

The TAM final rule responded to a total of 119 public comments received from the September 2015 Notice of Proposed Rulemaking (NPRM). A summary of only those comments related to the Regulatory Analysis and Paperwork Reduction Act are listed below. All comments, included those below are summarized in the final rule.

III. Regulatory Analyses and Notices

A. Regulatory Analyses and Notices NPRM Comments and FTA's Responses

COMMENTS: Funding for Transit Asset Management

A transit operator argued that because the TAM rule requirements will come with significant costs, there should be a dedicated funding source that does not diminish other programs. A business association similarly expressed concerns that the current investment from government is insufficient to meet both the capital and operating needs of the nation's mobility providers and is unlikely to change in the foreseeable future.

After expressing concern about the increased resources that would be required to comply with the rule, several commenters requested that funding be allocated to assist transit providers in developing and implementing TAM. A transit agency said dedicated funding should be made available with specific eligibility for TAM business processes needed to comply with the rulemaking requirements that does not include competing eligibilities with capital replacement projects. A transit operator requested that FTA identify a source of funding, in addition to formula funding, to help agencies comply with this new mandate. A State DOT said it is unclear if FTA will provide financial support for training of maintenance and reporting agency staff and for purchasing software to manage TAM systems. A transit operator requested clarification on how a service provider can request funding under specific grant programs.

A State transit association noted that the NPRM stated that "on average, fare revenue cover only one-third of total operating expenses, and do not cover any capital expenses," but

there is no discussion about the systems that do not charge fares, thus allowing them to qualify for more Federal funding than the systems charging fares. The commenter said FTA should consider allowing at least 10 percent of fare collection to be set aside for capital purchases or major repairs as local match. The commenter asserted that this would result in an incentive to agencies to seek user financial support in achieving SGR goals.

Several commenters said FTA should recognize the lack of funding available to assure state of good repair. An MPO said it is not appropriate to place the burden of SGR on the transit operators' management practices when Congress has stepped away from the traditional partnership role in funding transit capital needs. Another commenter asked if national and local funding prioritization will be in alignment with SGR targets, as the Secretary is required to establish SGR performance measures and recipients are required to set performance targets based on these measures. This commenter also asked what portions of funding would the FTA consider reasonable to be allocated to achieving these targets and what level of confidence needs to be established that funding of projects will impact measures in reaching targets. A State DOT encouraged FTA to make the case for dedicated Federal funding for the TAM plan initiative, and/or consider clarifying which existing Chapter 53 planning and technical assistance funds may be applied to TAM plan development.

FTA'S RESPONSE: Funding for Transit Asset Management

In its 2013 Conditions and Performance Report, FTA estimated that the Nation's SGR backlog is \$85.9 billion. FTA recognizes that addressing this backlog will require multiple approaches, including increased funding for asset management activities and state of good repair projects. However, FTA does believe that the National TAM System will support the transit provider's strategic allocation of available funds towards reducing the SGR backlog. FTA grant

recipients, along with States and Metropolitan Planning Organizations (MPOs) will need to coordinate in order to set meaningful SGR targets and to prioritize funding from all sources towards reducing the SGR backlog.

There is specific funding available for transit asset management and state of good repair purposes. In MAP-21, Congress created the State of Good Repair Formula Program at 49 U.S.C. 5337. Funding for the SGR Program was reauthorized in the FAST Act at approximately \$2.5 billion for fiscal years 2016-2020, a significant increase over MAP-21's authorized funding levels. Eligible projects include TAM plan development and implementation, and Capital projects to maintain a system in a state of good repair. Upon the effective date of today's final rule, projects eligible for funding under the SGR Formula Program must be identified within the investment prioritization of a transit provider's TAM plan.¹

Funds from other FTA grant programs may also be used to cover costs related to TAM plans. In general, costs associated with capital projects to purchase new capital assets or to rehabilitate or maintain existing assets are available for state of good repair purposes. The software costs for an asset inventory system, for estimating capital investment needs over time, or for a decision support tool for investment prioritization are all eligible capital costs. Costs related to assembling and maintaining an asset inventory, or related to condition inspections, are generally eligible preventive maintenance costs that can be funded by capital assistance. Finally, costs related to creating a TAM plan itself are an eligible expense under the section 5307 Urbanized Area Formula Program and the section 5311 Rural Area Formula Program.

