

<b>Fuel Economy</b> (7 pts.)  (Only 1 fuel type scored)	Liquid Fuels (Diesel, Gasoline, LPG, LNG)	Compliant with 49 CFR part 535 MEDIUM- AND HEAVY-DUTY VEHICLE FUEL EFFICIENCY PROGRAM- <i>Heavy-Duty Vocational Vehicle Fuel Consumption Standards</i>	1.0	MPG: 1 — 13 Points: 0.0 — 6.0
	CNG			SCF/mi: 50 — 10 Points: 0.0 — 6.0
	Hydrogen			SCF/mi: 98 — 15 Points: 0.0 — 6.0
	Electric			kW-hr/mi: 3 — 1 Points: 0.0 — 6.0
<b>Emissions</b> (7 pts.)  (All emissions categories scored)	Carbon Dioxide (CO <sub>2</sub> )	Compliant with all applicable EPA exhaust emissions regulations at date of manufacture including:  40 CFR part 86 CONTROL OF EMISSIONS FROM NEW AND IN-USE HIGHWAY VEHICLES AND ENGINES  40 CFR part 1037 CONTROL OF EMISSIONS FROM NEW HEAVY-DUTY MOTOR VEHICLES	1.0	Grams/mi: 4000 — 0 Points: 0.0 — 4.0
	Carbon Monoxide (CO)			Grams/mi: 20 — 0 Points: 0.0 — 0.4
	Total Hydrocarbon (THC)			Grams/mi: 3 — 0 Points: 0.0 — 0.4
	Non-Methane Hydrocarbon (NMHC)			Grams/mi: 3 — 0 Points: 0.0 — 0.4
	Nitrogen Oxides (NOx)			Grams/mi: 2 — 0 Points: 0.0 — 0.4
	Particulate Matter (PM)			Grams/mi: 0.1 — 0 Points: 0.0 — 0.4
<b>Noise</b> (7 pts.)	Interior - acceleration 0-35 mph	No greater than 80 decibels (dB(A))	0.5	dB(A): 80 — 30 Points: 0.0 — 3.0
	Exterior - acceleration 0-35 mph	No greater than 83 decibels (dB(A))	0.5	dB(A): 83 — 50 Points: 0.0 — 3.0
<b>Performance</b> (5 pts.)	Acceleration	Time from 0-30 mph no greater than 18 sec	1.5	
	Gradeability	Sustained speed on 2.5% grade no less than 40 mph	1.5	
		Sustained speed on 10% grade no less than 10 mph	2.0	
<b>Overall Result</b>	<b>FAIL</b>		60	+ 0 — 40
	<b>PASS</b>			
<b>Maximum Aggregate Score</b>			<b>100</b>	

**PARTS 666–669 [RESERVED]**

**PART 670—PUBLIC TRANSPORTATION SAFETY PROGRAM**

**Subpart A—General Provisions**

- Sec.
- 670.1 Purpose and applicability.
- 670.3 Policy.
- 670.5 Definitions.

**Subpart B—Inspections, Investigations, Audits, Examinations, and Testing**

- 670.11 General.
- 670.13 Request for confidential treatment of records.

**Subpart C—Enforcement**

- 670.21 General.
- 670.23 Use or withholding of funds.
- 670.25 General directives.
- 670.27 Special directives.
- 670.29 Advisories.

## § 670.1

### Subpart D—National Public Transportation Safety Plan

670.31 Purpose and contents of the National Public Transportation Safety Plan.

AUTHORITY: 49 U.S.C. 5329, 49 CFR 1.91.

SOURCE: 81 FR 53058, Aug. 11, 2016, unless otherwise noted.

### Subpart A—General Provisions

#### § 670.1 Purpose and applicability.

This part carries out the mandate of 49 U.S.C. 5329 to improve the safety of public transportation systems. This part establishes substantive and procedural rules for FTA's administration of the Public Transportation Safety Program. This part applies to recipients of Federal financial assistance under 49 U.S.C. chapter 53.

#### § 670.3 Policy.

The Federal Transit Administration (FTA) has adopted the principles and methods of Safety Management Systems (SMS) as the basis for enhancing the safety of public transportation in the United States. FTA will follow the principles and methods of SMS in its development of rules, regulations, policies, guidance, best practices and technical assistance administered under the authority of 49 U.S.C. 5329.

#### § 670.5 Definitions.

As used in this part:

*Accountable Executive* means a single, identifiable individual who has ultimate responsibility for carrying out the Public Transportation Agency Safety Plan of a public transportation agency; responsibility for carrying out the agency's Transit Asset Management Plan; and control or direction over the human and capital resources needed to develop and maintain both the agency's Public Transportation Agency Safety Plan in accordance with 49 U.S.C. 5329(d), and the agency's Transit Asset Management Plan in accordance with 49 U.S.C. 5326.

