

**U.S. Department of Transportation
Federal Transit Administration
Supporting Statement for Paperwork Reduction Act Submissions
Public Transportation Agency Safety Plan
(OMB# 2132-0580)**

Justification

The purpose of this request is to seek the Office of Management and Budget's (OMB) approval for a new information collection that is associated with a Final Rule. The Notice of Proposed Rulemaking was published on February 5, 2016 (Vol. 81 FR. 6344). In accordance with the Paperwork Reduction Act (PRA), FTA submitted an information collection request (ICR) at that time and OMB filed comment on the associated ICR on April 26, 2016, assigning OMB control number 2132-0580 "Public Transportation Agency Safety Plan" (PTASP).

1. Circumstances Making the Collection of Information Necessary

Through this Final Rule, the Federal Transit Administration (FTA) is establishing requirements for Public Transportation Agency Safety Plans as authorized under 49 U.S.C. § 5329(d). This Final Rule requires States and certain operators of public transportation systems that receive Federal financial assistance under 49 U.S.C. Chapter 53 to develop Public Transportation Agency Safety Plans based on the Safety Management Systems (SMS) approach. The development and implementation of safety plans will help ensure that public transportation systems are safe nationwide. This Final Rule adds a new Part 673, "Public Transportation Agency Safety Plans," to Title 49 of the Code of Federal Regulations.

FTA is deferring applicability of the rule for operators of public transportation systems that only receive FTA funds through the Enhanced Mobility of Seniors and Individuals with Disabilities Program at 49 U.S.C. § 5310 (Section 5310) and/or the Rural Areas Formula Program at 49 U.S.C. § 5311 (Section 5311). Consequently, the rule does not apply to these entities at this time. FTA is deferring regulatory action on these entities pending further evaluation of information and safety data to determine the appropriate level of regulatory burden necessary to address the safety risk presented by these operators.

One year after the effective date of this Final Rule, each State, local governmental authority, and operator of a public transportation system that is subject to this rule must certify that it has developed a Public Transportation Agency Safety Plan. See 49 U.S.C. § 5329(d)(1). Each operator of a public transportation system must have its safety plan approved by its Board of Directors (or an Equivalent Authority) and signed by its Accountable Executive.

States must draft and certify safety plans on behalf of any small public transportation provider located within the State. FTA defined "small public transportation provider" to mean a bus system which operates 100 or fewer vehicles in peak revenue service. Given that the rule does

not apply to operators of public transportation systems that only receive FTA funds under Section 5310 and/or Section 5311, FTA excluded these entities from the information collection.

Pursuant to 49 U. S.C. § 5329(d)(1), each Public Transportation Agency Safety Plan must include, at minimum:

- An approval from the recipient's Board of Directors, or an Equivalent Authority;
- Methods for identifying and evaluating safety risks throughout all elements of the recipient's public transportation system;
- Strategies to minimize the exposure of the public, personnel, and property to hazards and unsafe conditions;
- A process and timeline for conducting an annual review and update of the plan;
- Performance targets based on the safety performance measures established in FTA's National Public Transportation Safety Plan;
- Assignment of an adequately trained safety officer who reports directly to the general manager, president, or equivalent officer; and
- A comprehensive safety training program for operations personnel and personnel directly responsible for safety that includes the completion of a safety training program and continuing safety education and training.

FTA is implementing these statutory requirements through a new Part 673 to Title 49 of the Code of Federal Regulations. Pursuant to 49 CFR § 673.11, each operator of a public transportation system must, within one year after the effective date of this Final Rule, establish a Public Transportation Agency Safety Plan that meets the requirements of 49 CFR Part 673 and, at a minimum, includes the following elements:

- The Public Transportation Agency Safety Plan, and subsequent updates, must be signed by the Accountable Executive and approved by the agency's Board of Directors, or an Equivalent Authority;
- The Public Transportation Agency Safety Plan must document the processes related to the transit agency's SMS, including its four pillars: (1) Safety Management Policy; (2) Safety Risk Management; (3) Safety Assurance, and (4) Safety Promotion;
- The Public Transportation Agency Safety Plan must include safety performance targets based on the safety performance measures established in FTA's National Public Transportation Safety Plan;

- The Public Transportation Agency Safety Plan must address all applicable requirements and standards as set forth in FTA’s Public Transportation Safety Program and the National Public Transportation Safety Plan;
- Each transit agency must establish a process and timeline for conducting an annual review and update of its Public Transportation Agency Safety Plan; and
- A rail transit agency must include or incorporate by reference in its Public Transportation Agency Safety Plan an emergency preparedness and response plan or procedures that addresses, at a minimum, the assignment of employee responsibilities during an emergency and coordination with Federal, State, regional, and local officials with roles and responsibilities for emergency preparedness and response in the transit agency’s service area.

As noted above, each transit agency’s Public Transportation Agency Safety Plan must include documented processes and procedures related to the four pillars of SMS: (1) Safety Management Policy; (2) Safety Risk Management; (3) Safety Assurance, and (4) Safety Promotion. These processes and procedures are explained in more detail below.

Through Safety Management Policy, each transit agency must develop a safety management policy statement that includes organizational safety accountabilities and responsibilities, the agency’s safety objectives, and an employee reporting program.

Through Safety Risk Management, each transit agency must establish a safety risk management process for all elements of the public transportation system. This process must include procedures for identifying safety hazards, for assessing safety risks, and for mitigating safety risks, as necessary.

Through Safety Assurance, each transit agency must establish procedures for monitoring and measuring its safety performance. Rail transit agencies and large bus agencies that operate more than 100 vehicles in peak revenue service must establish procedures for assessing changes to their public transportation systems that may introduce new hazards and for continually improving their safety performance.

