

DEPARTMENT OF TRANSPORTATION

FEDERAL TRANSIT ADMINISTRATION

SUPPORTING STATEMENT

Rail Fixed Guideway Systems; State Safety Oversight

OMB Control No. 2132-0558

ABSTRACT

This supporting statement is associated with a Notice of Proposed Rulemaking (NPRM) for a regulation with a currently approved information collection, OMB Control Number 2132-0558, “Rail Fixed Guideway Systems; State Safety Oversight (SSO).” The changes address requirements related to Section 30012 of the Bipartisan Infrastructure Law, enacted as the Infrastructure Investment and Jobs Act; removes requirements outdated references, and simplifies notification requirements. The only change related to the collection of information is a change in the notification criteria and small increase in the respondent universe of the SSO program.

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

In 1991, Congress enacted Federal transportation law stating that because rail transit is an inherently local activity, the States are the principal safety oversight authorities for rail transit systems. At the same time, Congress directed the Federal Transit Administration (FTA) to create and administer a State Safety Oversight Program (SSOP).

In 2012, Congress passed legislation that greatly expanded FTA safety authority and required States with rail transit systems to strengthen their own SSOPs.

In 2015, Congress again passed legislation giving FTA additional safety authority, including a provision that allows FTA to withhold Urbanized Area formula funds if it determines that a State Safety Oversight Agency (SSOA) is incapable of providing safety oversight and the State fails to establish a new, federally compliant SSOP within one year of FTA’s determination.

In 2016, the State Safety Oversight (SSO) final rule significantly strengthened an SSO Agency’s (SSOA) authority to investigate accidents and oversee a rail transit agency’s (RTA) implementation of its safety rule. The SSO rule also gave FTA the authority to review and approve each State’s SSO program and take enforcement actions against those States with non-existent or non-compliant safety oversight programs. By April 15, 2019, each eligible State had to have an approved and certified SSO program.

The Bipartisan Infrastructure Law, enacted as the Infrastructure Investment and Jobs Act 49 U.S.C. § 5329 / IIJA § 30012, continued the State Safety Oversight (SSO) program and established new requirements for FTA’s Public Transportation Safety Program.

This proposed rule updates the existing regulations for state safety oversight of rail fixed guideway public transportation systems. In the Moving Ahead for Progress in the 21st Century Act (MAP-21) ([Pub. L. 112-141](#), July 6, 2012), Congress directed FTA to establish a comprehensive public transportation safety program, one element of which is the State Safety Oversight (SSO) Program. (See [49 U.S.C. 5329](#)). [Section 30012](#) of the Bipartisan Infrastructure Law, enacted as the Infrastructure Investment and Jobs Act (IIJA), established new requirements for FTA's Public Transportation Safety Program. This NPRM proposes to make the following changes to strengthen the existing SSO program:

- Updating terminology to reflect current use across programs.
- Clarifying existing requirements consistent with FTA expectations.
- Removing language relating to the period of transition from 49 CFR part 659, the previous SSO regulation, to 49 CFR part 674, the current SSO regulation.
- Addressing Bipartisan Infrastructure Law requirements.

The purpose of the State Safety Oversight program is to oversee safety at rail transit systems. The SSO program is administered by eligible states with rail transit systems in their jurisdiction. FTA provides federal funds through the SSO Formula Grant Program for eligible states to develop or carry out their SSO programs.

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 utilizes a web-based data

collection portal, State Safety Oversight Reporting tool (SSOR) to facilitate the annual submission process. Implemented in 2019, the system reduced the SSOAs' reporting burden, provide enhanced data transparency to the SSOAs, and has improved the quality of FTA's safety data and its data management practices. The system provides SSOAs with event data reported by RTAs to the National Transit Database (NTD).

FTA makes ongoing enhancements to the SSOR to improve user functionality and to reduce respondent burden. FTA's electronic grant management system (TrAMS) is a paperless, electronic grant application, review, approval, acceptance, and management process. Applications received under this program will be submitted 100% 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.

In recent 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 hosts annual SSO Program workshops, the latest occurring on October 25-27, 2022. This event was a hybrid of in-person and virtual participants. There were over 400 in attendance at the 2022 workshop and FTA received feedback on SSO reporting and information collections.

FTA holds quarterly calls to share information with SSOAs. This year's calls occurred on February 15, May 17, and August 16, 2023.

In addition to the group quarterly calls, FTA's SSO Program Managers also hold quarterly one-on-one calls with each SSOA.