Although fare revenues that are program income are not currently an eligible source of local match for FTA's grant programs, FTA does not have the statutory authority under current

¹ For more guidance on the SGR Formula Program, please review the program guidance available on FTA's website at http://www.fta.dot.gov/legislation_law/12349_16262.html.

law to change this approach. Whether or not a transit provider charges a fare does not impact the amount of funding it may receive from FTA.

COMMENTS: Other Funding for TAM

An MPO said more recordkeeping without additional funding accomplishes nothing other than demonstrate the unmet need. This commenter asserted that a systematic approach to manage existing resources will not fully address the financial need to replace assets. Another commenter suggested that while the TAM rule may provide data and systemization for agencies as they assess their SGR, it is unclear if this will result in a better funding outlook.

One commenter expressed concern that requiring service providers to publicly document asset safety shortcomings while possibly not having sufficient funding to address all needs would increase legal liability risk for agencies.

A State transit association suggested that FTA (1) consider setting guidance to allow for local agencies to have fare set-asides to establish “sinking funds” to pay for new rolling stock purchases or major vehicle repairs, and (2) allow agencies be able to make loan payments from fares, reporting balance of fares less loan payments on quarterly DOT reports. A State DOT recommended that the rule should include specific language stating that, without additional financial resources, establishing an asset management plan may not in itself enable a provider or a group to reach a state of good repair.

Expressing concern that the rule would not allow legacy transit providers to work towards improvements in their facilities performance measure without diverting funds from other, potentially more critical needs, a local transit operator asked what the consequences would be of reporting declining performance measures for facilities to ensure maintaining or improving performance targets for fleet and infrastructure.

FTA'S RESPONSE: Other Funding for TAM

FTA believes recordkeeping and reporting will create a database that can be used to better identify the unmet needs. In many States, data-driven performance management practices have resulted in increased funding for transportation programs from state and local governments. Being able to demonstrate transportation needs, based on sound quantitative analysis, lends credibility to the funding requests and makes it easier for legislatures to support increased funding.

FTA acknowledges that the efficiencies realized through improved data-driven decision-making may not be adequate to meet all of the financial needs to address SGR, and that TAM plan development costs may divert funds from the current capital programs and that this may affect system performance. However, FTA anticipates that improved asset management practices will result in decisions that reduce maintenance and rehabilitation costs overtime. These cost savings might offset the costs of the TAM plan.

The TAM final rule does not include penalties for agencies that demonstrate declining performance of assets. The goal of the final rule is for transit service providers to develop or improve on existing asset management processes to provide and use data to make better decisions. Making trade-offs among competing investments is part of the process. A goal of the TAM plan is to help agencies improve their current asset management practices to better manage assets over the whole life of an asset and to identify what can be achieved with current funding in order to meet desired performance goals.

Today's rule does not require agencies to list or document assets that pose an unacceptable safety risk.

FINAL RULE

No change has been made in the final rule due to these comments.

COMMENTS: NPRM Regulatory Impact Analysis - Total Cost

Many comments were made on the costs associated with the proposed rule. Many commenters said FTA's estimated costs of compliance with the rule (coordination, data collection, reporting, etc.) are underestimated. One commenter said the rule's activities could require more than three times the number of hours estimated by FTA, and approximately five times the estimated cost. A State DOT said its current cost estimate for the initial phase of asset management planning (performance gap analysis) is about \$300,000 in upfront costs, including project staff labor, training and consultant services for one year, which is significantly higher than the tier I annual cost of \$33,451 per provider estimated by FTA. Some commenters provided specific estimated costs of complying with the rule, which ranged between \$20,000 and \$500,000 per transit agency. Another commenter stated that it uses two full-time equivalents (FTEs) just to update the asset inventory and the contracted costs for its recently completed TAM plan was three times the average cost from the FTA analysis for all TAM activities. Further, this commenter asserted that there would be further costs to bring it into compliance with the final rulemaking.

A transit operator said requiring all assets in the facilities category to have a full condition assessment with a 1-5 ranking based on the TERM scale would be extraordinarily expensive for larger agencies and may also be cost-prohibitive for smaller agencies with fewer assets and less funding. The commenter stated that, given the geographic breadth of the rail system and the number of stations, it would not be unrealistic to assume a \$4-5 million undertaking to produce something of value. The commenter stated that because FTA has been

supplied with the budget updates for this project on a monthly basis for several years, it was surprising that the estimates and approach did not reflect any of this information, but rather relied on the feedback from four newer and smaller agencies.