*Administrator* means the Federal Transit Administrator or his or her designee.

*Advisory* means a notice that informs or warns a recipient of hazards or risks to the recipient's public transportation system. An advisory may include rec-

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ommendations for avoiding or mitigating the hazards or risks.

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

*Corrective action plan* means a plan developed by a recipient that describes the actions the recipient will take to minimize, control, correct or eliminate risks and hazards, and the schedule for taking those actions. Either a State Safety Oversight Agency of FTA may require a recipient to develop and carry out a corrective action plan.

*Deputy Administrator* means the Federal Transit Deputy Administrator or his or her designee.

*Directive* means a written communication from FTA to a recipient that requires the recipient to take one or more specific actions to ensure the safety of the recipient's public transportation system.

*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.

*Hazard* means any real or potential condition that can cause injury, illness, or death; damage to or loss of the facilities, equipment, rolling stock, or infrastructure of a recipient's public transportation system; or damage to the environment.

*Inspection* means a physical observation of equipment, facilities, rolling stock, operations, or records for the purpose of gathering or analyzing facts or information.

*Investigation* means the process of determining the causal and contributing factors of an accident, incident or hazard for the purpose of preventing recurrence and mitigating risk.

*National Public Transportation Safety Plan* means the plan to improve the safety of all public transportation systems that receive Federal financial assistance under 49 U.S.C. Chapter 53.

*Pattern or practice* means two or more findings by FTA of a recipient's violation of the requirements of 49 U.S.C. 5329 or the regulations thereunder.

*Recipient* means a State or local governmental authority, or any other operator of public transportation that receives financial assistance under 49 U.S.C. Chapter 53. The term “recipient” includes State Safety Oversight Agencies.

*Record* means any writing, drawing, map, recording, diskette, DVD, CD-ROM, tape, film, photograph, or other documentary material by which information is preserved. The term “record” also includes any such documentary material stored electronically.

*Risk* means the composite of predicted severity and likelihood of the potential effect of a hazard.

*Safety Management System (SMS)* means a formal, top-down, organization-wide data-driven approach to managing safety risk and assuring the effectiveness of a recipient’s safety risk mitigations. SMS includes systematic procedures, practices and policies for managing risks and hazards.

*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* 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 part 659 or 49 CFR part 674.

*Testing* means an assessment of equipment, facilities, rolling stock or operations of a recipient’s public transportation system.

## Subpart B—Inspections, Investigations, Audits, Examinations and Testing

### § 670.11 General.

(a) The Administrator may conduct investigations, inspections, audits and examinations, and test the equipment, facilities, rolling stock and operations of a recipient’s public transportation system.

(b) To the extent practicable, the Administrator will provide notice to a recipient prior to initiating any activities carried out under the authorities listed in paragraph (a) of this section.

(c) The Administrator will conduct activities carried out under this sec-

tion at reasonable times and in a reasonable manner, as determined by the Administrator.

(d) In carrying out this section, the Administrator may require the production of relevant documents and records, take evidence, issue subpoenas and depositions, and prescribe record-keeping and reporting requirements.

### § 670.13 Request for confidential treatment of records.

(a) The Administrator may grant a recipient’s request for confidential treatment of records produced under § 670.11, on the basis that the records are—

(1) Exempt from the mandatory disclosure requirements of the Freedom of Information Act (5 U.S.C. 552);

(2) Required to be held in confidence by 18 U.S.C. 1905; or

(3) Otherwise exempt from public disclosure under Federal or State laws.

(b) A recipient must submit the record that contains the alleged confidential information with the request for confidential treatment.

(c) A recipient’s request for confidential treatment must include a statement justifying nondisclosure and provide the specific legal basis upon which the request for nondisclosure should be granted.

(d) A recipient’s justification statement must indicate whether the recipient is requesting confidentiality for the entire record, or whether non-confidential information in the record can be reasonably segregated from the confidential information. If a recipient is requesting confidentiality for only a portion of the record, the request must include a copy of the entire record and a second copy of the record where the purportedly confidential information has been redacted. The Administrator may assume there is no objection to public disclosure of the record in its entirety if the requestor does not submit a second copy of the record with the confidential information redacted at the time that the request is submitted.

(e) A recipient must mark any record containing any information for which confidential treatment is requested as

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follows—“CONFIDENTIAL” or “CONTAINS CONFIDENTIAL INFORMATION” in bold letters.

