

**INFORMATION COLLECTION  
SUPPORTING JUSTIFICATION  
Railroad Rehabilitation and Improvement Financing Program**

**EXPLAIN THE CIRCUMSTANCES THAT MAKE THE COLLECTION OF INFORMATION NECESSARY. IDENTIFY ANY LEGAL OR ADMINISTRATIVE REQUIREMENTS THAT NECESSITATE THE COLLECTION. ATTACH A COPY OF THE APPROPRIATE SECTION OF EACH STATUTE AND REGULATION MANDATING OR AUTHORIZING THE COLLECTION OF INFORMATION**

Section 7203 of TEA-21, Pub. L. No. 105-178 (June 9, 1998), established the Railroad Rehabilitation and Improvement Financing (RRIF) Program. This program revised and replaced the pre-existing railroad financing program established under Title V of the Railroad Revitalization and Regulatory Reform Act of 1976. In 2000, the FRA promulgated a rule implementing the RRIF program (65 FR 41838, July 6, 2000) found in 49 CFR Part 260 (“RRIF Rule”). In 2005, SAFETEA-LU further amended and expanded the RRIF program, establishing additional priorities, increasing the loan principal, and eliminating any requirement for collateral under the program.

The RRIF program authorizes the Secretary to provide direct loans and loan guarantees to state and local governments, interstate compacts consented to by Congress, government-sponsored authorities and corporations, railroads, joint ventures that include one railroad, and limited option rail freight shippers that own or operate a plant or other facility that is served by no more than a single railroad. SAFETEA-LU did not amend the types of eligible projects, so they remain the same as under TEA-21: (1) acquisition, improvement, or rehabilitation of intermodal or rail equipment or facilities (including tracks, components of tracks, bridges, yards, buildings, and shops); (2) refinancing outstanding debt incurred for these purposes; or (3) development or establishment of new intermodal or railroad facilities. Direct loans and loan guarantees issued under this section cannot be used for railroad operating expenses.

SAFETEA-LU increased the authorized, aggregate unpaid principal amount of obligations under direct loans and loan guarantees from \$3.5 billion under TEA-21 to \$35.0 billion. Of this amount, SAFETEA-LU increased the amount available solely for projects primarily benefiting freight railroads other than Class I carriers to \$7.0 billion. Furthermore, SAFETEA-LU prescribed that the Secretary shall not establish any limit on the proportion of the unused amount authorized that may be used for one loan or loan guarantee.

The Secretary has delegated her authority under the RRIF program to the FRA Administrator. TEA-21 required FRA to give priority consideration to projects that: (1) enhance public safety; (2) enhance the environment; (3) promote economic development;

(4) enable United States companies to be more competitive in international markets; (5) are endorsed by plans prepared under 23 U.S.C. 135 by the state or states in which they are located; or (6) preserve or enhance rail or intermodal service to small communities or rural areas. SAFETEA-LU amended these priority considerations to include projects that: (7) enhance service and capacity in the national rail system or (8) would materially alleviate rail capacity problems which degrade the provision of service to shippers and would fulfill a need in the national transportation system.

Pursuant to the Federal Credit Reform Act of 1990 (2 U.S.C. § 661 et seq.) and OMB Circular No. A-129, Policies for Federal Credit Programs and Non-Tax Receivables, the Federal government must manage the RRIF program to ensure that the goals of the program are met while minimizing the risk of borrower default. The Federal government is responsible for making estimates of the costs of direct loan and loan guarantees. The goal of the RRIF program is to address a perceived gap between the railroad industry's financial needs and the lack of private financial sources willing to provide the necessary long-term, low-capital loans. Additionally, a goal of the program shall be to assist small railroads that lack access to capital and financing for making capital improvements in support of the priority considerations listed in § 260.7. The program shall also strive to encourage the private sector to invest in railroads and to provide financing for the types of projects underwritten by the RRIF program. The proposed amendments will further these goals and priorities.

The NPRM proposes to amend the RRIF rule to incorporate a number of program features which FRA believes will improve the administration and effectiveness of the RRIF program. FRA's beliefs are based on its experience gained while administering the RRIF program and its knowledge of the railroad industry, as well as congressional findings and General Accountability Office recommendations, which will be discussed later in the preamble. The NPRM proposes substantive amendments to the existing rule that will ensure the long-term sustainability of the program, promote competition in the railroad industry, and reduce the risk of default for applicants and the Government.

**2. INDICATE HOW, BY WHOM, AND FOR WHAT PURPOSE THE INFORMATION IS TO BE USED. EXCEPT FOR A NEW COLLECTION, INDICATE THE ACTUAL USE THE AGENCY HAS MADE OF THE INFORMATION RECEIVED FROM THE CURRENT COLLECTION.**

The new information collection requirements outlined in § 260.23 of the proposed rule will be used by FRA to ensure the long-term sustainability of the RRIF program, promote competition in the railroad industry, and reduce the risk of default for applicants and the Federal Government. Specifically, under § 260.23(p), FRA will use the credit rating or assessment information for applications in excess of \$250 million to make better informed decisions concerning the awarding of RRIF program money and also to ensure that the credit risk to the Federal Government is minimized for large direct loan and loan guarantee requests. FRA will use the electronic copies of an applicant's audited financial

statements under § 260.23(q) to reduce application review costs and credit risk for the Federal Government and to ensure more efficient processing of loan applications. Finally, FRA will use an applicant's identification and quantification of the public benefits to be attained by FRA RRIF financial assistance to evaluate various competing projects and to give priority consideration to those applications that have the highest benefit to loan value in order to make economically efficient use of limited government resources and to further reduce the risk to the Federal Government of default.

