

DEPARTMENT OF TRANSPORTATION
FEDERAL TRANSIT ADMINISTRATION

SUPPORTING STATEMENT

Rail Fixed Guideway Systems; State Safety Oversight

OMB Control No. 2132-0558

This is a request to the Office of Management and Budget (OMB) for a revision of a currently approved information collection under OMB Control Number 2132-0558, “Rail Fixed Guideway Systems; State Safety Oversight (SSO).” This revision is a result of an adjustment to estimation and burden reduction due to a more accurate methodology for estimating information collection burden. Previous OMB submissions included burden hour totals for ALL program-related activities. This IC was adjusted to only include burden specifically related to information collection activity and not total program implementation burden.

1. Explain the circumstances that make the collection of information necessary.

On July 6, 2012, the President signed into law the Moving Ahead for Progress in the 21st Century Act (MAP-21; Pub. L. 112-141). MAP-21 amended Federal transit law at Chapter 53 of the United States Code, by amending Section 5329 to authorize a new comprehensive Public Transportation Safety Program. On December 4, 2015, the President signed the Fixing America’s Surface Transportation (FAST) Act reauthorizing surface transportation programs through Fiscal Year 2020. As part of this comprehensive program, new Section 5329(e) significantly revised the existing State Safety Oversight (SSO) Program.

Specifically, Section 5329(e) created a new regulatory role for FTA and the States that respond to known gaps in oversight and safety performance. Accordingly, FTA issued a new rule at 49 C.F.R. Part 674 to implement the requirements in 49 U.S.C. 5329(e) and replace the existing SSO regulations at 49 C.F.R. Part 659. In accordance with Section 20030(e) of MAP-21, on April 15, 2019, Section 5330, which authorized the SSO program at Part 659, was repealed.

Section 5329(e) requirements demand more from States and their SSO programs in several ways. For example, the statute requires States to submit their SSO programs to FTA for approval. FTA certified all States’ safety oversight programs prior to the Congressionally-imposed deadline of April 15, 2019.

To gain FTA approval, the States had to assume responsibility for overseeing the safety of their rail transit agencies (RTAs), adopt and enforce Federal and relevant State safety laws, determine appropriate staffing levels for their SSOA, and ensure proper training and certification of their safety oversight personnel. Additionally, FTA verified the SSOA’s financial and legal independence from the rail transit systems it oversees, i.e., a SSOA cannot be reimbursed for its expenses by the rail transit agencies it oversees, nor can the SSOA be the same organization that

operates an RTA. Moreover, a SSOA may not employ any individual who is also responsible for the administration of rail fixed guideway public transportation systems that are subject to the State's oversight. Furthermore, each SSOA now must have investigative and enforcement authority under State law and must audit at least triennially the compliance of the rail transit systems under its oversight, and provide at least annually a status report to FTA, the Governor of the State, and the board of directors of the rail transit system(s).

RTAs also must perform activities to conduct accident investigations, prepare accident investigation reports, investigate hazards and unsafe conditions, implement a hazard management process, prepare and submit corrective action plans, coordinate hazard management program activities with the SSOA, maintain safety data, and make submissions to the SSOA. Burden hours related to the development and implementation of the agency safety plan and implementation of 49 C.F.R. Part 673 are addressed in impact analyses associated with that regulation.

Section 5329(e) also authorizes FTA with enhanced responsibilities under the SSO Program. For example, now FTA must approve each State's SSO program. In approving a SSO Program, FTA must certify whether a State is meeting the statutory requirements. FTA may deny certification to a State that is not meeting the requirements, and FTA can withhold Federal funds until a SSO program can be certified. Moreover, FTA must establish a grant program to help States develop and carry out their SSO functions, and to obtain the necessary training and certification for their SSOA staff. FTA now has additional authority to conduct inspections, investigations, audits, and examinations; test the equipment, facilities, rolling stock, and operations of rail transit systems; make reports and issue advisories and directives with respect to safety; issue subpoenas and take depositions from any employee of a rail transit system who is responsible for safety; require production of documents; and issue regulations for state safety oversight through public notice-and-comment.

With the passage of MAP-21, FTA provides financial assistance to eligible States to develop or carry out SSO activities under Section 5329. FTA manages this financial assistance using the same process as other grant programs, requiring an initial application, annual certifications and assurances, and ongoing quarterly reporting in compliance with the most current version of FTA Circular 5010, "Grant Management Requirements" as well as any other reporting requirements FTA determines necessary.

2. How, by whom, and for what purpose is the information to be used and the consequences if the information is not collected?