Through Safety Promotion, each transit agency must establish a comprehensive safety training program for all agency employees and contractors directly responsible for safety in the agency’s public transportation system, and communicate safety information throughout the agency.

SMS is a scalable and flexible management tool designed to meet the needs of each unique operating environment of a public transportation provider. Thus, the extent of SMS documentation will vary from transit agency to transit agency. For a small bus operator, SMS will involve a simpler process and less paperwork than that of a larger rail transit agency that employs hundreds or thousands of employees and operates in a more complex environment.

2. Purpose and Use of the Information

The Public Transportation Agency Safety Plan will be the mechanism through which a transit agency demonstrates that it has complied with the statutory requirements of 49 U.S.C. § 5329(d).

While the plan specifies the activities that a transit agency and a State must undertake, the information exchange between FTA and its recipients will consist of:

- Annual Certifications and Assurances. FTA requires operators of public transportation systems and States to certify compliance with 49 CFR Part 673 through its annual submittal of Certifications and Assurances to FTA. These entities will transmit this information through the existing Certification and Assurances module in FTA's Transit Award Management System (TrAMS). FTA will incorporate a new Certification and Assurance to the existing list to cover Public Transportation Agency Safety Plans.
- Triennial Review Process. FTA will ensure compliance with this rule through its existing Triennial Review oversight process. FTA will incorporate questions specific to the Public Transportation Agency Safety Plan Rule into FTA's existing oversight questionnaire for transit agencies to evaluate areas of compliance.
- State Management Review Process. FTA also will ensure compliance with this rule through its existing triennial State Management Review oversight process. FTA will incorporate questions specific to the Public Transportation Agency Safety Plan Rule into FTA's existing oversight questionnaire for States to evaluate areas of compliance.

The purpose and use of this information is to ensure that the specifications of the rule are carried out through a process of self-certification by a transit agency or State.

The information collection will help guide a transit agency and FTA's safety program priorities. The information will come from the transit agencies through their Public Transportation Agency Safety Plan drafting and certification processes. FTA anticipates that this improved information flow will broaden an individual transit agency's experiences in implementing a mature SMS.

Another important use of the information is to strengthen a transit agency's SMS processes internally. FTA anticipates that a transit agency's SMS processes will be improved and that safety outcomes will be mitigated or eliminated through the requirements for the Accountable Executive to approve plans, for certain safety-related decision-making to be elevated to the executive level, and for the involvement of all staff to report safety problems or issues before they become severe. SMS establishes a proactive approach to managing safety risks, as opposed to a reactive one.

3. Use of Information Technology and Burden Reduction

FTA requires transit agencies and States to submit annual certifications and assurances to FTA to ensure compliance with this Final Rule. Transit agencies and States may generate and use any processes desired, but submissions and compliance would not require information technology that is more complex than a word processing or spreadsheet file.

The data and information collected will be entered, stored, transmitted, and circulated electronically, both internal to the agency and in external communications from agency to State, and from agency to FTA submissions.

Transit agencies and States may use safety plan templates issued by FTA, which will be in word processing, form-filling software or a web-hosted form to allow for entering of values on an electronic form that can be transmitted to a State or to FTA.

FTA encourages transit agencies and States to utilize the Internet so that the transit agencies can upload their information to the State, thus lessening the burden to the transit agency and the State.

FTA's existing TrAMS system will be used by transit agencies and States for the submission of annual certification and assurance materials. FTA will not be collecting safety plans on an annual basis, but it will be requiring transit agencies and States to annually self-certify, in accordance with FTA's already established policies and procedures, that they are complying with this Final Rule.

Since the transit agencies and States have some form of information technology in place to support their overall operations and functions, their main emphasis would be on the modification of these systems to support the new requirements specified in this Final Rule.

4. Efforts to Identify Duplication and Use of Similar Information

FTA has issued several rules related to this Final Rule in terms of information exchange, particularly, the Transit Asset Management Rule at 49 CFR Part 625, the Public Transportation Safety Program Rule at 49 CFR Part 670, the State Safety Oversight Rule at 49 CFR Part 674, the Interim Public Transportation Safety Certification Training Program Provisions, and an amended FTA and Federal Highway Administration (FHWA) Statewide and Metropolitan Planning Rule at 23 CFR Part 450. FTA has also issued related guidance in the form of the National Public Transportation Safety Plan. In their entirety, the requirements of 49 U.S.C. §§ 5303, 5304, 5326, and 5329 support one another and the coordination of national, State, and local efforts to improve transit safety and increase the reliability and performance of the nation's public transportation systems.

FTA has examined each of these rulemakings and guidance documents, and FTA has identified their inputs or outputs to the Public Transportation Agency Safety Plan Rule. In some cases, this

rule will borrow information from the others. For instance, safety performance measures are derived from the National Public Transportation Safety Plan.

FTA examined and utilized FTA and U.S. Department of Transportation (USDOT) data repositories as possible sources of data, including the National Transit Database (NTD), reports from the Bureau of Transportation Statistics (BTS), and industry data reports.

FTA assumed that many of the Public Transportation Agency Safety Plan and safety management functions and processes already exist within transit agencies. SMS reframes many of these existing activities in a comprehensive and efficient way to ensure safety.

FTA anticipates that rail transit systems and larger bus systems will have significantly more of the information and processes already in place that can support SMS implementation. Many of the provisions outlined in this rule would incorporate many of these existing processes—such as hazard identification, risk evaluation, and risk mitigation processes which are ubiquitous across the industry. These existing processes will lead to a decrease in the duplication of paperwork and costs.