The collection of information is used by FRA staff to determine the financial eligibility of applicants for direct loans regarding eligible projects for the improvement/rehabilitation of rail equipment/facilities, the refinancing of outstanding debt for these purposes, or the development of new intermodal or railroad facilities, including tracks, components of tracks, bridges, yards, buildings, and shops. By law, the aggregate unpaid principal amounts of obligations can not exceed \$3.5 billion at any one time and not less than \$1 billion is to be solely available for projects benefiting freight railroads other than Class I railroads. FRA uses the information collected to ensure that qualified eligible entities – State and local governments, governments sponsored authorities and corporations, railroads, and joint ventures consisting of at least one railroad – receive a loan. In particular, FRA carefully reviews the information submitted by each applicant to ascertain and evaluate the specifics of each loan request. In order to make a determination, FRA scrutinizes required documents to learn the nature and full details of the project being considered by the applicant, including proposed dates of commencement and completion, and the estimated timing of the expenditure of the proceeds of the obligation. Applicants must submit documentation about their organization and provide an estimate of the economic impact of the project. Financial documents, notably the amount of an applicant's equity and a description of collateral to be offered as security for the loan, play an important role in FRA's decision making.

FRA reviews applicants environmental assessments to ensure that relevant Federal and State environmental and historic preservation statutes are taken into account and complied with. Also, FRA reviews each application to verify that it is properly executed, bears the required corporate seal, and is properly filed. Moreover, FRA reviews each applicant's documentation to confirm that the required certificate by that organization's Chief Financial Officer is included.

An important part of FRA's examination of the information collected is assessing risk. A unique feature of the RRIF program is the payment of the Credit Risk Premium in lieu of an appropriation of funds to lower the estimated long-term cost to the Government of a loan. The information collected is critical to the calculation of a sufficient Credit Risk Premium to minimize risk to the Government. Dismissal of potential loans due to lack of supporting documentation would adversely impact the railroad industry as well as various State economies. According to TEA 21, this would not be acceptable, and FRA would not be fulfilling its legal obligation.

Finally, FRA carefully reviews each request by an applicant to keep certain information submitted to FRA in its application package confidential before making a decision to prevent competitive harm and to protect privacy to the extent permitted by law.

**3. DESCRIBE WHETHER, AND TO WHAT EXTENT, THE COLLECTION OF INFORMATION INVOLVES THE USE OF AUTOMATED, ELECTRONIC, MECHANICAL, OR OTHER TECHNOLOGICAL COLLECTION TECHNIQUES OR OTHER FORMS OF INFORMATION TECHNOLOGY, E.G. PERMITTING ELECTRONIC SUBMISSION OF RESPONSES, AND THE BASIS FOR THE DECISION FOR ADOPTING THIS MEANS OF COLLECTION. ALSO DESCRIBE ANY CONSIDERATION OF USING INFORMATION TECHNOLOGY TO REDUCE BURDEN.**

FRA strongly encourages and highly endorses the use of advanced information technology, wherever possible, to reduce burden. As noted in previous agency information collection submissions, the information required for a loan application is readily available on the FRA Website so that respondents can easily access the necessary information. Also, it should be noted that under § 260.23(q) of the proposed rule applicants must include electronic copies of their audited financial statements. FRA believes this requirement will reduce the burden on respondents to transmit essential information that will serve to reduce credit risk to the Federal Government and will also reduce application review costs and loan application processing time.

Further, the annual recordkeeping/reporting information that applicants need to provide for a loan is available on the FRA Website. In addition to paper applications, FRA permits Railroad Rehabilitation and Improvement Financing Program (RRIFP) applications to be submitted to the agency via fax. Moreover, FRA permits the required annual record keeping information to be submitted via fax.

Finally, it should be noted that FRA considered accepting applications and financial reports transmitted to the agency via the Internet. However, some applications and financial reports include confidential information. FRA felt that applicants would not want to submit information via the Internet due to the highly sensitive nature of some of the information. Additionally, FRA does not have the resources, at this time, to be able to provide the level of security that might allay applicants concerns.

**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 IN ITEM 2 ABOVE.**

The Railroad Rehabilitation and Improvement Financing Program is a relatively new

program. The information collection requirements to our knowledge are unique and thus are not duplicated anywhere.

Similar data are not available from any other source.

**5. IF THE COLLECTION OF INFORMATION IMPACTS SMALL BUSINESSES OR OTHER SMALL ENTITIES (ITEM 5 OF OMB FORM 83-I), DESCRIBE ANY METHODS USED TO MINIMIZE BURDEN.**

Under § 260.23(q) of the proposed rule, FRA has added a requirement that applicants submit electronic copies of their audited financial statements. To reduce the possibility that this requirement might be overly burdensome on small railroad operatives, the amended rule proposes excluding applicants with annual revenues of less than \$20 million from this provision as well as applications for direct loans or loan guarantees for less than \$20 million. *(Note: The \$20 million limit (adjusted annually for inflation) is based on the Surface Transportation Board's threshold of a Class III railroad carrier, which is adjusted by applying the railroad revenue deflator adjustment.)*

For government entities, the definition of small entities is based on population served. As defined by the Small Business Administration (SBA), this term means governments of cities, counties, towns, townships, villages, school districts, or special districts with a population of less than fifty thousand. It is not possible to determine the number of small government entities that may submit applications seeking financial assistance under the RRIF program.