FTA'S RESPONSE: NPRM Regulatory Impact Analysis - Total Cost

FTA appreciates the comments on the cost estimates and the assumptions used. FTA acknowledges that the general consensus of the comments was that the estimated costs were lower than would be expected. FTA agrees that this may be the case in some instances for various reasons. However, it can be misleading to compare individual agency costs with an average for an industry that is very diverse in size, such that a few large agencies provide a large share of transit services. For example, among agencies receiving 5307 formula funds, 3 percent of the agencies own nearly 50 percent of the revenue vehicles. Since the average cost estimates in NPRM are the average cost per transit provider, they are more representative of the costs for the smaller providers, who are much more numerous, than for the large-medium to large providers. Thus, FTA agrees that costs for particular larger agencies may be higher, while, costs to smaller agencies may be lower, than the estimated average.

Tier I agencies range in size from agencies with revenue vehicles of over 101 to 10,000. Out of the 284 agencies in tier I, only twenty three have revenue vehicles greater than one thousand. As mentioned above, the average costs for tier I providers are more representative of the costs to the smaller tier I agencies. To illustrate this point, estimates are made for a large tier I agency, with 2500 vehicles and one with 500 vehicles. The quantified costs of implementing the rule are \$234,477 for the larger agency and \$109,312 for the smaller agency. The costs would approximately double if most of the tasks were contracted out.

However, for a more realistic comparison between the final rule's costs and the estimates cited by the commenters, FTA compared the costs for the specific agency providing the comment against the costs that would be predicted by FTA's model as used in the NPRM. For example, a State DOT commented that it has incurred \$300,000 in upfront costs for asset management planning (performance gap analysis), significantly more than the average for tier I. FTA's cost estimate for this agency to implement the TAM rule is \$99,000 in upfront costs. Many other agencies provided cost estimates ranging from \$20,000 to \$500,000. For these agencies, the NPRM upfront cost estimates ranged from \$41,000 to \$161,000. Another commenter noted that it could cost an agency between \$4-5 million to undertake a full condition assessment based on TERM scales and other TAM requirements. For this agency the NPRM cost estimate is about \$240,000 in upfront costs.

There are a number of reasons why the cost estimates in the NPRM are lower than the estimates provided by the commenters. First, the cost estimates in the NPRM were for the additional or incremental activities resulting from implementing the final rule. Adopting the requirements of the TAM rule will replace some existing practices and create new ones to better manage assets in a systematic way. In some instances, the TAM provisions may not add any new burden at all. Because the baseline compliance level is different across agencies, the final analysis does not estimate that every agency – or even every agency that is similar in size to the commenter's agency -- will incur the same costs as identified by a particular commenter.

For instance, it is known that for the project with estimated costs of \$4-5 million, a large component of the cost was for updating asset condition data that had been done previously using a new method. The cost estimate provided is therefore not an incremental cost of the rule. Also, it is noted elsewhere in this rule that FTA has not prescribed any specific condition assessment

approaches or other analytical tools. So, if an organization decides to adopt an approach that is more expensive, it is their decision based on their need.

Second, the scope of the efforts for which commenters provided costs may be beyond what is required by today's rule. For example, the document referenced by the State DOT commenter is referred to as 'performance gap analysis.' Performance management is generally more encompassing than asset management and particularly more than what is required in the TAM rule. Without additional information, it is hard to provide a realistic validation of these numbers.

Third, FTA acknowledges that its estimates are based on the data available in the NTD. It does not include all the assets owned or operated by an agency or even the ones required to be included in the TAM plan. Fourthly, FTA estimates assume the work is being done in-house with qualified staff available with the appropriate skills. This would result in significant underestimation if most of the work was contracted out. To address this issue the final rule includes a scenario for contracting out work tasks. The costs roughly double under this scenario. This is presented as an upper bound cost (high case) and in-house as a lower bound cost (low case). The estimates presented above are for the in-house scenario (low case).

FINAL RULE:

No changes were made to the rule based on these comments. However, in consideration of other comments summarized below, changes have been made to the assumptions upon which the costs are estimated. These changes include additional asset inventory costs; the presentation of a high-cost case that assumes contractor support; modified personnel category, update of wage rates and additional IT costs.

