

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis

Original Updated Corrected

2. Administrative Rule Chapter, Title and Number

Chapter Trans. 10, Transit Safety Oversight Program for Rail Fixed Guideway Transportation Systems

3. Subject

This new rule develops the state safety oversight (SSO) program – referred to as the transit safety oversight program in s. 85.066, Wis. Stats. – in order to achieve compliance with new federal requirements for SSO programs under 49 U.S.C. § 5329(e) and 49 CFR Part 674, which replace previous federal requirements for SSO programs under 49 U.S.C. § 5330 and 49 CFR Part 659.

4. Fund Sources Affected

GPR FED PRO PRS SEG SEG-S

5. Chapter 20, Stats. Appropriations Affected

20.395(4)(as) – Transit safety oversight, state funds;
20.395(4)(ay) Transit safety oversight, federal funds

6. Fiscal Effect of Implementing the Rule

No Fiscal Effect Increase Existing Revenues Increase Costs
 Indeterminate Decrease Existing Revenues Could Absorb Within Agency's Budget
 Decrease Cost

7. The Rule Will Impact the Following (Check All That Apply)

State's Economy Specific Businesses/Sectors
 Local Government Units Public Utility Rate Payers
 Small Businesses (if checked, complete Attachment A)

8. Would Implementation and Compliance Costs Be Greater Than \$20 million?

Yes No

9. Policy Problem Addressed by the Rule

Through MAP-21, and re-authorized by the FAST Act, Congress mandated that states enhance their SSO programs. Accordingly, FTA promulgated a new rule for SSO programs, 49 CFR Part 674, which has new requirements for SSO programs relating to state oversight of rail transit safety. Those requirements include state legislative activity or administrative rulemaking to establish enforcement authority over rail transit entities subject to state oversight. Part 674 also requires states to come into full compliance with the rule within three (3) years of its effective date. The rule became effective in April 2016, making April 2019 the final deadline for a compliant SSO program. The rule also requires that FTA must review and certify each state's new SSO program. Accordingly, FTA has requested that states submit all new SSO program materials for FTA review, including any legislation or administrative rules, by no later than December 2018.

10. Summary of the businesses, business sectors, associations representing business, local governmental units, and individuals that may be affected by the proposed rule that were contacted for comments.

All rail transit agencies that own or operate rail fixed guideway transportation systems within the state.

11. Identify the local governmental units that participated in the development of this EIA.

N/A

12. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred)

Implementation of and compliance with Trans. 10 will result in no economic impact on RTAs, which are already required under current federal law to follow existing federal regulations concerning rail transit safety; any economic impact has already occurred. This rulemaking primarily updates the state's role in enforcing safety regulations, but does not substantively change the federal safety regulations RTAs must already follow.

13. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule

ADMINISTRATIVE RULES

Fiscal Estimate & Economic Impact Analysis

Adoption of this rule will keep the state in compliance with its obligation to adopt federal changes in the rail transit safety area. Federal law under 49 U.S.C. § 5329(e) gives FTA authority to withhold all Chapter 53 funds from any state that does not meet the April 2019 final deadline for full SSO program compliance under Part 674. Adoption of this state rule will keep Wisconsin on track to meet that deadline and avoid this substantial penalty.

14. Long Range Implications of Implementing the Rule

The primary long-range implication of implementing the rule concerns the department's enforcement authority – including investigations, audits, inspections, and oversight – over rail transit agencies. Currently, both the state and rail transit agencies are already required, under federal law, to follow federal regulations concerning rail transit safety. However, the current rules under 49 CFR Part 659 do not include SSO agency enforcement authority.

15. Compare With Approaches Being Used by Federal Government

Chapter Trans. 10 is based on federal requirements under 49 U.S.C. § 5329(e) and 49 CFR Part 674; as such, Trans. 10 takes the same approach as the federal government.

16. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

All states with qualifying rail fixed guideway public transportation systems, including Illinois, Michigan, and Minnesota – Iowa does not currently have a qualifying rail fixed guideway public transportation system, and so is not affected by the federal regulations – must become certified under the new SSO rules.

17. Contact Name

Eric Stoegbauer, DTIM, Wisconsin Dept. of Transportation

18. Contact Phone Number

(608) 267-6680

This document can be made available in alternate formats to individuals with disabilities upon request.

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

ATTACHMENT A

1. Summary of Rule's Economic and Fiscal Impact on Small Businesses (Separately for each Small Business Sector, Include Implementation and Compliance Costs Expected to be Incurred)

N/A

2. Summary of the data sources used to measure the Rule's impact on Small Businesses

This rule does not impact small businesses.

3. Did the agency consider the following methods to reduce the impact of the Rule on Small Businesses?

- Less Stringent Compliance or Reporting Requirements
- Less Stringent Schedules or Deadlines for Compliance or Reporting
- Consolidation or Simplification of Reporting Requirements
- Establishment of performance standards in lieu of Design or Operational Standards
- Exemption of Small Businesses from some or all requirements
- Other, describe:

4. Describe the methods incorporated into the Rule that will reduce its impact on Small Businesses

N/A

5. Describe the Rule's Enforcement Provisions

The rule requires the department to review, approve, oversee, and enforce the safety plan of every rail transit agency (RTA) under the department's oversight. The rule authorizes oversight and enforcement of RTAs by the department through corrective action plans (CAP) ordered by the department, or by any other means the department deems necessary or appropriate. The rule allows the department to enforce minimum standards for safety and have broad investigative and enforcement authority with respect to safety. The rule also requires that the department adopt and distribute a written SSO program standard that will further identify specific processes and procedures, of both the SSO agency and RTAs, including specific exercise of enforcement authority authorized by the rule and s. 85.066(2), Wis. Stats.

6. Did the Agency prepare a Cost Benefit Analysis (if Yes, attach to form)

- Yes No
-