

**Department of Transportation  
Federal Transit Administration**

**Supporting Statement  
Rail Transit Roadway Worker Protection (RWP)**

**OMB #New Information Collection**

**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 Notice of Proposed Rulemaking (NPRM).

**1. Circumstances Making the Collection of Information Necessary**

Through this Notice of Proposed Rulemaking (NPRM), the Federal Transit Administration (FTA) would establish minimum safety standards for rail transit Roadway Worker Protection (RWP) under its authority at 49 U.S.C. 5329 and 49 CFR 1.91. This NPRM would require:

- Rail Transit Agencies (RTA) that receive Federal financial assistance under 40 U.S.C. Chapter 53 to develop and implement minimum RWP safety standards. This would not apply to rail systems that are subject to the safety oversight of the Federal Railroad Administration (FRA).
- Rail transit workers who access the roadway to perform work to follow the requirements of the RTA's RWP program by position and labor category.
- State Safety Oversight Agencies (SSOA) that oversee the safety of Rail Fixed Guideway Public Transportation Systems to oversee and enforce FTA's RWP program requirements.

The purpose of this rulemaking is to reduce fatalities and serious injury events involving rail transit workers that occupy the rail roadway.

FTA has adopted the principles and methods of Safety Management Systems (SMS) as the basis for enhancing the safety of public transportation in the United States. As part of its SMS, FTA established a Safety Risk Management (SRM) program to proactively address safety concerns impacting the transit industry and to systematically apply FTA's statutory oversight authority to improve the safety of the Nation's transit infrastructure through the Public Transportation Safety Program.

In 2019, FTA began piloting the SRM process to focus on high-priority safety risks and identified the RWP safety concern as a topic for analysis. As a result of this assessment and FTA's determination of the risk associated with this safety concern, FTA decided that a mitigation was necessary, specifically, that it should develop minimum mandatory requirements for RWP programs.

In September 2021, FTA published a request for information in the Federal Register to solicit information from the public related to transit worker safety to inform the regulatory process.

FTA asked for comment on current RWP practices in the industry, including redundant protections and training, and on minimum requirements the public expected to see if FTA pursued Federal requirements for transit RWP programs. FTA received comments suggesting that classroom and field training should be required, RWP program requirements should be responsive to modal differences and differences in operating characteristics, and suggestions for specific technology or practices to improve safety.

Once FTA issues a final rule, each RTA must develop and implement an RWP Program, as documented in a dedicated RWP manual. RTAs must completely review and update their RWP manual at least every two years.

The manual must include, at a minimum:

- Terminology, abbreviations, and acronyms used to describe the RWP program activities and requirements.
- RWP program elements, including the requirement for ample time (the time necessary for a roadway worker to be clear of the track zone or in a place of safety 15 seconds before a rail transit vehicle moving at the maximum authorized speed on that track could arrive at the location of the roadway worker) as the foundation of the program.
- A definition of RTA and transit worker responsibilities for the RWP program.
- Training, qualification, and supervision required for transit workers to access the roadway, by labor category or type of work performed.
- Processes and procedures to provide adequate on-track safety for all transit workers who may access the roadway in the performance of their work, including safety and oversight personnel.

The RWP manual also must include or incorporate by reference a track access guide to support on-track safety. The track access guide would be based on a physical survey of the track geometry and condition of the transit system.

SSOAs must approve RWP program elements for each RTA within its jurisdiction within 90 days of receipt of the program. Subsequently, the SSOA must submit all approved RWP program elements for each RTA in its jurisdiction, and any subsequent updates, to FTA within 30 calendar days of approving them.

RTAs must completely review and update their RWP manual not less than every two years. This includes updates to reflect current conditions, lessons learned in implementing the RWP program as described in the manual, and information provided by the SSOA and FTA. This requirement must be met within two years of the SSOA's initial approval of the RWP manual and not less than every two years thereafter.

FTA has not created a template for an RWP manual. This is intentional, as FTA aims to support flexibility for RTAs to build compliant programs commensurate with agency size and complexity. Based on industry responses to FTA Safety Advisory 14-1, FTA estimates the majority of RTAs already have formal standalone RWP programs. These agencies can tailor their existing programs as needed using their existing Safety Management System (SMS)

processes with the regulatory standards acting as a baseline. RTAs must document their programs and define responsibilities, but can format the manual as they see fit.