COMMENTS: *Regulatory Impact Analysis - Specific Task Costs*

A commenter said FTA has underestimated the amount of labor hours needed for the continuous tracking and annual reporting process, particularly in the areas of vehicles and facilities. A transit operator said FTA underestimated the effort required for tier I providers in keeping large asset management datasets useful and coordinated. The commenter said FTA's estimate of 80 hours every 4 years should be at least 4 times that amount, equating to 80 hours per year. A transit operator also commented that creating a prioritized project list would require more time both initially and on an on-going basis to set criteria and score assets. A transit operator said an estimated 520 person-hours may be sufficient to update or enhance an existing decision support tool but not nearly enough for an agency that is implementing a new decision support tool. Several commenters said FTA should take into consideration that not all agencies have basic asset management software in place and, thus, will need additional time and resources to procure software. An individual commenter said software costs may be eligible for capital costs but the availability of capital costs are so limited that those funds are already allocated to the capital needs of the agency.

Several transit operators said it is not accurate to assume that a complete asset inventory (in the correct format) already exists as a baseline for every agency. These commenters explained that FTA's assumption that financial or property accounting systems may be used as asset inventories for TAM purposes is overstated. The commenters explained that the way this information is captured and reported would need to be modified to support TAM implementation and additional data elements would need to be collected. A transit operator said FTA's assumption that no incremental costs would result due to completion of asset inventories is not valid for commuter rail operators because currently only vehicle assets are included in the NTD report.

Another transit operator said using wage rates based on May 2013 Bureau of Labor Statistics data for urban transit systems significantly understates the cost associated with TAM implementation for services. A couple of commenters said FTA's average estimated cost for a tier I agency is understated. A State transit association said the assumption that an administrative support worker would develop the prioritized project list is probably incorrect. Similarly, a transit operator did not agree with the level of personnel that the FTA has assumed work on the prioritization of projects that is required of tier I providers. A medium to large size transit operator said the assumption of two staff members with the expertise necessary to assess the condition of all the equipment and subcomponents in one day seems optimistic.

A professional association and several State DOTs stated that the rule should take into consideration that transit agencies will likely be unable to implement the TAM requirements in-house, and would likely hire consultants. Similarly, several other commenters stated the rule would require transit agencies to add resources to comply with the new rules. A joint submission from several State DOTs said the regulations could divert scarce financial and personnel resources from investments that support transit service to regulatory compliance.

FTA'S RESPONSE: *Regulatory Impact Analysis – Specific Task Costs*

FTA agrees that existing inventory data may not be in the format required for the TAM provisions and may be dispersed in different databases. Therefore, additional costs for creating a single usable database are included in the final rule. Additional labor hours are added for the asset inventory task, which was previously assumed to be zero, to develop a TAM inventory database from disparate existing data systems. In response to comments received about employee responsibilities, FTA has also included costs for IT investments such as new software or other devices for recording information.

FTA agrees that some transit providers may use contract support versus in-house resources to develop their TAM plans and compliance. The final rule presents two sets of total costs, one assuming in-house plan development and another with contractor support. It is unknown what percentage of the plans would be in-house and what percent contracted out, so the cost of the rule is presented as a range. The results indicate the costs to contract development of the TAM plan are assumed to be double that of work performed in-house. FTA has updated the labor rates to use the latest year of data available in this final rule, which is the 2015 Bureau of Labor Statistics. In response to comments on the skill level of staff assumed for investment prioritization, FTA is using higher skilled personnel for the investment prioritization task in the final rule cost estimate.

FINAL RULE:

FTA made revisions to the Regulatory Impact Analysis and the Paperwork Reduction Act analysis of the final rule in response to these comments.

The following revisions are made to the final rule costs: the number of hours for asset inventory task is increased by 96 hours for the first 2 years and 36 hours thereafter for both tier I and tier II agencies; an additional cost of \$5,000 per plan is now included for information technology to support TAM plan development; and the wage rate for the analytical processes and project prioritization task for tier II providers is increased from \$23.04 to \$41.98 to address the low personnel skill level comment. The average wage rate for the staff categories used in this rule has increased by about 2% on average since 2013, and costs estimates have been adjusted to account for the changes in wages in the final rule.

