will be able to log-in to FTA's Website safety.fta.dot.gov and establish a user ID and password (the website link provided will be live at least 30 days after publication, periodic updates will be provided on the landing page for users). Once this is completed, each participant will be provided with a curriculum which is associated with their category. The dates that registration will open for courses listed in each

participant's profile will be provided with the learning profile. Participants will be notified by email when there has been an update to their profile. Once the website registration process is completed, users will be able to register for available classroom training, participate in e-learning opportunities and track their progress towards completion of their requirements. If a participant has previously completed a course that is listed in their profile (e.g., TSSP), they may upload a copy of the certificate to their profile at safety.fta.dot.gov.

3. FTA will provide technical assistance to SSOAs at safety.fta.dot.gov. Each SSOA should submit their technical training plan to FTA via the following website: safety.fta.dot.gov no later than [INSERT DATE 90 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

Therese McMillan
Acting Administrator

[FR Doc. 2015-03842 Filed 02/26/2015 at 8:45 am; Publication Date: 02/27/2015]