## **2. Purpose and Use of the Information**

The RWP program will be the mechanism through which RTAs demonstrate they have complied with these requirements. The information exchange at the Federal level will occur between SSOAs and FTA and consist of:

- RWP manual and all other RWP program elements. This information will be transmitted from the SSOA to FTA via the State Safety Oversight Reporting (SSOR) platform not less than every two years.
- Triennial Review/Audit Process. Questions specific to the RWP program for the SSOA and the RTA will be incorporated into FTA's existing audit questionnaire to ascertain areas of compliance.

The purpose and use of this information is to ensure that the specifications of the regulation are carried out.

## **3. Use of Information Technology and Burden Reduction**

Information is assembled by the RTA and transmitted by the SSOA to FTA using the existing online SSOR platform. The RTA can generate and use any processes desired, but it does not appear that submissions and compliance requires anything 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 RTA-to-SSOA, and SSOA-to-FTA submissions that will be in electronic form.

Since the RTAs and SSOAs have some form of information technology in place to support the overall operations and functions of the Agency, the main emphasis will be on the modification of these systems to support the new requirements specified in this rule.

## **4. Efforts to Identify Duplication and Use of Similar Information**

FTA and DOT data repositories were examined as possible sources of data. This includes the National Transit Database (NTD), the SSOR, an examination of reports from the Bureau of Transportation Statistics (BTS), and industry data reports. Some information needed to support RWP programs does reside in these repositories and will be utilized where possible to avoid duplication.

It is assumed that many of the Safety Management functions and processes related to an RWP program already exist within a given Agency.

## **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 requirement to put in place an SMS. In September 2021, FTA published a request for information in the Federal Register to solicit information from the public related to transit worker safety to inform the regulatory process. FTA asked for comment on current RWP practices in the industry, including redundant protections and training, and on minimum requirements the public expected to see if FTA pursued Federal requirements for transit RWP programs. FTA received comments suggesting that classroom and field training should be required, RWP program requirements should be responsive to modal differences and differences in operating characteristics, and suggestions for specific technology or practices to improve safety.

## **6. Consequences of Collecting the Information Less Frequently**

Any delay or curtailment in the self-reporting of this information would hamper the ability of the SSOA and FTA to monitor the implementation of the regulation and the improvements in safety management, as systems progress up the maturity ladder. In addition, without the information requirements stated in the regulation, FTA would be unable to adequately determine compliance with program requirements.

## **7. Special Circumstances that require the collection to be conducted in a manner inconsistent with OMB guidelines**

There are no special circumstances within this NPRM that require collection of information inconsistent with these guidelines.

## **8. Comments in Response to the Federal Register Notices and Efforts to Consult Outside Agency**

The Notice of Proposed Rulemaking (NPRM) was published in the Federal Register Vol. 89 No.58 pages 20605 – 20628.

In September 2021, FTA published a request for information in the Federal Register to solicit information from the public related to transit worker safety to inform the regulatory process. FTA asked for comment on current RWP practices in the industry, including redundant protections and training, and on minimum requirements the public expected to see if FTA pursued Federal requirements for transit RWP programs. FTA received comments suggesting that classroom and field training should be required, RWP program requirements should be responsive to modal differences and differences in operating characteristics, and suggestions for specific technology or practices to improve safety.

## 9. Explanation of Any Payment or Gift to Respondents

N/A

## 10. Assurance of Confidentiality Provided to Respondents

No elements of confidentiality are involved

## 11. Justification for Sensitive Questions

N/A

## 12. Estimates of Hour Burden Including Annualized Hourly Costs

<i>Estimated Annual Number of Respondents:</i>	<i>31 SSOAs and 22 RTAs</i>
<i>Estimated Annual Number of Responses:</i>	<i>63</i>
<i>Estimated Total Annual Burden Hours:</i>	<i>252</i>
<i>Estimated Total Cost:</i>	<i>\$19,698</i>
<i>Frequency:</i>	<i>Annual</i>

