

**Department of Transportation
Federal Transit Administration**

**Supporting Statement
49 CFR Part 671, Rail Transit Roadway Worker Protection
OMB # 2132-0584**

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 Rulemaking. The Notice of Proposed Rulemaking (NPRM) was published on March 25, 2024. The public comment period for the NPRM closed on May 24, 2024. FTA received 7,177 comment submissions to the rulemaking docket, however none pertained to the collection of information. The Final Rulemaking was published on October 31, 2024 Vol. 89 No.211 (pages 87166-87225).

1. Circumstances Making the Collection of Information Necessary

The purpose of this rulemaking is to reduce fatalities and serious injury events involving rail transit workers who work on or near the rail roadway.

The Federal Transit Administration (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 internal 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. As a result of FTA's SRM program and assessment of safety risk, FTA found that unsafe practices and conditions place rail transit workers nationwide at risk of being killed or seriously injured while performing work on the roadway, and FTA developed this regulation to establish minimum mandatory requirements for rail transit roadway worker protection (RWP) programs.

Through this Final Rulemaking, the Federal Transit Administration (FTA) establishes minimum safety standards for RWP under its authority at 49 U.S.C. 5329 and 49 CFR 1.91. This final rule 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).
- Require rail transit workers who access the roadway to perform work to comply with the RTA's RWP program.
- Require 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.

Each RTA must establish an SSOA approved RWP Program within one year from the publication date of the final rule and document the RWP program in an RWP manual. The manual must include, at a minimum:

- Terminology, abbreviations, and acronyms used to describe the RWP program activities and requirements.
- RWP program elements.
- Defined 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.

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.

An SSOA must review and approve the RWP program elements for each RTA within its jurisdiction. 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 review and update their RWP manual not less than every two years, to reflect current conditions, and lessons learned in implementing the RWP program. 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 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.

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

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

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 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 respondents for this information include rail transit agencies (RTAs) participating in the State Safety Oversight (SSO) program, SSO agencies (SSOAs), and rail transit workers who access the roadway for their duties. This is the first regulation mandating worker protection standards across all rail transit agencies. Without this data collection, transit agencies would fail to comply with federal regulations requiring railroads and contractors to establish procedures that protect roadway workers from being struck by trains or other on-track equipment. This information collection will support safer conditions for workers who perform critical tasks that keep transit operating efficiently and safely." This rule is outlined in the Code of Federal Regulations, Title 49, Subtitle B, Chapter II, Part 214.

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 submissions and compliance do not require 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

The information collected does not involve small businesses. Additionally, no RTAs currently qualify as small entities per the Regulatory Flexibility Act of 1980 (5 U.S.C. 601 et seq.), as all existing RTAs operate in urbanized areas with populations greater than 50,000.

6. Consequences of Collecting the Information Less Frequently

Any delay or curtailment in the reporting of this information would hamper the ability of the SSOA to identify deficiencies in the RTA's RWP program and ensure that the program complies with all requirements and is sufficient for the RTA's operating characteristics and environment. 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

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.

On March 25, 2024, the FTA published a Notice of Proposed Rulemaking (NPRM) for the RWP regulation in the Federal Register (88 FR 20605). In April 2024, FTA held a webinar to provide an overview of the RWP program. That webinar can be viewed online at [Overview of the Rail Transit Roadway Worker Protection Notice of Proposed Rulemaking](#). The public comment period for the NPRM concluded on May 24, 2024, during which the FTA received 7,177 comments. Notably, none of these comments addressed the PRA burden estimates or costs. Most submissions included general feedback and letters of support from labor unions, academic institutions, trades, individuals, and State DOTs, all favoring the proposal for minimal RWP requirements. Additionally, several RTA and industry stakeholders highlighted the importance of flexibility to accommodate existing practices, infrastructure, and

technologies. The Final Rulemaking was published on October 31, 2024 Vol. 89 No.211 (pages 87166-87225).

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 (2022 dollars)</i>
<i>Frequency:</i>	<i>Annual</i>

Hour Burdens for RWP-Specific Questions in SSOA 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 conducts approximately 10 audits per year, based on FTA’s requirement to audit each SSOA at least once every three years. FTA estimates that an SSOA would spend an average of 8 hours to compile RWP-specific information for an audit, based on information in the SSO Audit SOP, for an estimated average of 80 hours per year. The information collection burden for the remainder of the audit is accounted for under the Rail Fixed Guideway Systems; SSO information collection OMB Control Number #2132-0558.