It is not likely that small governmental entities will seek financial assistance under the RRIF Program. In response to a public notice on the enactment of the Program, only large metropolitan areas, like the City of Indianapolis and the Memphis and Shelby County Port Commission, indicated an interest in RRIF financing. At the same time, small governmental entities will likely benefit from the economic opportunities resulting from infrastructure improvements to small railroads that connect small governmental entities to the national railroad system. The cost to governmental entities of applying for the program would be minimal since borrowers will normally have available the information needed to prepare applications for funding.

In addition to small governmental entities, the small entities directly affected by this rule are Class III railroads. "Small entity" is defined in 5 U.S.C. 601 as a small business concern that is independently owned and operated, and is not dominant in its field of operation. The SBA considers a railroad to be small if it has fewer than 1,500 employees of "line-Haul Operating" Railroads, and 500 employees for "Switching and Terminal Establishment." Table of Size Standards, U.S. Small Business Administration, January 31, 1996, 13 CFR part 121. Because FRA does not have information regarding the number of people employed by the railroads, it cannot determine exactly how many small railroads, by SBA definition, are in operation within the United States.

Prior to the SBA regulations establishing size categories, the Interstate Commerce Commission (ICC) developed a classification system for freight railroads as Class I, II, or III, based on annual operating revenues. A Class II railroad has annual operating revenues greater than or equal to \$40 million but less than \$255.9 million, and a Class III railroad has annual operating revenues less than \$40 million. The Department of Transportation's Surface Transportation Board, which succeeded the ICC, has not changed these classifications. The ICC classification system has been used throughout FRA and the railroad industry to identify railroads by size. After consultation with the Office of Advocacy of the SBA and as explained in detail in the "Interim Policy Statement Concerning Small Entities Subject to the Railroad Safety Laws," published August 11, 1997 at 62 *FR* 43024, FRA has decided to define "small entity" on an interim basis to include only those entities whose revenues would bring them within the Class III definition.

About 550 of the approximately 700 railroads in the United States are probably Class III railroads and would be considered small businesses by FRA. Small railroads that would be affected by this rule provide less than 10 percent of the industry's employment, own about 10 percent of the track, and operate less than 10 percent of the ton-miles. A previous survey by the American Short Line and Regional Railroad Association (ASLRRA) and the standing committee on rail transportation of the American Association of State Highway and Transportation Officials (ASHHTO) found that approximately 100 small railroads need \$950 million in external financing to upgrade their track to safely handle the 286,000 pound cars that the Class I carriers are now using. A subsequent study funded jointly by FRA and the ASLRRA estimates that it would cost over \$6.8 billion to upgrade all the lines operated by short line and regional railroads to handle 286,000 pound cars.

While these 100 railroads may seek RRIF financing, the cost and time burden will be minimal since the information needed to complete applications will normally be available. In response to final rule comments and in order to further reduce burden on applicants while still assuring that adequate information is available to accurately evaluate each loan application and proposed project, FRA amended sections 260.23(h) and 260.25(b)(1) of the regulation to provide that audited financial statements will only be required if they are available. Also, in order to provide applicants more flexibility in controlling the total administrative costs of each application, FRA included a new section 260.29, providing applicants with the option of contracting out with a third party financial consultant – with agency approval – to prepare a financial evaluation of the project and the applicant. Cost savings to FRA as a result of receiving such an evaluation will be reflected as reductions to the investigation fee.

Again, it should be noted that participation in the RRIF Program is strictly voluntary.

**6. DESCRIBE THE CONSEQUENCE TO FEDERAL PROGRAM OR POLICY ACTIVITIES IF THE COLLECTION IS NOT CONDUCTED OR IS**

**CONDUCTED LESS FREQUENTLY, AS WELL AS ANY TECHNICAL OR LEGAL OBSTACLES TO REDUCING BURDEN.**

If the information were not collected or collected less frequently, FRA would be unable to fulfill its Congressionally mandated responsibilities under “TEA-21.” Specifically, without the information collected in each loan application and other required documents, FRA would be unable to understand and evaluate the merits of proposed projects to improve or rehabilitate existing intermodal or rail equipment and facilities, or any plans/proposals to develop or establish new intermodal or railroad facilities. Rail transportation in this country would then be adversely affected.

Without the additional information required under § 260.23(p)-(r), FRA would be unable to fully exercise its discretion to identify and weigh the benefits, costs, risks, and financial viability of each project to make the best possible judgments and project award decisions. FRA’s aim is to give priority consideration to those applications that offer the highest risk of public benefits to the value of the loan. FRA also aims to limit the risk exposure of taxpayers and society as a whole by encouraging firms to exercise prudence in investments and by encouraging participation from private financial sources.