Historically, through FTA's State Safety Oversight Rule at 49 CFR Part 659, FTA has required many of the Public Transportation Agency Safety Plan Rule's provisions for rail transit systems, such as hazard identification and safety risk assessment. As a result, rail transit agencies have processes in place, and higher maturity levels with SMS, which will help them expand their safety plans in a manner that complies with this rule and covers bus modes of transit for multi-modal agencies.

Some smaller bus-only transit systems will need to start from an earlier point in the SMS maturity level. They will have to create more policies and procedures than established rail transit systems. FTA will provide technical assistance and guidance documents to the industry in an effort to lessen any duplication of paperwork burdens. As noted above, FTA also will be providing safety plan templates to these transit operators to reduce the paperwork burdens.

As noted above, FTA's existing Triennial Review and State Management Review oversight processes will be other mechanisms to capture information regarding safety performance and safety management practices. The current reviews cover multiple aspects of Federal oversight of Federal grant recipients, and FTA will update these reviews to include questions which will provide indications of compliance with this Final Rule, and other related metrics. These modifications to FTA's oversight practices should not significantly alter FTA's existing review processes.

With respect to the establishment of performance targets, FTA requires transit agencies to make their performance targets available to States and MPOs to assist with the development of Statewide and MPO-level performance targets. FTA does not anticipate additional paperwork burdens related to this activity.

This Final Rule requires rail transit agencies to develop emergency preparedness and response plans. Rail transit agencies already have emergency preparedness and response plans in

accordance with FTA's State Safety Oversight Rule at 49 CFR Part 659. Consequently, FTA anticipates no additional paperwork burden with this activity.

FTA is administering a voluntary SMS Pilot and Implementation Program for transit agencies. FTA anticipates that this pilot program will reveal other opportunities for reducing paperwork and financial burdens, and FTA anticipates that the pilot program will provide methods and best practices for SMS implementation at transit agencies of all modes and sizes nationwide. Through the program, FTA also intends to provide technical assistance and guidance to transit agencies so that they can fully implement an SMS and become compliant with the requirements in this Final Rule.

5. Impact on Small Businesses or Other Small Entities

FTA communications with the transit industry have allowed for agencies to anticipate and commence preparation for this rule's requirements. For instance, following a recommendation from FTA's designated Federal Advisory Committee—the Transit Advisory Committee for Safety (TRACS)—on May 13, 2013, FTA issued a Dear Colleague letter and answers to Frequently Asked Questions (FAQs) setting forth FTA's intention to adopt the SMS approach to guide the advancement of FTA's safety rulemakings and other initiatives to improve the safety of public transportation.

Subsequently, FTA issued an Advanced Notice of Proposed Rulemaking (ANPRM) on October 3, 2013. The ANPRM sought comment on 123 questions related to this rule, other safety rules and guidance, and transit asset management. In response, FTA received comments from 167 entities. A key theme among commenters was that the regulation should be scalable and flexible enough to recognize that smaller agencies may not have the resources to implement a complex and lengthy Public Transportation Agency Safety Plan.

FTA issued a Notice of Proposed Rulemaking (NPRM) for this rule on February 5, 2016, and it received approximately 647 comments in response to its proposal. In light of the public interest in this rulemaking, and in an effort to provide guidance on the proposal and to solicit well-informed comments, FTA conducted numerous public outreach sessions and a webinar series related to the NPRM. On February 12, 2016, FTA conducted public outreach for tribes and hosted a Tribal Technical Assistance Workshop wherein FTA presented its proposed rule and responded to technical questions from tribes. FTA subsequently delivered the same presentation during a webinar series open to all members of the public on February 24, March 1, March 2, and March 3. On March 7, FTA delivered the same presentation at an outreach session hosted by the National Rural Transit Assistance Program, which also was open to all members of the public. During each of these public outreach sessions and the public webinar series, FTA received and responded to numerous technical questions regarding the NPRM. FTA recorded the presentations, including the question and answer sessions, and made available the following documents on the public docket for this rulemaking (Docket FTA-2015-0021): (1) FTA's PowerPoint Presentation from the public outreach sessions and public webinar series (<https://www.regulations.gov/document?D=FTA-2015-0021-0010>); (2) a written transcript of FTA's public webinar of March 1, 2016 (<https://www.regulations.gov/document?D=FTA-2015->

[0021-0010](#)); (3) a consolidated list of every Question and FTA Answer from the public outreach sessions and public webinar series (<https://www.regulations.gov/document?D=FTA-2015-0021-0041>); and (4) the results of polling questions from FTA’s public outreach sessions (<https://www.regulations.gov/document?D=FTA-2015-0021-0011>). FTA also uploaded onto YouTube an audiovisual recording of its webinar from March 1, 2016. The video is available at the following link: <https://www.youtube.com/watch?v=FBj5HRatwGA&feature=youtu.be>. FTA undertook these efforts to assist the industry, including small entities, with the requirements of this rule.

FTA plans to mitigate any impacts to the smaller systems—particularly the small operators that receive funds under 49 U.S.C. § 5307 (Section 5307), Section 5310, and Section 5311—through the adoption of the following approaches.

Deferral of Applicability

At this time, the rule does not apply to recipients of Section 5310 and/or Section 5311 funds.

Scalability

SMS is inherently a scalable process that can be adapted to any size transit system. FTA is issuing safety plan templates to assist with transit agencies’ efforts to scale SMS to their particular operating environments. These templates will include forms that recipients can complete by entering information. With small systems, there will be less detailed verbiage and data needed. The template format will guide the small systems with compliance with the Final Rule.