COMMENTS: *Regulatory Impact Analysis - Other Assumptions*

Regarding FTA's assumptions used for quantifying costs and benefits, a State DOT asserted that, while theory suggests best practices may yield cost benefits if employed, until the final rules are published, the cost and benefits will be unknown. Several commenters suggested that another non-quantifiable cost will be the time dedicated by managers who will need to attend asset management meetings as part of the coordination efforts throughout the year. Additionally, several commenters asserted that mechanics will need to be trained, which will improve efficiency for the agency, but will affect operating expenses. Another commenter stated that closer scrutiny should result in cost saving benefits but may require more staff time/resources in order to implement the plan. Therefore, the commenter said any cost savings may be offset by a better state of good repair and less down time.

Several commenters responded about additional costs for States and MPOs in target setting beyond the coordination costs included in the planning rule. A State DOT said compliance with this rule may result in the need for additional staff or higher level of certification for mechanics. An MPO stated that targets are dependent on financial resources available during a particular time period, and that it is a challenging task for MPOs to coordinate transportation targets with fluctuating funding sources. Another MPO said MPOs, large and small, will need continued support and resources from Federal and State government to implement the new rules regarding transportation planning.

A transit operator said the rule does very little to mention or address operating costs which, over time, typically exceed original capital purchase cost. The commenter said this issue must be addressed along with capital asset investments.

A transit operator stated that if FTA provides the latitude that has been represented over the last few years in many presentations, then the cost has the potential to be within the limits

proposed. However, if FTA mandates specific means of compliance, this commenter asserted that the cost would increase for those agencies that will need to modify existing processes that currently meet the intent of the legislation.

One commenter urged FTA to identify and seriously consider plausible alternatives, asserting that FTA did not provide any in the NPRM and where ANPRM commenters proposed alternatives, FTA's responses were inadequate. For example, this commenter asserted that there are conceivable ways to disaggregate safety and SGR from the way they were presented in the NPRM that would still be consistent with the statute.

A transit operator suggested that the analytical processes estimate may increase with implementation of a new SMS

In response to FTA's request for any data that could assist in quantifying the costs or benefits of the rule, a State DOT said it could analyze rolling stock preventative maintenance costs of the past 2 years, beginning with baseline year of 2015 to determine a baseline and then adjust for inflation. However, these would all be projections and estimates, at best.

FTA'S RESPONSE: Regulatory Impact Analysis - Other Assumptions

FTA agrees that additional training for specialists, including mechanics, may be required to perform some of the tasks outlined in the final rule. Instead of adding additional resources for training, the revised cost estimates below include an estimate for contracting out the tasks for the TAM plan. So, rather than training agency staff, a transit agency can contract the services of a trained mechanic, or other skilled services, whichever is more cost effective. Since it is unknown which tasks may require skills unavailable at a transit agency, this rule presents a range of costs.

The low cost case assumes in-house work and the higher cost case assumes that all tasks are contracted out.

FTA appreciates commenters who stated that the cost estimates are reasonable, providing the agencies latitude under TAM to develop their own practices, rather than being prescriptive. The goal of the TAM rule is not to be prescriptive, but allow agencies to develop practices that meet agency needs. Also, another commenter notes that the agencies will incur additional costs in implementing the TAM rule, but acknowledged that the benefits from improved asset management practice may cover these additional costs.

FTA believes that addressing operating costs is a separate issue from managing the assets and is not the subject of this rule. Operating costs are an optional consideration that transit providers may consider when developing their investment prioritization.

FTA agrees that the NPRM did not quantify other alternative approaches. However, alternative approaches were considered in developing the rule. As discussed in the NPRM, FTA developed a tiered approach that allows smaller operators to shift certain burdens of this rule to States. The TAM rule has not expanded on the requirements of the MAP-21 mandate, so an alternative was not considered to be essential. The TAM rule provides agencies significant discretion in choosing methods for data analysis, target setting and project selection.

The cost of applying SMS principles for the safety programs will be included in the appropriate rules – if such principles are adopted - and is not accounted for under this rule. The TAM NPRM assumed additional costs for coordination of group plans above what was estimated in the planning rule.

FINAL RULE:

There are no changes to the final rule as a result of these comments. However, other revisions were made to the analysis to conform with changes made to the final rule.

For example, the number of 49 U.S.C. § 5310 subrecipients required to comply with the requirements of this rule is significantly reduced. Applicability changes that only public transportation providers must follow requirements led FTA to use information from a 2006 study from the University of Montana² in order to estimate the number of 5310 recipients likely to be effected by this rule. FTA reduced its estimate from 1700 affected in NPRM to 700 in the final rule. This change reduces the cost of inventory and asset condition assessment for the rule.