If the application information were not collected, FRA would not be able to accurately calculate the amount needed for the Credit Risk Premium. The Credit Risk Premium is a cash payment from a non-Federal entity that covers the estimated long-term cost to the Government of a loan. Failure to accurately calculate the Credit Risk Premium would put the government at greater risk of financial defaults and delinquencies, putting an even greater burden on American taxpayers. If the financial reporting information were not collected at all or collected less frequently, FRA’s ability to properly monitor the financial viability of the applicant and provide any necessary assistance/advice would be severely jeopardized.

Without the collection of the application and financial reporting information, FRA would not be able to effectively implement and administer the RRIF program. Without RRIF financing, almost 100 short line and regional railroads would not have the possibility to upgrade their track so as to safely accommodate the 286,000 pound cars that the major carriers are now using. As a result, many might lose traffic critical to their viability and continued operation. Moreover, if these railroads cease to exist, rail traffic would be diverted to highways, accelerating their deterioration and increasing their reconstruction costs, and adversely affecting the environment and surrounding communities. Without this financing, some track operated by small railroads might be abandoned and the freight traffic moved by more expensive and less energy efficient means. This could result in higher costs for various products and have a negative impact on the national economy. In sum, the collection of information serves to comply with the law, facilitate RRIF funding, and improve and enhance rail transportation in this country. This, in turn, will help bolster the economy and positively affect energy consumption/efficiency while promoting a cleaner environment and more sustainable communities.

7. **EXPLAIN ANY SPECIAL CIRCUMSTANCES THAT WOULD CAUSE AN INFORMATION COLLECTION TO BE CONDUCTED IN A MANNER:**
- **REQUIRING RESPONDENTS TO REPORT INFORMATION TO THE AGENCY MORE OFTEN THAN QUARTERLY;**

The only report required more frequently than quarterly is when a loan is in default. In such a case, the lender must submit a delinquency report each month. The practice of monthly monitoring of a delinquent account is typical in the lending industry. The involvement of a lender at an early stage of default will ensure prompt attention to the loan in this critical and time sensitive situation. This frequency should reduce FRA's and taxpayers' exposure to potential loss.

- **REQUIRING RESPONDENTS TO PREPARE A WRITTEN RESPONSE TO A COLLECTION OF INFORMATION IN FEWER THAN 30 DAYS AFTER RECEIPT OF IT;**
- **REQUIRING RESPONDENTS TO SUBMIT MORE THAN AN ORIGINAL AND TWO COPIES OF ANY DOCUMENT;**

We have no requirements for more than an original and two copies of any document.

- **REQUIRING RESPONDENTS TO RETAIN RECORDS, OTHER THAN HEALTH, MEDICAL, GOVERNMENT CONTRACT, GRANT-IN-AID, OR TAX RECORDS FOR MORE THAN THREE YEARS;**

There are no instances where FRA requires respondents to retain records for more than three years. The record keeping requirements placed on the lender are typical of a lender.

- **IN CONNECTION WITH A STATISTICAL SURVEY, THAT IS NOT DESIGNED TO PRODUCE VALID AND RELIABLE RESULTS THAT CAN BE GENERALIZED TO THE UNIVERSE OF STUDY;**
- **REQUIRING THE USE OF A STATISTICAL DATA CLASSIFICATION THAT HAS NOT BEEN REVIEWED AND APPROVED BY OMB;**

FRA will not be utilizing a statistical survey or require the use of a statistical data classification.

- **THAT INCLUDES A PLEDGE OF CONFIDENTIALITY THAT IS NOT SUPPORTED BY AUTHORITY ESTABLISHED IN STATUTE OR REGULATION, THAT IS NOT SUPPORTED BY DISCLOSURE AND DATA SECURITY POLICIES THAT ARE CONSISTENT WITH THE PLEDGE, OR WHICH UNNECESSARILY IMPEDES SHARING OF DATA WITH OTHER AGENCIES FOR COMPATIBLE CONFIDENTIAL**

## USE; OR

Applicants are required to identify any submitted information that the applicant wishes not to be released by the agency in response to a request from the public. The applicant must identify the reasons why the information should not be released, including details as to any competitive harm that might result from the release of the information. The agency has committed to keep such information confidential to the extent permitted by law, which involves primarily Freedom of Information Act (FOIA) exemption 4, 5 U.S.C. 552 (b)(4). This provision exempts from release trade secrets and commercial or financial information obtained from a person that is privileged or confidential. To the extent the information meets exemption 4 standards, the agency could and would refuse to release it to the public. [§ 260.31]

- **REQUIRING RESPONDENTS TO SUBMIT PROPRIETARY TRADE SECRET, OR OTHER CONFIDENTIAL INFORMATION UNLESS THE AGENCY CAN DEMONSTRATE THAT IT HAS INSTITUTED PROCEDURES TO PROTECT THE INFORMATION'S CONFIDENTIALITY TO THE EXTENT PERMITTED BY LAW.**

There are no provisions specifically requiring applicants to submit proprietary trade secret or other confidential information. However, to the extent that applicants submit such information in connection with an application for financial assistance, the applicants are required to identify the information which the applicant wishes to be held confidential and to explain why the information should not be released, including details as to any competitive harm that might result from the release of the information. The agency will protect the confidentiality of the identified information to the extent permitted by law. As discussed above, this primarily involves application of FOIA exemption 4. The agency's FOIA implementing regulations establish a process for consulting with the submitters of confidential information in connection with public requests for the information (49 CFR § 7.17)