The States’ Role in Drafting and Certifying Safety Plans for Small Entities

Small Section 5307 recipients and sub-recipients may have their safety plans drafted and certified by the State in which they operate, unless the transit agencies opt to draft and certify their own safety plans. This regulatory provision will reduce the burden and cost of agency safety plan development for small entities.

This provision significantly reduces the time and cost burdens of small transit agencies. The provision would shift burdens to the States, but given their higher levels of staffing resources and FTA’s technical assistance and templates, these burdens should not require significant additions of State staff.

FTA anticipates that 15 percent of the systems will develop and certify their own safety plans, and FTA anticipates that 85 percent of the systems will have their plans drafted and certified by the State in which they are located.

Maturity Assumptions

Transit agencies will experience the significant cost impacts during the first year as the agencies reorganize lines of communication, information exchange, and reporting while they move along

the path to SMS maturity. After the initial development of their safety plans, transit agencies will focus on the ongoing implementation and maintenance of SMS, which will require reduced levels of effort.

Training may be abbreviated for smaller systems and will be provided online, so that smaller agencies can expend fewer resources on staff training time and expenses, while receiving the training. FTA will take into account existing training programs, such as the Community Transportation Association of American (CTAA) Certified Safety and Security Officer Certification program, to avoid duplication of efforts. FTA also will provide its own online training for the industry, including small entities, to further reduce travel and administrative costs and paperwork burdens.

Smaller transit agencies frequently have staff members that perform multiple functions. The implementation of this rule will not require additional staffing, but a reshuffling and accretion of duties of current staff, especially during the first year.

FTA will utilize its existing annual Certification and Assurances process in TrAMS for the certification of safety plans. FTA's grantees already submit certifications and assurances annually through this method, so there will be no duplication of efforts, but rather, FTA will build upon and utilize a process that is already in place.

6. Consequences of Collecting the Information Less Frequently

Any delay or curtailment in the self-reporting of this information would hamper the ability of FTA to monitor the implementation of, and compliance with, this rule and the improvements in safety management. Additionally, without the information requirements in the rule, FTA would be unable to adequately determine compliance with the statutory requirements of 49 U.S.C. § 5329(d).

7. Special Circumstances that Require the Collection to be Conducted in a Manner Inconsistent with OMB Guidelines

There are no special circumstances within this Final Rule that require the collection of information inconsistent with any OMB guidelines.

8. Comments in Response to the Federal Register Notices and Efforts to Consult Outside Agencies

As mentioned above, FTA issued an Advanced Notice of Proposed Rulemaking (ANPRM) on October 3, 2013. The ANPRM sought comment on 123 questions related to this rule, other safety rules and guidance, and transit asset management. In response, FTA received comments from 167 entities. A key theme among commenters was that the regulation should be scalable

and flexible enough to recognize that smaller agencies may not have the resources to implement a complex and lengthy Public Transportation Agency Safety Plan.

FTA issued a Notice of Proposed Rulemaking (NPRM) for this rule on February 5, 2016, and it received approximately 647 comments in response to its proposal. Given public interest in this rulemaking, and to provide guidance on the proposal and solicit well-informed comments, FTA conducted numerous public outreach sessions and a webinar series for the NPRM. On February 12, 2016, FTA conducted public outreach for tribes and hosted a Tribal Technical Assistance Workshop wherein FTA presented its proposed rule and responded to technical questions from tribes. FTA subsequently delivered the same presentation during a webinar series open to all members of the public on February 24, March 1, March 2, and March 3. On March 7, FTA delivered the same presentation at an outreach session hosted by the National Rural Transit Assistance Program, which also was open to all members of the public. During each of these public outreach sessions and the public webinar series, FTA received and responded to numerous technical questions regarding the NPRM. FTA recorded the presentations, including the question and answer sessions, and made available the following documents on the public docket for this rulemaking (Docket FTA-2015-0021): (1) FTA's PowerPoint Presentation from the public outreach sessions and public webinar series (<https://www.regulations.gov/document?D=FTA-2015-0021-0012>); (2) a written transcript of FTA's public webinar of March 1, 2016 (<https://www.regulations.gov/document?D=FTA-2015-0021-0010>); (3) a consolidated list of every Question and FTA Answer from the public outreach sessions and public webinar series (<https://www.regulations.gov/document?D=FTA-2015-0021-0041>); and (4) the results of polling questions from FTA's public outreach sessions (<https://www.regulations.gov/document?D=FTA-2015-0021-0011>). FTA also uploaded onto YouTube an audiovisual recording of its webinar from March 1, 2016. The video is available at the following link: <https://www.youtube.com/watch?v=FBj5HRatwGA&feature=youtu.be>. FTA undertook these efforts to assist the industry, including small entities, with the requirements of this rule.

FTA made revisions to the burden estimates listed below based on comments received on the NPRM and other updates. In particular, FTA adjusted the assumptions related to the required number of hours per year for the Chief Safety Officer based on agency size, and updated hourly labor rates. FTA also deferred action on recipients of Section 5310 and/or Section 5311 funds, which tend to be smaller public transportation operators.

9. Explanation of Any Payment or Gift to Respondents

FTA's Final Rule does not include any payments or gifts to respondents.

10. Assurance of Confidentiality Provided to Respondents

No elements of confidentiality are involved in this rulemaking.

11. Justification for Sensitive Questions

No sensitive questions are included in this rulemaking.

12. Estimates of Hour Burden Including Annualized Hourly Costs

Estimated Annual Number of Respondents: 336
Estimated Annual Number of Responses: 867
Estimated Total Annual Burden Hours: 376,543
Estimated Total Annual Cost: \$33,193,637

For more details on these estimates, please see the information below.