Collection of information for this program is necessary to ensure that SSOAs are performing their designated safety function to ensure compliance with the law. FTA must review and approve SSOA incorporation of these requirements into their respective programs to verify compliance. FTA requests information from SSOAs through the SSO Audit program, an annual report and an annual certification from each State to verify its compliance with the regulation, periodic data requests to respond to emerging safety issues, and regular SSOA grants management reporting. FTA may use this information in exercising its authority to withhold

Federal funding to a State or an urbanized area in the State in the event compliance is not reached. RTAs are required to notify FTA of an accident within two hours of occurrence.

The grant application and project management reports are submitted to the FTA Program Office to determine the applicant's eligibility for funding and, subsequently, the recipient's progress in implementing and completing program activities. States make quarterly submissions to FTA's electronic grant making and management system (TrAMS). The reports ensure FTA of a level of management of risks and ensure an appropriate allocation of program funds to eligible state safety oversight program activities. Also, the information submitted ensures FTA's compliance with applicable Federal laws and the Common Grant Rule. In addition, without these reports, significant resources and manpower would be necessary to conduct on-site inspections.

3. Describe whether collection of information involves information technology and any consideration of using information technology to reduce the burden.

FTA collects information annually from the States and requests materials and documentation to support the performance of audits and reviews at the States. FTA has developed a new web-based data collection portal, State Safety Oversight Reporting tool (SSOR) to facilitate the annual submission process. This new system is currently in beta testing and is anticipated to go live in Fall 2019. The PRA burden statement will be added to the home page of the site. This change reduced the SSOAs' reporting burden, provide enhanced data transparency to the SSOAs, and to improve the quality of FTA's safety data and its data management practices.

The new system will provide SSOAs with event data reported by RTAs to the National Transit Database (NTD). In the past, SSOAs had no access to these data and were required to report all event and details themselves. This change means that SSOAs will have less data to report through their annual submission, reducing their overall reporting burden. The change also gives them valuable access to event data reported by the RTAs they oversee. In addition, this new data collection system improves data quality by eliminating duplicative data sets.

The new data collection system also offers additional burden reduction through ongoing reporting. In the past, SSOAs completed a series of spreadsheets at the end of each year. This entailed going back through records and files, and compiling information at the end of each year. With the new system, SSOAs can report information to the web-based application as the year progresses which promotes more accurate and timely reporting and provides SSOAs with a tool through which they can manage their own SSO program activity. Ongoing reporting also offers FTA added value by providing real-time access to SSOA program activity throughout the year.

Additionally, FTA's electronic grant making and management system (TrAMS) is a paperless, electronic grant application, review, approval, acceptance and management process. It is anticipated that 100 percent of applications received under this new program will be submitted electronically. FTA also anticipates that approximately 100 percent of the periodic reports that SSOAs are required to submit will be submitted electronically. SSOAs are also strongly encouraged to use the electronic system for signature of annual certifications and assurances.

4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described above in item three.

FTA reviewed its safety data collection and analysis activities and established a Safety Data Management Working Group to prioritize and execute initiatives to improve safety data management practices. One area of duplication identified and prioritized by the group was RTA event data captured through both the NTD and the SSO Program. RTAs are required to report event data to the NTD. Previously, SSOAs were also required to report these same events to FTA through the SSO Program annual reporting process.

Over the last three years, FTA executed changes in NTD and SSO Program definitions and reporting thresholds to enable the NTD to serve as the system of record for all RTA events. FTA's web-based data collection system finalizes this transition by eliminating the requirement for SSOAs to report events to FTA. Instead, the system provides the SSOAs with event data reported by the RTAs. SSOAs, as the entity responsible for oversight investigations, will only add the final causal determination of the event through the web-based reporting system.

5. If the collection of information involves small businesses or other small entities, describe the methods used to minimize burden.

Small businesses are not covered by FTA's state safety oversight requirements.

6. Describe consequences to Federal program or policy activities if the collection were not collected or collected less frequently.

FTA would be unable to adequately determine compliance with program requirements, which would negatively affect the payment of SSO funds to States and other grantees resulting in the inability of the States to effectively conduct safety oversight activities.

7. Explain any special circumstances that would cause an information collection to be conducted in a manner inconsistent with the guidelines in 5 C.F.R. 1320.6.

The information collected is consistent with the guidelines in 5 C.F.R. 1320.6.