8. **IF APPLICABLE, PROVIDE A COPY AND IDENTIFY THE DATE AND PAGE NUMBER OF PUBLICATION IN THE FEDERAL REGISTER OF THE AGENCY'S NOTICE, REQUIRED BY 5 CAR 1320.8(d), SOLICITING COMMENTS ON THE INFORMATION COLLECTION PRIOR TO SUBMISSION TO OMB. SUMMARIZE PUBLIC COMMENTS RECEIVED IN RESPONSE TO THAT NOTICE AND DESCRIBE ACTIONS TAKEN BY THE AGENCY IN RESPONSE TO THOSE COMMENTS. SPECIFICALLY ADDRESS COMMENTS RECEIVED ON COST AND HOUR BURDEN.**

**DESCRIBE EFFORTS TO CONSULT WITH PERSONS OUTSIDE THE AGENCY TO OBTAIN THEIR VIEWS ON THE AVAILABILITY OF DATA, FREQUENCY OF COLLECTION, THE CLARITY OF INSTRUCTIONS AND RECORD KEEPING, DISCLOSURE, OR REPORTING FORMAT (IF ANY),**

**AND ON THE DATA ELEMENTS TO BE RECORDED, DISCLOSED, OR REPORTED.**

**CONSULTATION WITH REPRESENTATIVES OF THOSE FROM WHOM INFORMATION IS TO BE OBTAINED OR THOSE WHO MUST COMPILE RECORDS SHOULD OCCUR AT LEAST ONCE EVERY 3 YEARS-EVEN IF THE COLLECTION OF INFORMATION ACTIVITY IS THE SAME AS IN PRIOR PERIODS. THERE MAY BE CIRCUMSTANCES THAT MAY PRECLUDE CONSULTATION IN A SPECIFIC SITUATION. THESE CIRCUMSTANCES SHOULD BE EXPLAINED.**

FRA is publishing this Notice of Proposed Rulemaking in the Federal Register on June 9, 2008 (See 73 FR XXXX), soliciting comment on this regulations and associated information collection requirements. FRA will respond to these comments in the final rule and its associated information collection submission.

Background

In a July 9, 1998 Federal Register notice (63 FR 38448), FRA requested information regarding the types of projects that might benefit from financial assistance available under RRIF and the possible applicants for such financial assistance.

On September 14, 1998, FRA participated in a DOT public meeting in New York City regarding the RRIF program and the TIFIA program.

On May 20, 1999, FRA issued a Notice of Proposed Rulemaking (NPRM) in the Federal Register (64 FR 27488). FRA received a total of 92 comments in response to the NPRM. Many comments addressed RRIF Program specifics, such as interest rates, investigation fees, and the calculation of the Credit Risk Premium. A large number of comments (approximately 60) suggested that the amount of information required to be submitted with applications will prove an undue burden on small businesses. Commenters suggested that FRA should limit the amount of information required and eliminate the requirement that financial statements be audited. In an effort to reduce the burden on applicants while still assuring that adequate information is available to accurately evaluate each loan application and proposed project, FRA has amended section 260.23(h) and 260.25(b)(1) of the regulation to provide that audited financial statements will only be required if they are available. Further, FRA has amended sections 260.25(b) and 260.25(c), and eliminated 260.29. FRA issued a Final Rule on July 6, 2000 (65 FR 41838), implementing the RRIF Program. The Final Rule reflected FRA's consideration of the comments filed in response to the NPRM.

**9. EXPLAIN ANY DECISION TO PROVIDE ANY PAYMENT OR GIFT TO RESPONDENTS, OTHER THAN REMUNERATION OF CONTRACTORS OR GRANTEES.**

No payments or gifts are provided to respondents.

**10. DESCRIBE ANY ASSURANCE OF CONFIDENTIALITY PROVIDED TO RESPONDENTS AND THE BASIS FOR THE ASSURANCE IN STATUTE, REGULATION, OR AGENCY POLICY.**

Applicants are required to identify any information submitted to the agency in connection with an application that the applicant believes should not be released to the public, including providing an explanation of the basis for the request and the competitive harm that would result from the release of the information. The agency agrees to protect the information from release to the extent permitted by law, primarily to the extent the information qualifies for FOIA exemption 4 protection. The agency is committed to protect the information from release because FRA does not want to put applicants at a competitive disadvantage through the release of trade secrets or confidential commercial information – simply because the applicants chose to participate in the program – and because of the applicability of the Trade Secrets Act (18 U.S.C 1905). The Department’s FOIA implementing procedures establish a process for consulting with submitters of confidential information in connection with public requests for the information (49 C.F.R. §7.17).

**11. PROVIDE ADDITIONAL JUSTIFICATION FOR ANY QUESTIONS OF A SENSITIVE NATURE, SUCH AS SEXUAL BEHAVIOR AND ATTITUDES, RELIGIOUS BELIEFS, AND OTHER MATTERS THAT ARE COMMONLY CONSIDERED PRIVATE. THIS JUSTIFICATION SHOULD INCLUDE THE REASONS WHY THE AGENCY CONSIDERS THE QUESTIONS NECESSARY, THE SPECIFIC USE TO BE MADE OF THE INFORMATION, THE EXPLANATION TO BE GIVEN TO PERSONS FROM WHOM THE INFORMATION IS REQUESTED, AND ANY STEPS TO BE TAKEN TO OBTAIN THEIR CONSENT.**

No questions of a sensitive nature and other matters commonly considered private are contained in this rule.