Table 1: Number of Respondents¹

| Agency Respondent Type | Number of Respondents | Number of Responses |
|------------------------|-----------------------|---------------------|
| States | 55 | 55 |
| 5307 Rail | 60 | 60 |
| 5307 Large Bus | 127 | 127 |
| 5307 Small | 94 | 625 |
| Total | 336 | 867 |

Given that small Section 5307 recipients and sub-recipients must have their safety plans drafted and certified by the State in which they operate, FTA assessed the number of likely sub-recipient drafters. FTA assumed that 15 percent of the transit agencies, which is 94 of them, would develop their own plans, and that the remainder of agencies will have the State or the direct recipient develop and certify the plans.

Table 2 summarizes the overall burden, in labor-hours per response per year for each respondent type. The tables include a breakdown for the three main paperwork-related elements of the rule: Development and Certification, Implementation and Documentation, and Recordkeeping. Development and Certification refers to the initial costs associated with developing a safety plan, while Implementation and Documentation refers to the tasks associated with carrying out and implementing the safety plan. Recordkeeping includes the ongoing annual expense to maintain records related to the safety plans.

¹ Source: National Transit Database, FTA, 2013, available here: <https://www.transit.dot.gov/ntd/data-product/2013-annual-database-agency-information>. This is the latest year for which data are available. Estimates also were based on consultation with industry experts. The count of 55 States includes all 50 States, Washington, D.C. and four U.S. territories.

Table 2: Total Annualized Burden

| | | Total Responses | Burden Hours Per Response | Total Annual Burden |
|--------------------|----------------------------|-----------------|---------------------------|---------------------|
| Rail | Development/ Certification | 60 | 48 | 2,862 |
| | Implement/ Document | 60 | 1,114 | 66,869 |
| | Recordkeeping | 60 | 43 | 2,562 |
| Large 5307 | Development/ Certification | 127 | 48 | 6,123 |
| | Implement/ Document | 127 | 760 | 96,581 |
| | Recordkeeping | 127 | 42 | 5,298 |
| Small 5307 | Development/ Certification | 94 | 19 | 1,773 |
| | Implement/ Document | 625 | 270 | 168,622 |
| | Recordkeeping | 625 | 38 | 23,647 |
| States | Development/ Certification | 55 | 40 | 2,206 |
| | Implement/ Document | 55 | 0 | 0 |
| | Recordkeeping | 55 | 0 | 0 |
| Grand Total | | 336 | 2,422 | 376,543 |

Summary for Table 2:

The total number of respondents is 336, which includes 60 Section 5307 rail respondents, 127 Section 5307 large bus respondents, 94 Section 5307 small respondents, and 55 State or territory respondents.

When counting all constituent agencies participating, the total for each sub-type (rail Section 5307 recipients, large bus Section 5307 recipients, small bus Section 5307 recipients, and States) is 60, 127, 625, and 55, respectively, for a total of 867 agencies. FTA expects variance across transit agencies based on agency size and category.

The range of estimated hourly burdens spans from 72,293 labor hours for the Section 5307 rail agencies to 194,042 labor hours for the small Section 5307 bus agencies. Additionally, the labor hour burden for the State or territory category is estimated to be 2,206.

In terms of individual agencies, the highest estimated labor burden is for the large Section 5307 rail/bus agencies at 1,205 hours, and the lowest is for the small Section 5307 bus agencies that operate public transportation systems at 327 hours.

The main reasons for the variance in labor burdens across agency categories are: (1) the States will assist many of the Small 5307 agencies with safety plan development and certification; (2) the rule places a smaller burden on smaller agency categories given the scalability of SMS and the lower volume of safety incidents that these smaller transit agencies will experience; and (3) the experience and abilities of available labor likely differ between categories.

The calculation uses three years of the expected burden of labor, with the greatest labor burden falling in the first year. FTA then annualized burden hours over the three-year period. While FTA presents the total annualized burden in Table 2, the total burden for year one is expected to be approximately 476,906 hours. The total burden for years two and three, respectively, is 326,361 hours.

The burden hours were monetized using a combination of sources. Hourly wage rates were estimated using annual average salaries for various classifications of labor, divided by 2,080 hours of work per year. The average Accountable Executive salary for Rail agencies was determined by a random sampling of publicly available Chief Executive Officer (CEO) salary information and total compensation data available through NTD. Other salaries for rail agencies were determined as a ratio of the Accountable Executive salary based on the same ratios exhibited by the available May 2015 Bureau of Labor Statistics (BLS) data for urban and interurban bus transit systems.² Salaries for Large and Small 5307 agencies also were estimated based on this BLS data. The annual salaries were adjusted to account for inflation over time and benefits, using BLS data on the employment cost index and benefits (employer cost for employee compensation).³

Table 3: Total Costs to Agency, Years 1-3 (Includes Labor, IT/Materials, and Travel)

| | | Year 1 | Year 2 | Year 3 | Total |
|---------------|-------------------------------|--------------|-------------|-------------|--------------|
| Rail | Development/ Certification | \$733,863 | \$86,858 | \$86,858 | \$907,579 |
| | Implement/ Document | \$9,366,439 | \$6,651,817 | \$6,651,817 | \$22,670,072 |
| | Recordkeeping | \$1,179,917 | \$1,179,917 | \$1,179,917 | \$3,539,750 |
| Large 5307 | Development/ Certification | \$1,624,085 | \$137,866 | \$137,866 | \$1,899,818 |
| | Implement/ Document | \$9,235,788 | \$6,593,697 | \$6,593,697 | \$22,423,182 |
| | Recordkeeping | \$1,830,066 | \$1,830,066 | \$1,830,066 | \$5,490,199 |
| Small 5307 | Development/ Certification | \$436,058 | \$48,929 | \$48,929 | \$533,917 |
| | Implement/ Document | \$12,166,099 | \$9,118,251 | \$9,118,251 | \$30,402,601 |
| | Recordkeeping | \$3,565,974 | \$3,565,974 | \$3,565,974 | \$10,697,922 |
| States | Development/ Certification | \$425,782 | \$20,045 | \$20,045 | \$465,871 |
| | Implement/ Document | \$0 | \$0 | \$0 | \$0 |
| | Recordkeeping | \$183,333 | \$183,333 | \$183,333 | \$550,000 |