FTA also held State Safety Oversight Reporting Refresher Training Webinars on January 12, 2023 and February 22, 2023 to provide training on using the State Safety Oversight Reporting (SSOR) tool and a review of the system.

FTA has presented on the upcoming regulatory agenda at several industry conferences and events throughout 2023, including APTA Transform (October 8), Midwest Transit Conference (September 7), CTAA Expo (May 22), APTA Mobility (April 25), APTA Rail (June 11) and APTA Legislative Conference (March 12).

FTA's monthly safety newsletter provided programmatic updates on the SSO program immediately following the October 2022 newsletter.

The NPRM associated with information collection was published on November 15, 2023 Vol. 88 No.219 pages 78269-78282.

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 prior rulemakings, 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 previous 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: 1,655

Total Estimated Annual Burden Hours: 18,018 hours (12,026 SSOA hours+5,992 RTA hours).

Annualized Cost to Respondents: \$1,105,427 (\$737,797 SSOA costs + \$367,630 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	2,891	\$177,385	0	0	\$0	31	2,891	\$177,385
FTA Audits	10	1,943	\$119,183	22	1,281	\$78,610	32	3,224	\$197,792
Periodic Requests	496	4,092	\$251,044	130	3,900	\$478,530	626	7,992	\$490,309
Grant Management	155	3,100	\$190,185	0	0	\$0	155	3,100	\$190,185
FTA Event Notification	0	0	\$0	811	811	\$49,755	811	811	\$49,755
Total	692	12,026	\$737,797	963	5,992	\$367,630	1,655	18,018	\$1,105,427

* 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. In 2019, SSOAs began making their submission through a new web-based reporting tool.

Total estimated hours necessary for Annual Reporting for SSOA community²	2,891
--	--------------

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

¹ Labor rate calculated by using 2021 Bureau of Labor Statistics (BLS) [Health and Safety Engineers, Except Mining Safety Engineers and Inspectors \(bls.gov\)](https://www.bls.gov/health-and-safety-engineers-except-mining-safety-engineers-and-inspectors) category 17-2110 (\$47.83) and adding 28% for fringe costs (\$61.35).

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

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	24	
RTA On-Site Entrance and Exit Briefing	4	8
RTA System Tour and Records Reviews	8	12
RTA On-Site Interviews	48	64
SSOA Audit Report Review Period	10	
Drafting Responses to Findings and Creating CAPs	24	
Executing and Reporting to FTA on CAP Progress	60	40
Total Estimated Hours	188	124
Average SSOA Audits per Year	10	
Industry-Wide Estimated Hours per Year	1,943	1,281

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	4	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	3,100
---	--------------

Event Notification

FTA requires RTAs to notify FTA within two hours of any event meeting the proposed notification criteria. RTAs submit a brief report to FTA via email.

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.

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.

Average 674-Reportable Events based on proposed criteria	811
Estimated Hours to Report an Event	1
Total Estimated RTA Hours Burden	811

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 GS-12 Step 5 \$51.15 per labor hour [SALARY TABLE 2023-DCB \(opm.gov\)](#) Using this rate, FTA estimates a total annual cost to Federal Government of **\$685,976**.

Contract and IT support is provided at an annual estimate of **\$38,390**.

Total annualized cost to the Federal government is \$724,366.

Federal Transit Administration

Annual Activity for PRA Related Activities	Labor Hours	Total Cost
Annual Reporting	4,800	\$ 234,144
FTA Audits	5,400	\$ 263,412
Periodic Requests	2,000	\$ 97,560
Grant Management	1,232	\$ 60,096
FTA Event Notification	618	\$ 30,764
Total	14,050	\$ 685,976

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

The change in the current supporting statement reflects a change in the burden hours from the previous PRA submittal as a result of the proposals in the NPRM and changes in the transit

industry. This supporting statement reflects a small increase in the respondent universe from 30 SSOAs in the previous submittal to 31 to reflect the current number of SSOAs applicable under the SSO regulation. More significantly, this supporting statement includes an increase in burden resulting from proposed event notification criteria, updated annual reporting burden from SSOAs, and revised burden related to the FTA SSO audit program. Under the current collection, the estimated total annual burden hours is 16,365. If the proposals in the NPRM are adopted, estimated burden hours would be increased by 1,653 hours, totaling 18,018 hours.

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

FTA will prepare reports on safety event data and trends 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.