**12. PROVIDE ESTIMATES OF THE HOUR BURDEN OF THE COLLECTION OF INFORMATION. THE STATEMENT SHOULD:**

**B INDICATE THE NUMBER OF RESPONDENTS, FREQUENCY OF RESPONSE, ANNUAL HOUR BURDEN, AND AN EXPLANATION OF HOW THE BURDEN WAS ESTIMATED. UNLESS DIRECTED TO DO SO, AGENCIES SHOULD NOT CONDUCT SPECIAL SURVEYS TO OBTAIN INFORMATION ON WHICH TO BASE HOUR BURDEN ESTIMATES. CONSULTATION WITH A SAMPLE (FEWER THAN 10) OF POTENTIAL RESPONDENTS IS DESIRABLE. IF THE HOUR BURDEN ON RESPONDENTS IS EXPECTED TO VARY WIDELY BECAUSE OF DIFFERENCES IN ACTIVITY, SIZE, OR**

**COMPLEXITY, SHOW THE RANGE OF ESTIMATED HOUR BURDEN, AND EXPLAIN THE REASONS FOR THE VARIANCE. GENERALLY, ESTIMATES SHOULD NOT INCLUDE BURDENS HOUR FOR CUSTOMARY AND USUAL BUSINESS PRACTICES.**

**B IF THIS REQUEST FOR APPROVAL COVERS MORE THAN ONE FORM, PROVIDE SEPARATE HOUR BURDEN ESTIMATES FOR EACH FORM AND AGGREGATE THE HOUR BURDENS IN ITEMS 13 OF OMB FORM 83-1.**

**B PROVIDE ESTIMATES OF ANNUALIZED COST TO RESPONDENTS FOR THE HOUR BURDENS FOR COLLECTIONS OF INFORMATION, IDENTIFYING AND USING APPROPRIATE WAGE RATE CATEGORIES. THE COST OF CONTRACTING OUT OR PAYING OUTSIDE PARTIES FOR INFORMATION COLLECTION ACTIVITIES SHOULD NOT BE INCLUDED HERE. INSTEAD, THIS COST SHOULD BE INCLUDED IN ITEM 14.**

*FRA anticipates loan applications will be submitted by one (1) state Department of Transportation, 13 small railroads, and Amtrak. According to the 1998 Salary Survey completed by the American Association of State Highway and Transportation officials and which has been adjusted in this analysis to account for inflation at a rate of 3.5 percent, the per hour salaries for State Department of Transportation employees range as follows:*

<i>Secretary/Director</i>	<i>\$71</i>
<i>General Counsel</i>	<i>\$58</i>
<i>Chief Fiscal Officer</i>	<i>\$58</i>
<i>Transportation Planner</i>	<i>\$35</i>
<i>Project Engineer</i>	<i>\$40</i>
<i>Environmental Analyst</i>	<i>\$32</i>

*Based on information reported to the National Short Line Railroad Database, FRA estimates the per hour salaries for supervisory employees of small railroads to be \$42 and \$35 for non-supervisory employees. For Amtrak, FRA estimates that the salaries of executives/other professionals to be \$64 per hour and the salaries of staff to be \$38 per hour. (These rates include an overhead cost of 40%).*

**§260.19 Pre-application meeting.**

Potential Applicants may request a meeting with the FRA Associate Administrator for Railroad Development to discuss the nature of the project being considered. Applicants must be prepared to provide at least the following information: (a) Applicant's name, address, and contact person; (b) Name of the proposed infrastructure partner(s), if any, including the identification of potential amounts of funding from each; (c) Amount of the direct loan or loan guarantee request, and a description of the technical aspects of the

project including a map of the existing railroad lines with the location of the project indicated; (d) Brief description and estimate of the economic impact, including future demand for service, improvements that can be achieved, the project's relation to the priorities listed in §260.7, along with any feasibility, market or other studies that may have been done as attachments; (e) Amount of Applicant's equity and a description of collateral offered, with estimated values, including the basis of such, to be offered as security for the loan; (f) If applicable, the names and addresses of the Applicant's parent, affiliates, and subsidiary corporations, if any, and a description of the ownership relationship and the level of guarantee, if any, to be offered; (g) For existing companies, a current balance sheet and an income statement not more than 90 days old and financial statements for the borrower and any parent, affiliates, and subsidiaries for at least the four most recent years; and (h) Information relevant to the potential environmental impacts of the project in the context of applicable Federal law.

*FRA estimates that no applicants will be requesting such a meeting. Consequently, there will be no annual burden associated with this requirement.*

#### **§260.21 Eligibility**

(a) The Administrator may make a direct loan to an Applicant, or guarantee the payment of the principal balance and any interest of an obligation of an Applicant prior to, on, or after the date of execution or the date of disbursement of such obligation, if the proceeds of such direct loan or obligation shall be, or have been, used by the Applicant for the eligible purposes listed in § 260.5(a)(1), (2), and (3).