² See http://www.bls.gov/oes/current/naics3_485000.htm

³ BLS Employment Cost Index, December 2016, Table 11. <https://www.bls.gov/news.release/eci.t11.htm>. For these employees, BLS data show wages increased 2.1% from 2015 to 2016. This increase was included to adjust for inflation in the wage data from 2015 to 2016.

BLS Employer Cost for Employee Compensation, December 2016, Table 3.

https://www.bls.gov/news.release/archives/ecec_03172017.pdf

For these employees, BLS data show wages as 63% of total compensation, with benefits at 37%.

The labor and cost estimates in Tables 2 and 3 are based on the following parameters:

- Responses occur once annually for all entities, including the certification of Public Transportation Agency Safety Plans.
- The annual hour burden is calculated with the following factors applied:
 - The calculation uses three years of the expected burden of labor, with the greatest labor burden falling in the first year.
 - There are three different phases of rule adherence: Plan Development and Certification, Implementation and Documentation, and Recordkeeping.
 - The tasks associated with the Development and Certification phase apply only to those transit agencies developing their own safety plans, but the tasks associated with the other two phases apply to all agencies.
 - The types of labor included are the Accountable Executive, the Chief Safety Officer, Safety Staff, Safety Data Analyst(s), the Operations/Maintenance Manager, and Training Staff. Not every category of labor was involved in every duty, and FTA assumed that as agencies grew smaller, fewer of these categories existed and the burden of labor was divided differently. Additionally, at the State level, not all of these labor categories are likely to be involved, for instance, a Program Manager is assumed to be the main labor category for work at the State level.
 - The calculation includes estimated costs for travel, materials, records, and information technology which do not have hours directly attributable to them; the non-labor portion comprises approximately \$24 million over the three-year period.
- Explanation of how the burden was estimated:
 - For each category of agency, FTA broke down the rule subpart by subpart, and then clause by clause, and FTA scoped the required response using Project Management Planning (PMP) estimation techniques.
 - FTA then estimated the labor burden for each response action and divided it across labor categories. This burden estimated new labor specific to the rule and assumed that the paperwork burdens were new.
 - FTA calculated the total labor burdens per labor category for each of the three phases.

- Within each agency category, FTA made assumptions on the implementation maturity of the covered agencies. There are three maturity levels: High, Medium, and Low. FTA applied these levels separately to the first phase and the other two phases (for example, an agency can be highly mature in terms of Development, but of medium maturity for Implementation and Recordkeeping).
- FTA used the maturity level to discount the labor burden for the hours for agencies assigned to each maturity category. FTA estimated these maturity discount levels for each agency category by each phase. The High category has a 50% discount, the Medium category almost always has a 25% discount, and the Low category normally has either no discount or a 5% discount.
- For Years 2 and 3, FTA assumed that Development and Certification labor burdens would be 25% of those of Year 1.
- For Years 2 and 3, FTA divided the tasks in the Implementation and Documentation phase into four SMS subcategories: Safety Management Policy, Safety Risk Management, Safety Assurance, and Safety Promotion. FTA assumed that the labor burden for each of these subcategories for Years 2 and 3 were 20%, 85%, 85%, and 70% of the Year 1 burden, respectively.
- For the Recordkeeping phase, FTA assumed the Year 2 and 3 labor burdens were the same as the Year 1 burden, as recordkeeping should be a constant and recurring expense.
- For the State labor burden, FTA applied the 50% template discount for Year 1 of the Development and Certification phase.
- In addition to the general development and certification labor burden for the State, FTA assumed that an additional 4 hours of labor were needed to individualize the plan for each participating agency and 1 hour was needed to certify each agency's plan. For Years 2 and 3, this hour of labor for the certification for each participating agency was the only labor burden for the State.
- FTA assumed that there is no labor burden for the Implementation or Recordkeeping phases for the State.

Table 4: Analysis of Costs for Systems, Years 1-3—Totals Summary

| Phase | Year 1 | Year 2 | Year 3 | Total |
|----------------------------------|---------------------|---------------------|---------------------|---------------------|
| Development and Certification | \$3,219,788 | \$293,698 | \$293,698 | \$3,807,184 |
| Implementation and Documentation | \$30,768,326 | \$22,363,765 | \$22,363,765 | \$75,495,855 |
| Recordkeeping | \$6,759,290 | \$6,759,290 | \$6,759,290 | \$20,277,871 |
| Totals | \$40,747,404 | \$29,416,753 | \$29,416,753 | \$99,580,910 |

13. Estimate—Total Annual Cost Burden to Respondents/Recordkeepers

The estimates in Section 12 above include all costs, including labor, information technology (IT), and travel for the full spectrum of activities from initial plan development, through implementation and documentation, to recordkeeping. There are no additional costs beyond what is estimated there, except for FTA’s own costs as described in Section 14 below.