Audits also include RTA participation and require additional 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 SSOA audit over a three-year period, for an average of 22 RTAs (64 ÷ 3, rounded up) per year. FTA estimates that a participating RTA would spend an average of 5 hours to gather RWP-specific information for an audit,³ for an annual estimated average of 110 hours.

Activity	SSOA Hours Estimate	RTA Hours Estimate
Pre-Audit Document Request Related to Part 671	1	
SSOA On-Site Interviews Related to Part 671	2	
RTA System Tour and Records Reviews	1	1
RTA On-Site Interviews	4	4
Total Estimated Hours	8	5
Average SSOA Audits per Year	10	22
Industry-Wide Estimated Hours per Year	80	110

Hour Burdens for SSOA Annual Reporting

Part 671 requires RTAs to update their RWP program no less than every two years. FTA requires each SSOA to approve the RWP program and submit information to FTA within 30 calendar days of approval. SSOAs will submit information to FTA through a web-based reporting tool established in 2019 for other SSOA reporting requirements. FTA estimates that each SSOA will spend an average of 2 hours per year transmitting RWP materials, for an annual estimated average of 62 hours per year.

Total estimated hours necessary for Annual Reporting for SSOAs¹	62
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Total Hour Burdens and Costs

The table below presents total information collection burden hours and total costs 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 2023 for workers in the “Health and Safety Engineers, Except Mining Safety Engineers and Inspectors” category.² FTA used the median hourly wage of \$57.94 as the basis for the costs, multiplied by 1.72 to account for employer benefits,³ for a fully loaded wage of \$99.44. SSOAs and RTAs would incur an annual average of \$25,059 in labor costs to meet the information collection requirements.

¹ Based on Part 674 Workload Assessments and burden reduction related to FTA’s reporting system and process.

² Bureau of Labor Statistics (2024). “Occupational Employment and Wages, May 2023: 17-2111 Health and Safety Engineers, Except Mining Safety Engineers and Inspectors.”

<https://www.bls.gov/oes/2023/may/oes172111.htm>.

³ Multiplier derived using Bureau of Labor Statistics data on employer costs for employee compensation in March 2024 (https://www.bls.gov/news.release/archives/ecec_06182024.pdf). Employer costs for state and local government workers averaged \$57.94 an hour, with \$33.76 for wages and \$24.18 for benefit costs. To estimate full costs from wages, one would use a multiplier of \$57.94 / \$33.76, or 1.72.

	SSOAs (Total)			RTAs (Total)			All Respondents (Total)		
	Number	Hours	Cost	Number	Hours	Cost	Number	Hours	Cost
Annual Reporting	31	62	\$6,165	0	0	\$0	31	62	\$6,165
FTA Audits	10	80	\$7,955	22	110	\$10,938	32	190	\$18,893
Total	41	142	\$14,120	22	110	\$10,938	63	252	\$25,059

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. FTA assumes that the monitoring will be performed by an employee at the GS-12 grade and Step 5 rate in the Washington-Baltimore-Arlington locality pay area for an hourly wage rate of \$53.87 as of January 2024.⁴ Wages account for an estimated 61% of total compensation for federal employees,⁵ resulting in an estimated fully loaded hourly wage rate of \$88.31. Using this rate, FTA estimates a **total annual cost to the Federal government of \$27,120.**

Annual Activity for PRA Related Activities	Labor Hours	Total Cost
Annual Reporting	255	\$22,519

⁴ Office of Personnel Management (2024). "Salary Table 2024-DCB." https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2024/DCB_h.pdf.

⁵ Falk, Justin (2012). "Comparing Benefits and Total Compensation in the Federal Government and the Private Sector." <https://www.cbo.gov/sites/default/files/112th-congress-2011-2012/workingpaper/2012-04fedbenefitswp0.pdf>.

FTA Audits	290	\$25,610
Total	545	\$48,130

15. Explanation for Program Changes or Adjustments

FTA did not change any of the information collection activities in this Final Rule submission from those proposed in the NPRM.

16. Plans for Tabulation and Publication and Project Time Schedule

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