(b) Except for railroads that are small entities as provided in Part 209, Appendix C of this Chapter and are seeking loans not in excess of \$20 million, an Applicant applying for financial assistance must make an equity contribution to the costs of the project being financed, in part, by the federal assistance, based on the creditworthiness of the Applicant and the degree of leverage in the project represented by the federal assistance.

(c) An Applicant for a direct loan that is greater than \$20 million but less than \$250 million shall have and always maintain an equity contribution of at least 20 percent of total project costs. An Applicant for a direct loan that is greater than \$250 million shall have and always maintain an equity contribution of at least 30 percent of total project costs.

(d) An Applicant for a loan guarantee that is greater than \$20 million but less than \$250 million shall have and always maintain an equity contribution of at least 20 percent of total project costs. An Applicant for a loan guarantee that is greater than \$250 million shall have and always maintain an equity contribution of at least 25 percent of total project costs.

(e) An Applicant for a direct loan or loan guarantee with a credit rating of no less than investment grade and whose debt to equity ratio that does not exceed 1.0, shall be required to have and always maintain an equity contribution of half of the amounts prescribed in paragraphs (b) or (c), respectively.

(f) The cumulative outstanding balance of loans and loan guarantees to a single borrower shall not exceed \$500 million.”

*All burdens associated with these requirements are included under those of § 260.23 below. Consequently, there is no additional burden associated with these requirements.*

### **§260.23 Form and content of application generally.**

Each application shall include, in the order indicated and identified by applicable paragraph numbers and letters corresponding to those used in this section, the following information: (a) Full and correct name and principal business address of the Applicant; (b) Date of Applicant's incorporation, or organization if not a corporation, and name of the government, State or territory under the laws of which it was incorporated or organized. If Applicant is a partnership, association, or other form of organization other than a corporation, a full description of the organization should be furnished; (c) Name, title, and address of the person to whom correspondence regarding the application should be addressed; (d) A statement of whether the project involves another railroad or other participant, through joint execution, coordination, or otherwise; if so, description of the relative participation of Applicant and such other railroad or participant, including financial statements (if applicable) and financing arrangements of each participant, portion of the work to be performed by each participant, and anticipated level of usage of the equipment or facility of each participant when the work is completed, along with a statement by a responsible officer or official of the other railroad or participant that the information provided reflects their agreement on these matters; (e) A detailed description of the amount and timing of the financial assistance that is being requested and its purpose or purposes, including: (1) Detailed description of the project and its purpose or purposes; (2) A description of all facilities or equipment and the physical condition of such facilities or equipment included in or directly affected by the proposed project; (3) Each part or sub-part into which the project may reasonably be divided and the priority and schedule of expenditure for each part or sub-part; and (4) Proposed dates of commencement and completion of the project and estimated timing of the expenditure of the proceeds of the obligation; (5) A map of Applicant's existing railroad with location of project indicated, if appropriate; (f) A listing and description of the collateral to be offered the Administrator in connection with any financial assistance provided; Applicant's opinion of the value of this security and the basis for such opinion; in the case of leased equipment to be rehabilitated or improved with the proceeds of the obligation proposed to be guaranteed, Applicant shall State, in addition to the above, whether the lease provides for, or the lessor will permit, encumbrance of the leasehold or subordination of the lessor's interest in the equipment to the Administrator; (g) A

statement, in summary form, showing financial obligations to or claims against the United States or obligations for which the United States is guarantor, if any, by Applicant or any affiliated corporate entity of the Applicant or the Applicant's parent as of the date of the application, including: (1) Status of any claims under litigation; and (2) Any other debits or credits existing between the Applicant and the United States, showing the department or agency involved in such loans, claims and other debts; (h) To the extent such information is available, an analysis that includes: (1) a statement, together with supporting evidence including copies of all market analyses and studies that have been performed to determine present and future demand for rail services or facilities, that the financing is justified by present and future probable demand for rail services or facilities, will meet existing needs for such services or facilities, and will provide shippers or passengers with improved service; (2) Description of the impact of the project upon the projected freight or passenger traffic to be originated, terminated, or carried by the Applicant for at least the five years immediately following completion of the project; (3) Explanation of the manner in which the project will increase the economical and efficient utilization of equipment and facilities; and (4) Description of cost savings or any other benefit which would accrue to the Applicant from the project; (i) A statement as to how the project will contribute to, or enhance, the safe operation of the railroad, considering such factors as the occupational safety and health of the employees and the improvement of the physical and other conditions that have caused or may cause serious injury or loss of life to the public; (j) A statement of Applicant's maintenance program for its entire rail system and planned maintenance program for the equipment or facilities financed by the proceeds of the financial assistance; (k) A certified statement in the form contained in §260.31(d) that Applicant will pay to the Administrator, in accordance with §260.11, the investigation charge with respect to the application; (l) Information relevant to the potential environmental impacts of the project in the context of applicable Federal laws; (m) Any additional information that the Applicant deems appropriate to convey a full and complete understanding of the project, the project's relations to the priorities listed in §260.7, and its impact or to assist the Administrator in making the statutorily prescribed findings; and (n) Any other information which the Administrator may deem necessary concerning an application filed under this part; (o) Railroad applicants must also submit a copy of application for financing for the project in the private sector, including terms requested, from at least one commercial lender, and its response refusing to provide such financing.