14. Annualized Cost to the Federal Government

| FTA Cost Burden * | | | | |
|----------------------------------|-----------|-----------|-----------|-----------|
| | Year 1 | Year 2 | Year 3 | Total |
| Development and Certification | \$60,000 | \$40,000 | \$40,000 | \$140,000 |
| Implementation and Documentation | \$100,000 | \$100,000 | \$100,000 | \$300,000 |
| Total | \$160,000 | \$140,000 | \$140,000 | \$440,000 |

Notes:

*This data includes only labor costs. The FTA cost burden reflects estimated FTA costs for the development of templates and other startup costs, as well as ongoing coordination with transit agencies and providing oversight as needed. These costs are relatively limited because FTA will assess each transit agency’s compliance with the rule as part of the normal triennial review process.

The total FTA burden hours are 6,622. The annual average burden hours are 2,207. The wage rate used was an estimated fully-loaded hourly rate for a mid-range general schedule grade 12 FTA employee. This rate equated to \$66.45 per hour.⁴

⁴ The 2016 annual general schedule salary for a grade 12, step 5 employee in Washington, D.C. was \$87,074. An employer-provided benefits multiplier of 1.587 was applied to the salary, which was then divided by 2080 to determine the hourly rate. For the full methodology of the fully-loaded wage rate, please see the Regulatory Impact Assessment.

15. Explanation for Program Changes or Adjustments

This is a new information collection request. For purposes of this final Supporting Statement for Paperwork Reduction Act Submissions, FTA will briefly summarize the changes that it made in response to public comments from the NPRM to the Final Rule, below.

Section 673.1 Applicability

In the NPRM, FTA proposed to apply the rule to every “State, local governmental authority, and any other operator of a public transportation system that receives Federal financial assistance under 49 U.S.C. Chapter 53.” FTA specifically asked the public whether the rule should apply to recipients and sub-recipients of funds under FTA’s Enhanced Mobility of Seniors and Individuals with Disabilities Program at 49 U.S.C. § 5310 (Section 5310). FTA also specifically asked the public for alternative regulatory frameworks that satisfy the statutory requirements of 49 U.S.C. § 5329 and are tailored to fit the needs of smaller operators of public transportation.

FTA received numerous comments in response to these questions and the regulatory proposal. Several commenters suggested that FTA exempt Section 5310 recipients from the rule because they are smaller non-traditional transit providers. Several commenters suggested that FTA adopt a more streamlined and simplified approach that is more tailored for smaller operators. At least one commenter suggested that FTA exempt sub-recipients of Section 5311 Rural Area Formula Program funds from the rule.

In light of these public comments and the need for further evaluation, FTA is deferring regulatory action at this time on 2,000 operators of public transportation systems that only receive Section 5310 and/or Section 5311 funds. This deferral will provide FTA time to further evaluate information and safety data related to these systems to determine the appropriate level of regulatory burden necessary to address the safety risk presented by these systems. Thus, this Final Rule does not address operators of public transportation systems that only receive Federal financial assistance under 49 U.S.C. § 5310, 49 U.S.C. § 5311, or both 49 U.S.C. § 5310 and 49 U.S.C. § 5311.

Section 673.5 Definitions

FTA updated the definitions of the terms “Accountable Executive” and “Transit Asset Management Plan,” and FTA changed the term “Performance Criteria” to “Performance Measure,” in an effort to align these terms and definitions with those in FTA’s Transit Asset Management rule at 49 CFR Part 625, which was published on July 26, 2016. FTA updated the definition of the term “Safety Risk Management,” added the term “Rail Fixed Guideway Public Transportation System,” and changed the term “Safety Risk” to “Risk” in an effort to align these terms and definitions with those in FTA’s State Safety Oversight rule at 49 CFR Part 674, which was published on March 16, 2016. FTA clarified in its definition of “Safety Management

System Executive” that it means a “Chief” Safety Officer or an equivalent. FTA changed the term “Safety Risk Evaluation” to “Safety Risk Assessment” to add clarity to the Final Rule.

In the NPRM, FTA proposed to define “operator of a public transportation system” to exclude operators that “provide service that is closed to the general public and only available for a particular clientele.” This language was intended to narrow the type of Section 5310 recipients that would be subject to the rule. In light of FTA’s decision to defer action on the applicability of the rule to all Section 5310 recipients and sub-recipients—including operators that “provide service that is closed to the general public and only available for a particular clientele”—FTA is removing this language from the definition of “operator of a public transportation system.”

In the NPRM, FTA proposed to define “Small Public Transportation Provider” to mean “a recipient or sub-recipient of Urbanized Area Formula Program funds under 49 U.S.C. 5307 that has one hundred (100) or fewer vehicles in revenue service and does not operate a rail fixed guideway public transportation system.” In response to public comments and for consistency with the Transit Asset Management Rule (81 FR 48889), FTA changed the definition of the term “Small Public Transportation Provider” to mean 100 or fewer vehicles in “peak” revenue service, as opposed to revenue service generally.

Section 673.11(a)(6) General Requirements: Emergency Preparedness and Response Plans

Based on public comments, FTA will provide rail transit agencies with the option to either include an emergency preparedness and response plan as a section of their Public Transportation Agency Safety Plan, or they may incorporate an existing emergency preparedness and response plan into their Public Transportation Agency Safety Plan by reference.

Section 673.11(d)-(e) General Requirements; § 673.13 Certification of Compliance: The Drafting and Certification of Public Transportation Agency Safety Plans on Behalf of Section 5310 Recipients and Sub-recipients

In the NPRM, FTA proposed to require States to draft and certify safety plans on behalf of certain recipients and sub-recipients of funds under Section 5310 and the Section 5311 Formula Grants for Rural Areas Program. In light of the public comments from these recipients requesting exemptions from the rule and a more streamlined and tailored regulatory approach for smaller operators, and given FTA has decided to defer action on applicability of the rule to Section 5310 and Section 5311 recipients and sub-recipients, FTA does not need to require States to draft and certify safety plans for those recipients and sub-recipients at this time.

