

Subsection 659.01, Purpose: The Ohio Department of Transportation (ODOT) would like to reiterate and reinforce the objection Ohio made more than ten years ago regarding this unfunded, but mandated Rail Fixed Guideway State Safety Oversight (SSO) Program. As a strong home rule state, local issues are decided by local government. It is untenable for Washington to dictate that Ohio set up and maintain a duplicative bureaucracy to oversee the Cleveland RTA (GCRTA) and provide no funding for the program. By shifting the regulatory burden to the states, FTA has created an expensive and restrictive regulation. Furthermore, FTA is proposing to make the regulation even more restrictive, requiring a greater level of state oversight and expense. While we agree in principle with FTA's intent to; improve consistency in the collection and analysis of accident causal factors, strengthen rail transit security and emergency preparedness, and enhance program efficiency, we believe these initiatives could have better been monitored and enforced through FTA's Triennial Review Process. The proposed regulations do little to improve public safety in Ohio but create a greater level of bureaucracy by requiring annual oversight reviews, ambiguous requirements, and expensive updates to ODOT's system safety program standard and GCRTA's safety and security plans. Regardless, ODOT is committed to support public safety in Ohio and will implement all SSO Program regulations as required.

Subsection 659.05, Definitions: FTA should quantify "damage to a system" and "damage to the environment" in the definition of "hazard."

The definition of "individual" should include "pedestrians" and "others" as defined by the NTD.

The definition of "passenger" should include "patron" as defined by the NTD.

Subsection 659.07, Withholding of funds for noncompliance: The rule should emphasize and reinforce the SSO's jurisdiction and authority to enforce and render judgement, interpretations and final decisions for its oversight responsibilities and activities. The rule should provide clarification on the methods or processes by which the state may initiate the withholding of funds for an agency's noncompliance.

Subsection 659.21, Rail transit agency internal safety and security reviews: We agree that the SSO must be notified prior to the internal safety and security reviews. SSO should be allowed checklist and procedure approval. The lead time for notification, review, and approval should be extended to a minimum of 45 to 60 days. SSO agencies should be encouraged to attend the safety and security reviews.

Subsection 659.27, Notification: All fatalities should be reported to the SSO regardless of suicide or illness. The phrase, "confirmed dead within 30 days" should be removed. FTA should clarify what is meant by "non-rail vehicles."

Subsection 659.31, Corrective Action Plans (CAPs): Add requirements that CAPs must be developed for findings from internal safety and security audits and annual reviews.

Subsection 659.33, FTA Oversight: FTA should allow for a minimum one-year grace period to states for implementation of new regulations. The rule should identify the records required to be maintained and specify the required retention periods. This should be specified for both the rail transit system as well as the SSO.

Subsection 659.35, Conflict of Interest: FTA should further define "conflict of interest" due to a limited number of rail safety consultants.