(f) The Administrator will provide notice to a recipient of his or her decision to approve or deny a request, in whole or in part, no less than five (5) days prior to the public disclosure of a record by FTA. The Administrator will provide an opportunity for a recipient to respond to his or her decision prior to the public disclosure of a record.

### Subpart C—Authorities

#### § 670.21 General.

In addition to actions described in §§ 670.23 through 670.29, in exercising his or her authority under this part, the Administrator may—

(a) Require more frequent oversight of a recipient by a State Safety Oversight Agency that has jurisdiction over the recipient;

(b) Impose requirements for more frequent reporting by a recipient;

(c) Order a recipient to develop and carry out a corrective action plan; and

(d) Issue restrictions and prohibitions, if through testing, inspection, investigation, audit or research carried out under Chapter 53, the Administrator determines that an unsafe condition or practice, or a combination of unsafe conditions and practices, exist such that there is a substantial risk of death or personal injury.

#### § 670.23 Use or withholding of funds.

(a) *Directing the use of funds.* The Administrator may require a recipient to use Chapter 53 funds to correct safety violations identified by the Administrator or a State Safety Oversight Agency before such funds are used for any other purpose.

(b) *Withholding of funds.* Except as provided under 49 CFR part 674, the Administrator may withhold not more than twenty-five (25) percent of funds apportioned under 49 U.S.C. 5307 from a recipient when the Administrator has evidence that the recipient has engaged in a pattern or practice of serious safety violations, or has otherwise refused to comply with the Public Transportation Safety Program, as codified at 49 U.S.C. 5329, or any regulation or directive issued under those laws for

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which the Administrator exercises enforcement authority for safety.

(c) *Notice.* The Administrator will issue a notice of violation that includes the amount the Administrator proposes to redirect or withhold at least ninety (90) days prior to the date from when the funds will be redirected or withheld. The notice will contain—

(1) A statement of the legal authority for its issuance;

(2) A statement of the regulatory provisions or directives FTA believes the recipient has violated;

(3) A statement of the remedial action sought to correct the violation; and

(4) A statement of facts supporting the proposed remedial action.

(d) *Reply.* Within thirty (30) days of service of a notice of violation, a recipient may file a written reply with the Administrator. Upon receipt of a written request, the Administrator may extend the time for filing for good cause shown. The reply must be in writing, and signed by the recipient's Accountable Executive or equivalent entity. A written reply may include an explanation for the alleged violation, provide relevant information or materials in response to the alleged violation or in mitigation thereof, or recommend alternative means of compliance for consideration by the Administrator.

(e) *Decision.* The Administrator will issue a written decision within thirty (30) days of his or her receipt of a recipient's reply. The Administrator shall consider a recipient's response in determining whether to dismiss the notice of violation in whole or in part. If a notice of violation is not dismissed, the Administrator may undertake any other enforcement action he or she deems appropriate.

#### § 670.25 General directives.

(a) *General.* The Administrator may issue a general directive under this part that is applicable to all recipients or a subset of recipients for the following reasons—

(1) The Administrator determines that an unsafe condition or practice, or a combination of unsafe conditions and practices, exists such that there is a

risk of death or personal injury, or damage to property or equipment; or

(2) For any other purpose where the Administrator determines that the public interest requires the avoidance or mitigation of a hazard or risk.

(b) *Effective date.* A general directive is effective upon final notice provided by the Administrator under paragraph (e) of this section.

(c) *Notice.* The Administrator will provide notice of a general directive to recipients in the FEDERAL REGISTER. The notice will include at minimum—

(1) A reference to the authority under which the directive is being issued;

(2) A statement of the purpose of the issuance of the directive, including a description of the subjects or issues involved and a statement of the remedial actions sought; and

(3) A statement of the time within which written comments must be received by FTA.

(d) *Consideration of comments received.* The Administrator will consider all timely comments received. Late filed comments will be considered to the extent practicable.

(e) *Final notice.* After consideration of timely comments received, the Administrator will publish a notice in the FEDERAL REGISTER that includes both a response to comments and a final general directive or a statement rescinding, revising, revoking or suspending the directive.

#### § 670.27 Special directives.

(a) *General.* The Deputy Administrator may issue a special directive under this part to one or more named recipients for the following reasons—

(1) The Deputy Administrator has reason to believe that a recipient is engaging in conduct, or there is evidence of a pattern or practice of a recipient's conduct, in violation of the Public Transportation Safety Program or any regulation or directive issued under those laws for which the Administrator exercises enforcement authority for safety;

(2) The Deputy Administrator determines that an unsafe condition or practice, or a combination of unsafe conditions and practices exists such that there is a substantial risk of death or

personal injury, or damage to property or equipment; or

(3) For any other purpose where the Deputy Administrator determines that the public interest requires the avoidance or mitigation of a hazard or risk through immediate compliance.