Section 673.23(a) Safety Management Policy

In the NPRM, FTA proposed to require transit agencies to develop a written Safety Management Policy, which would include safety performance targets. FTA received numerous comments noting that FTA also was proposing to require transit agencies to set safety performance targets

in the General Requirements section of the rule, so the requirement in the Safety Management Policy section appeared redundant. FTA agrees, and to eliminate any redundancies, FTA deleted that requirement from the Safety Management Policy section of the rule.

Section 673.25 Safety Risk Management

In response to comments, FTA revised its Safety Risk Management requirements to add clarity to the safety hazard identification, safety risk assessment, and safety risk mitigation processes in the final rule.

Section 673.27 Safety Assurance

In the NPRM, FTA proposed to require all transit agencies to develop and implement a comprehensive Safety Assurance process. FTA proposed to require all transit agencies to develop and implement processes for (1) safety performance monitoring and measurement, (2) management of change, and (3) continuous improvement.

FTA received comments seeking clarity on one of the requirements related to safety performance monitoring and measurement, specifically, the requirement for each transit agency to “[m]onitor its operations to identify hazards not identified through the Safety Risk Management process established in § 673.25 of this subpart.” 49 CFR § 673.27(b)(2) (as proposed in the NPRM). Some commenters suggested that this requirement appeared redundant and duplicative of each of the requirements under Safety Risk Management. FTA agrees with these commenters, and to add clarity, reduce redundancy, and lower burdens, FTA eliminated this requirement from the final rule.

More significantly, FTA received numerous comments requesting a reduction in the regulatory requirements for small public transportation providers. Given the limited administrative and financial resources available to small public transportation providers, FTA believes that a reduction in their regulatory burdens is appropriate. To that end, and to address the concerns expressed by commenters, FTA eliminated significant Safety Assurance requirements for all small public transportation providers. In the final rule, small public transportation providers only need to develop processes for safety performance monitoring and measurement. Small public transportation providers are not required to develop and implement processes for management of change and continuous improvement. FTA believes that these changes in the final rule will reduce their burdens significantly. Rail fixed guideway public transportation systems and recipients and subrecipients of Federal financial assistance under 49 U.S.C. Chapter 53 that have more than one hundred vehicles in peak revenue service must develop and implement Safety Assurance processes that include all of the regulatory requirements under 49 CFR § 673.27, specifically, processes for safety performance monitoring and measurement, management of change, and continuous improvement.

Section 673.29(a) Safety Promotion

In the NPRM, FTA proposed to require transit agencies to establish comprehensive safety training programs for staff and contractors directly responsible for “the management of” safety. FTA received several comments expressing confusion over this requirement and the requirements of FTA’s proposed Safety Certification Training Program Rule, which applies to staff and contractors who are responsible for safety “oversight” on rail transit systems. In an effort to respond to the commenters and to eliminate confusion, FTA struck the language “the management of” from the rule, so it now requires safety training for staff and contractors who are “directly responsible for safety.”

Section 673.31 Safety Plan Documentation

In the NPRM, FTA proposed to require transit agencies to maintain their safety plan documents for a minimum of three years. To add clarity in the final rule, FTA is requiring transit agencies to maintain safety plan documents for three years “after they are created.”

Section 673.33 Safety Plan Records

In the NPRM, FTA proposed to require a number of records related to its Public Transportation Agency Safety Plan. Specifically, FTA proposed to require transit agencies to maintain records related to (1) safety risk mitigations, (2) results of safety performance assessments, and (3) employee safety training. FTA received numerous comments requesting reduced recordkeeping burdens. FTA also received numerous comments, in general, from smaller transit operators requesting reduced regulatory burdens.

Upon review of these comments, FTA has eliminated the recordkeeping requirements in proposed 49 CFR 673.33 in their entirety. FTA believes that the records developed and maintained in accordance with 49 CFR 673.31 are sufficient to ensure that transit agencies are complying with the requirements of the statute and this final rule. FTA believes that this change in the final rule significantly will reduce the administrative, financial, and regulatory burdens on all transit operators.

16. Plans for Tabulation and publication for collections of information whose results will be published.

FTA does not plan to publish any results from this collection, including any statistical results.

Each operator of a public transportation system will assemble information through the drafting and certification process related to their safety plans, and they will conduct an annual review of their safety plans.

The States also will assemble information through the drafting and certification process for the small Section 5307 bus transit agencies. These transit agencies will conduct an annual review of their own safety plans (85 percent of the systems will be assembled in this way).

FTA expects 15 percent of the small Section 5307 bus transit agencies to develop and certify their own safety plans.

FTA will tabulate and aggregate this information to ensure compliance, to identify areas of need for further technical assistance, and for reporting back to the industry.

Implementation of the provisions is expected one year after the effective date of this Final Rule.

FTA anticipates that transit agencies' levels of compliance with the rule will be uneven at the outset; there will be differing levels of maturity for different categories of transit agencies. As a transit agency implements SMS, the transit agency's maturity level will increase over time. All operators of public transportation systems should experience an increase in maturity metrics.

17. Reason(s) the Display of OMB Expiration Date is Inappropriate

Not applicable.

18. Exceptions to Certification for Paperwork Reduction Act Submissions

FTA does not claim exceptions to certification for Paperwork Reduction Act submissions.