The table below presents the current estimates for information collection burden for SSOAs and RTAs. To estimate SSOA and RTA staff labor costs, FTA used wage estimates from the Bureau of Labor Statistics as of May 2022 for workers in the “Health and Safety Engineers, Except Mining Safety Engineers and Inspectors” category.<sup>1</sup> FTA used the median hourly wage of \$48.40 as the basis for the costs, multiplied by 1.62 to account for employer benefits, for a fully-loaded wage of \$78.17.<sup>2</sup>

## Total Estimated Responses and Hours for 49 CFR Part 671 PRA-Related Activities

---

<sup>1</sup> Bureau of Labor Statistics (2023). “Occupational Employment and Wages, May 2022: 17-2111 Health and Safety Engineers, Except Mining Safety Engineers and Inspectors.”  
<https://www.bls.gov/oes/2022/may/oes172111.htm>

<sup>2</sup> Multiplier derived using Bureau of Labor Statistics data on employer costs for employee compensation in December 2022 ([https://www.bls.gov/news.release/archives/ecec\\_03172023.htm](https://www.bls.gov/news.release/archives/ecec_03172023.htm)). Employer costs for state and local government workers averaged \$57.60 an hour, with \$35.69 for wages and \$21.95 for benefit costs. To estimate full costs from wages, one would use a multiplier of \$57.60 / \$21.91, or 1.62.

	SSOAs (Total)			RTAs (Total)			All Respondents (Total)		
	Number	Hours	Cost	Number	Hours	Cost	Number	Hours	Cost
Annual Reporting	31	62	\$4,846	0	0	\$0	31	62	\$4,846
FTA Audits	10	80	\$6,253	22	110	\$8,598	32	190	\$14,852
<b>Total</b>	<b>41</b>	<b>142</b>	<b>\$11,100</b>	<b>22</b>	<b>110</b>	<b>\$8,598</b>	<b>63</b>	<b>252</b>	<b>\$19,698</b>

### 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.

Part 671 requires RTAs to update their RWP Program no less than every two years. As SSOAs must complete their Annual Report yearly and as RTAs may update their RWP Program more frequently than biennially, this estimate assumes that SSOAs will at least update the materials during their annual report.

<b>Total estimated hours necessary for Annual Reporting for SSOA community<sup>3</sup></b>	<b>62</b>
--	-----------

### 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. As of March 1, 2023, 64 RTAs operate in the United States. Each RTA would participate in at least one audit over a three-year period, for an average of 22 RTAs ( $64 \div 3$ , rounded up) per year.

Activity	SSOA Hours Estimate <sup>4</sup>	RTA Hours Estimate <sup>3</sup>
Pre-Audit Document Request Related to Part 671	1	

<sup>3</sup> Based on Part 674 Workload Assessments and burden reduction related to FTA's reporting system and process.

<sup>4</sup> 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.

<b>Activity</b>	<b>SSOA Hours Estimate</b>	<b>RTA Hours Estimate<sup>3</sup></b>
SSOA On-Site Interviews Related to Part 671	2	
RTA System Tour and Records Reviews	1	1
RTA On-Site Interviews	4	4
<b>Total Estimated Hours</b>	<b>8</b>	<b>5</b>
<b>Average SSOA Audits per Year</b>	<b>10</b>	<b>22</b>
<b>Industry-Wide Estimated Hours per Year</b>	<b>80</b>	<b>110</b>

**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. Annualized Cost to the Federal Government**

To comply with Section 5329, FTA must provide general monitoring services to manage the SSO program. The table below provides estimates of the labor costs to FTA for monitoring compliance with Part 671.

Costs are based on GS-12 Step 5 2024 [General Schedule \(opm.gov\)](https://www.opm.gov/policy-data-oversight/salary/). Using this rate, FTA estimates a total annual cost to Federal Government of **\$27,120**.

**Total annualized cost to the Federal government is \$27,120.**

<b>Annual Activity for PRA Related Activities</b>	<b>Labor Hours</b>	<b>Total Cost</b>
Annual Reporting	255	\$ 12,684
FTA Audits	290	\$ 14,436
<b>Total</b>	<b>545</b>	<b>\$ 27,120</b>

**15. Explanation for Program Changes or Adjustments**

This is a new information collection request.

**16. Plans for Tabulation and Publication and Project Time Schedule**

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

Implementation of the provisions is expected two years after promulgation of the final rule.

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

N/A

**18. Exceptions to Certification for Paperwork Reduction Act Submissions**

N/A