8. Describe efforts to consult with persons outside the agency to obtain their views.

FTA published a 60-day notice in the Federal Register summarizing the burden reductions reflected in this estimate on May 14 (Vol 84 No. 21404). FTA received one comment related to the 60-day notice and it was not substantive. FTA published a 30-Day Federal Register Notice on July 19, 2019 (Vol. 84 No. 34993). FTA communicates program and information collection updates to SSOAs through its monthly safety newsletter, direct monthly planning calls with each SSOA, and through quarterly teleconference calls with the entire SSOA community.

Additionally, FTA hosts annual SSO Program workshops to review current SSO Program activity and requirements.

FTA has developed a new web-based reporting application to facilitate the SSO annual reporting process, as discussed above. FTA has established a three-month pilot period where a group of seven to ten SSOAs will begin early use of the system and provide ongoing feedback on usability, workflows, and other concerns. FTA has established an ongoing pilot process to solicit feedback, address concerns through system modifications and enhancements, and to test modifications before a full launch to the SSOA community. FTA understands that the new tool will offer burden reduction to the SSOAs but is committed to ensuring that the tool has been tested and shaped by the SSOA community that will use it.

9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.

No payment or gift is made to respondents.

10. Describe any assurance of confidentiality provided by to respondents and the basis for the assurance in statute, regulation, or agency policy.

There will be no questions of a confidential nature for individuals on the information reported by the RTA to the SSOA, or on the information reported by the SSOA to FTA. In the Final Rule, FTA encouraged States to provide a legal recourse for protecting the information provided to the SSOA from being eligible for use in litigation against RTA. The RTAs are not asked questions of a confidential nature however a Safety Plan may contain confidential information. The final rule at 674.23 provides that agencies may withhold an investigation report “from being admitted as evidence or used in a civil action for damages resulting from a matter mentioned in the report.” In addition, the final regulation at 674.23 would “not require public availability of any data, information, or procedures pertaining to the security of a rail fixed guideway public transportation system or its passenger operations.”

11. Provide additional justification for any questions of a sensitive nature.

No individuals are asked questions of a sensitive nature in this information collection.

12. Provide estimates of the hour burden of the collection of information and annualized cost to respondents.

Respondents: States and Rail Transit Agencies

Total Respondents: 96 (31 SSOAs + 65 RTAs).

Total Estimated Annual Responses: 1,454

Total Estimated Annual Burden Hours: 16,366 hours (11,603 SSOA hours+4,762 RTA hours).

Annualized Cost to Respondents: \$878,107 (\$622,587 SSOA costs + \$255,520 RTA costs).

The table below presents the current estimates for information collection burden for SSOAs and RTAs.

Total Estimated Hours for 49 CFR Part 674 PRA-Related Activities

	SSOA			RTA			Total		
	Resp.*	Hours	Cost ¹	Resp.*	Hours	Cost ¹	Resp.*	Hours	Cost ¹
Annual Reporting	31	2,920	\$156,660	0	0	\$0	31	2,920	\$156,660
FTA Audits	10	1,591	\$85,387	14	245	\$13,122	24	1,836	\$98,509
Periodic Requests	496	4,092	\$219,567	130	3,900	\$209,265	626	7,992	\$428,832
Grant Management	155	3,000	\$160,973	0	0	\$0	155	3,000	\$160,973
FTA Event Notification	0	0	\$0	0	618	\$33,134	0	618	\$33,134
Total SSOA	692	11,603	\$622,587	144	4,762	\$255,520	836	16,365	\$878,107

* number of estimated responses

Annual Reporting

FTA requires each SSOA to make an Annual Submission each year summarizing their program activity for the previous calendar year. Beginning with Calendar Year 2019 reporting, SSOAs will make this submission through a new web-based reporting tool.

Total estimated hours necessary for Annual Reporting for SSOA community²	2,920
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FTA Audits

FTA conducts an audit of each SSOA at least once every three years. These audits include pre-audit document collection, onsite review and interviews, and audit follow-up to track finding resolution. FTA will conduct approximately 10 audits per year. Audits also include RTA participation and require information collection from RTAs during the onsite portion of the audit.

Activity	SSOA Hours Estimate ³	RTA Hours Estimate ³
Pre-Audit Document Request	10	
SSOA On-Site Interviews	16	

¹ Labor rate calculated by using Bureau of Labor Statistics (BLS) [rate tables](#), category 17-2110 (\$41.92), and adding 28% for fringe costs (\$53.66).

² Based on Part 674 Workload Assessments and burden reduction related to FTA’s new reporting system and process.

³ Estimates based on the schedule provided in the most recent SSO Audit SOP. The 10-audit annual average is based on FTA’s requirement to audit each SSOA at least once every three years.