COMMENTS: Regulatory Flexibility Act

Some commenters provided input on the impacts of the rule to small entities. Several commenters stated that the rule's asset management requirements would be a burden to smaller transit providers and urged FTA to minimize the financial burden and allow flexibility so small operators can more easily comply (e.g., minimal universal requirements that can be applied across all agencies). A tribal government expressed concern that the TAM rule requirements would have a profound effect on its transit program, which consists of only seven buses and no access to additional funding sources. An individual commenter suggested that FTA should define small entities as those entities that are not the certain large entities (which the commenter went on to list by name). A transit operator predicted that the additional cost of setup and continued maintenance would cost an additional 416 hours per year (8 hours per week) of staff time in order to meet the requirements set out by FTA.

² *Allocation and Use of Section 5310 Funds in Urban and Rural America*, Tom Seekins, Alexandra Enders, Alison Pepper, and Stephen Sticka, Research and Training Center on Disability in Rural Communities of the Rural Institute, University of Montana

Another commenter supported FTA's recognition of the disparate needs of the country's transit agencies and asserted that the proposal's accommodations for smaller agencies are practical and appropriate.

FTA'S RESPONSE: Regulatory Flexibility Act

The FTA accommodates the needs of the small providers by establishing a two-tiered approach that limits the number of TAM plan elements and allows participation in group plans to leverage the administrative burden on small providers.

FINAL RULE:

No change has been made in the final rule in response to this comment.

COMMENTS: Paperwork Reduction Act

A transit operator agreed that performance targets are helpful for gauging progress, but expressed concern about the reporting burden FTA proposes to impose on transit agencies, and having this information be used to customize the focus of triennial reviews for individual agencies.

FTA'S RESPONSE: Paperwork Reduction Act

FTA agrees there is a reporting burden on transit agencies; these estimates of burden were included in the PRA section of the NPRM and are also included in today's final rule estimates.

FINAL RULE:

No change has been made in the final rule due to these comments.

COMMENTS: Other Regulatory Analyses

A law firm on behalf of a tribal government stated that meaningful tribal consultation is required for this rulemaking and failure to do so can lead to arbitrary and capricious rulemaking. The commenter disagreed with the Administration's conclusion that the proposed rule will "not have substantial direct effects" on one or more Indian tribes or will not impose "substantial direct compliance costs on Indian tribal governments." The commenter asserted that FTA has not yet engaged in any consultation specifically with tribal governments regarding the impact of the rule on tribal transit programs, the vast majority of which do not operate rail systems and receive only modest funding from the FTA. The commenter recommended that the final rule exempt Federally recognized Indian tribes and their transportation agencies from the definition of "recipient" under section 625.5 until such time as the FTA has undertaken meaningful consultation with tribes on this issue.

Asserting that the structure of the proposed TAM rule makes it impossible to review retrospectively due to a lack of defined baseline, a commenter recommended that FTA establish a baseline for the rule, i.e., a current snapshot of asset management practices and the corresponding SGR of assets, which could take the form of an overall survey of asset quality sufficiently representative of transit agencies.

FTA'S RESPONSE: Other Regulatory Analyses

FTA appreciates the comments from tribal representatives and agrees that the final rule will have a substantial impact on tribes.

FTA believes that each of the four elements in a tier II plan is already a part of each transit provider's capital program. For example, in accordance with FTA's Grants Management Requirements Circular 5010.1D, those tribes that are direct recipients of FTA grants must demonstrate procedures for asset management and adequate maintenance of equipment and

facilities and maintain an inventory of project property. In addition, FTA anticipates that tribes will coordinate with their State partners in the development of a group TAM plan. Today's rule does not impose a substantial direct effect on one or more Indian tribes, but merely establishes a framework to achieve and maintain a state of good repair by streamlining existing requirements and practices and supporting informed decision making.

Please also see the analyses of Executive Order 13175 for more specific information about FTAs approach to tribal outreach. FTA recognizes that developing an individual TAM plan, maintaining documentation and reporting requires that a TAM rule be flexible and scalable. Today's rule is scalable and flexible and provides several options to reduce the burden on small providers, including American Indian tribes.

The baseline for the analysis was developed using current reports published by GAO, FTA and TCRP, and input from five transit agencies interviewed by FTA. SGR baseline is based on current data submitted to NTD. Given the large number of transit agencies, it would be a challenge to develop an exact baseline for the industry to be covered by the rule under the current PRA regulations.