(b) *Effective date.* A special directive is effective upon notice provided by the Deputy Administrator under paragraph (c) of this section.

(c) *Notice.* The Deputy Administrator will provide notice to a recipient that is subject to a special directive. The Deputy Administrator may initially provide notice through telephonic or electronic communication; however, written notice will be served by personal service or by U.S. mail following telephonic or electronic communication. Notice will include the following information, at minimum—

(1) The name of the recipient or recipients to which the directive applies;

(2) A reference to the authority under which the directive is being issued; and

(3) A statement of the purpose of the issuance of the directive, including a description of the subjects or issues involved, a statement of facts upon which the notice is being issued, a statement of the remedial actions being sought, and the date by which such remedial actions must be taken.

(d) *Petition for reconsideration.* Within thirty (30) days of service of a notice issued under paragraph (c) of this section, a recipient may file a petition for reconsideration with the Administrator. Unless explicitly stayed or modified by the Administrator, a special directive will remain in effect and must be observed pending review of a petition for reconsideration. Any such petition:

(1) Must be in writing and signed by a recipient's Accountable Executive or equivalent entity;

(2) Must include a brief explanation of why the recipient believes the special directive should not apply to it or why compliance with the special directive is not possible, is not practicable, is unreasonable, or is not in the public interest; and

(3) May include relevant information regarding the factual basis upon which

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the special directive was issued, information in response to any alleged violation or in mitigation thereof, recommend alternative means of compliance for consideration, and any other information deemed appropriate by the recipient.

(e) *Request for extension.* Upon written request, the Administrator may extend the time for filing a request for reconsideration for good cause shown.

(f) *Filing a petition for reconsideration.* A petition must be submitted to the Office of the Administrator, Federal Transit Administration, using one of the following methods—

(1) Email to FTA, sent to an email address provided in the notice of special directive;

(2) Facsimile to FTA at 202-366-9854; or

(3) Mail to FTA at: FTA, Office of the Administrator, 1200 New Jersey Ave. SE., Washington, DC 20590.

(g) *Processing of petitions for reconsideration—(1) General.* Each petition received under this section will be reviewed and disposed of by the Administrator no later than ninety days (90) after receipt of the petition. No hearing, argument or other proceeding will be held directly on a petition before its disposition under this section.

(2) *Grants.* If the Administrator determines the petition contains adequate justification, he or she may grant the petition, in whole or in part.

(3) *Denials.* If the Administrator determines the petition does not justify modifying, rescinding or revoking the directive, in whole or in part, he or she may deny the petition.

(4) *Notification.* The Administrator will issue notification to a recipient of his or her decision.

(h) *Judicial review.* A recipient may seek judicial review in an appropriate United States District Court after a final action of FTA under this section, as provided in 5 U.S.C. 701-706.

**§ 670.29 Advisories.**

In any instance in which the Administrator determines there are hazards or risks to public transportation, the Administrator may issue an advisory which recommends corrective actions, inspections, conditions, limitations or other actions to avoid or mitigate any

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hazards or risks. The Administrator will issue notice to recipients of an advisory in the FEDERAL REGISTER.

**Subpart D—National Public Transportation Safety Plan**

**§ 670.31 Purpose and contents of the National Public Transportation Safety Plan.**

Periodically, FTA will issue a National Public Transportation Safety Plan to improve the safety of all public transportation systems that receive funding under 49 U.S.C. Chapter 53. The National Public Transportation Safety Plan will include the following—

(a) Safety performance criteria for all modes of public transportation, established through public notice and comment;

(b) The definition of *state of good repair*;

(c) Minimum safety performance standards for vehicles in revenue operations, established through public notice and comment;

(d) Minimum performance standards for public transportation operations established through public notice and comment;

(e) The Public Transportation Safety Certification Training Program;

(f) Safety advisories, directives and reports;

(g) Best practices, technical assistance, templates and other tools;

(h) Research, reports, data and information on hazard identification and risk management in public transportation, and guidance regarding the prevention of accidents and incidents in public transportation; and

(i) Any other content as determined by FTA.

**PART 671 [RESERVED]**

**PART 672—PUBLIC TRANSPORTATION SAFETY CERTIFICATION TRAINING PROGRAM (EFF. until 11-01-24)**

**Subpart A—General Provisions**

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