Activity	SSOA Hours Estimate	RTA Hours Estimate³
RTA On-Site Entrance and Exit Briefing	4	8
RTA System Tour and Records Reviews	6	6
RTA On-Site Interviews	38	57
SSOA Audit Report Review Period	16	
Drafting Responses to Findings and Creating CAPs	24	
Executing and Reporting to FTA on CAP Progress	40	
Total Estimated Hours	154	24
Average SSOA Audits per Year	10	
Industry-Wide Estimated Hours per Year	1,591	245

Periodic Requests⁴

FTA issues periodic requests to SSOAs and RTAs. This may include Safety Advisories or Safety Directives that require information collection from SSOAs and/or RTAs. In addition, FTA holds monthly update teleconferences with each SSOA.

	Quantity	Hours	Agencies	SSOA Total	RTA Total	Total
Safety Advisories/ Directives: SSOAs	4	30	31	3,720		3,720
Safety Advisories/ Directives: RTAs	2	30	65		3,900	3,900
Monthly Updates	12	1	31	372		372
				4,092	3,900	7,992

Grant Management

FTA requires SSOA grant recipients to submit reports to its electronic grant making and management system (TrAMS), including the Federal Financial Report and the Milestone Progress Report.

Estimated Total Hours for SSO Program Grant Management in TrAMS ⁵	3,000
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Event Notification

FTA requires RTAs to notify FTA within two hours of any event meeting the accident thresholds established in 49 CFR Part 674. RTAs submit a brief report to FTA via email.

⁴ Safety Advisories/Directives hours are projected based on an average of four advisories or directives a year to SSOAs and 2 requests a year to RTAs. Ongoing monthly teleconference updates occur between the SSOA and FTA Program Manager to discuss program elements.

⁵ Page 14251 of the Federal Register for the final 49 CFR Part 674 rule estimates 3,000 hours industry-wide for “SSO Grant Management and Reporting Activities.”

CY 2017 674-Reportable Events	581 ⁶
CY 2018 674-Reportable Events	654 ⁵
Average 674-Reportable Events	618
Estimated Hours to Report an Event	1
Total Estimated RTA Hours Burden	618

13. Estimate of the total cost burden to respondents or record keepers resulting from the collection of information (not including the cost of any hour burden shown in items 12 and 14).

There is no additional cost beyond that shown in items 12 and 14.

14. Estimate of annualized cost to the Federal government.

To comply with Section 5329, FTA must make an initial review of each SSOA’s oversight program standard and procedures to determine compliance. Each year thereafter, FTA must continue to monitor compliance. In addition, FTA must provide technical assistance and general monitoring services to manage the SSO program. The table below provides estimates of the labor costs to FTA for compliance with Section 5329.

Compliance monitoring audits have demonstrated their effectiveness to improve the state oversight for accident/hazardous condition investigations, accident reporting, and implementing corrective actions for causes of accidents. It is necessary to provide technical assistance and training to prevent future accidents with injuries and fatalities. Costs are based on \$47.52 per labor hour⁷. Using this rate, FTA estimates a total annual cost to Federal Government of \$667,656.00.

Federal Transit Administration

Annual Activity for PRA Related Activities	Labor Hours	Total Cost
Annual Reporting	4,800	\$ 228,096.00
FTA Audits	5,400	\$ 256,608.00
Periodic Requests	2,000	\$ 95,040.00
Grant Management	1,232	\$ 58,544.64
FTA Event Notification	618	\$ 29,367.36
Total	14,050	\$ 667,656.00

⁶ Reportable events in 2017 and 2018 are calculated using data from the National Transit Database.

⁷ This labor hour rate based on the hourly wage rate of the GS-13 Step 1 grade defined by the current [Office of Personnel Management \(OPM\) table](#) (\$47.52).

15. Explain the reasons for any program changes or adjustments reported.

The total burden estimates for States and Rail Transit Agencies is significantly lower than the previous estimate due to a more accurate methodology for estimating information collection burden. Previous estimates included labor hours totals for all SSO Program-related activities. The new estimate includes only burden hours related to information collection activity. FTA is also deploying a new web-based system (SSOR) to facilitate the SSOA annual reporting requirement which will reduce burden related to the annual reporting process through a streamlined reporting process. There is also an increase in responses in this submission due to the respondents increasing from 90 in 2016 to 96 in 2019. The new IC submission includes one new State being certified and five new rail transit agencies being added to the program.

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

FTA will prepare an annual report on accident statistics as reported by SSOAs in their annual submission to FTA.

17. If seeking approval not to display the expiration date for OMB approval, explain the reasons.

FTA is not seeking this approval.

18. Explain any exception to the certification statement.

There are no exceptions to the certification statement.