FRA estimates approximately 15 complete applications will be submitted under this requirement. It is estimated that the burden response time per application will average approximately 20 hours. Total annual burden for this requirement is 300 hours.

Respondent universe:  
21,956  
potential applicants  
Burden time per response:  
20 hours

Frequency of response:  
 Annual  
 Annual number of responses:  
 15  
 applications  
 Annual burden:  
 300 hours  
 Annual cost:  
 \$12,684

**Calculation:**

1 State Department of Transportation x 20 hrs. = 20 hours  
 1 Secretary x 1 hour = \$71  
 1 Chief Counsel x 1 hour = \$58  
 1 Chief Fiscal Officer x 2 hours x \$58 = \$116  
 1 Transportation officer x 10 hours x \$35 = \$350  
 1 Project Engineer x 6 hours x \$40 = \$240

**TOTAL**  
 \$835

13 Small Railroads  
 13 x 17 supervisory hours = 221 hours  
 221 hours x \$42 = \$9,282

13 x 3 non-supervisory hours = 39 hours  
 39 hours x \$35 = \$1,365

**TOTAL**  
 \$10,647

1 Amtrak x 20 hrs. = 20 hrs.  
 17 supervisory hours x \$64 = \$1,088  
 3 non-supervisory hours x \$38 = \$114

**TOTAL**  
 \$1,202

**NEW REQUIREMENTS**

(p) A credit rating or assessment if the application for financial assistance is in excess of

\$250 million.

FRA estimates approximately two (2) credit ratings/assessments will be obtained under the above requirement. It is estimated that it will take an average approximately 100 hours for each applicant to complete the documents to apply for and receive a credit rating. Total annual burden for this requirement is 200 hours. *(Note: FRA estimates that it will cost applicants approximately \$100,000 each to obtain the required credit rating/assessment from a private company.)*

Respondent universe:  
21,956  
potential applicants  
Burden time per response:  
100 hours  
Frequency of response:  
Annual  
Annual number of responses:  
2 credit  
ratings/assessments  
Annual burden:  
200 hours  
Annual cost:  
\$200,000

**Calculation:** 2 credit  
ratings/assessments x 100 hrs. = 200  
hours  
\$100,000 x 2 credit  
ratings/assessments = \$200,000

(q) Electronic copies of their audited financial statements, unless the applicant has revenues of less than \$20 million or the application for financial assistance is less than \$20 million.

FRA estimates approximately 10 electronic copies of their audited financial statements will be obtained by applicants under the above requirement. It is estimated that it will take each applicant an average of approximately 80 hours to complete its financial statement and have it audited. Total annual burden for this requirement is 800 hours. *(Note: FRA estimates that it will cost applicants approximately \$75,000 each to have their financial statements audited by an outside private firm.)*

Respondent universe:  
21,956  
potential applicants  
Burden time per response:

80 hours  
 Frequency of response:  
 Annual  
 Annual number of responses:  
 10 (electronic)  
 copies of audited financial  
 statements  
 Annual burden:  
 800 hours  
 Annual cost:  
 \$750,000

**Calculation:** 10 copies of audited financial statements x 80 hrs. = 800 hours  
 \$75,000 x 10 audited financial statements = \$750,000

(r) Identification and quantification of the public benefit to be obtained by the financial assistance requested, including, but not limited to, the priorities listed in 49 U.S.C. § 822 (c). Priority consideration will be given to those applications that have the highest benefit to loan value, consistent with the provisions of 49 U.S.C. § 822. (*Note: FRA estimates that it will cost applicants approximately \$75,000 to complete their statements/documents identifying/quantifying the public benefits of their proposed projects.*)

FRA estimates approximately 15 benefit statements/documents will be produced under the above requirement. It is estimated that it will take each applicant an average of approximately 150 hours to identify and quantify the public benefit to be obtained by the financial assistance requested. Total annual burden for this requirement is 2,250 hours.

Respondent universe:  
 21,956  
 potential applicants  
 Burden time per response:  
 150 hours  
 Frequency of response:  
 Annual  
 Annual number of responses:  
 15 public  
 benefit statements/documents  
 Annual burden:  
 2,250 hours  
 Annual cost:  
 \$1,125,000

**Calculation:** 15 public benefit statements/documents x 150 hrs. = 2,250 hours

\$75,000 x 15 public benefit statements/documents = \$1,125,000

Total annual burden for this entire requirement is 3,250 hours (200 + 800 + 2,250).

### **§260.25 Additional information for Applicants without a Credit Rating**

Each application submitted by Applicants not having a recent credit rating from one or more nationally recognized rating agencies shall include, in the order indicated and identified by applicable numbers and letters corresponding to those used in this section, the following information: (a) A narrative statement detailing management's business plan to enhance Applicant's ability to provide rail services including a discussion of the following: (1) Applicant's current and prospective traffic base, including by commodity and geographic region, major markets served, major interchange points, and market development plans; (2) Applicant's current operating patterns, and plans, if any, to enhance its ability to serve its current and prospective traffic base; (3) System-wide plans to maintain equipment and rights-of-way at current or improved levels; and (4) Specific plans for rationalization of marginal or uneconomic services; (b) Detailed financial information, including: (1) Financial statements prepared by a Certified Public Accountant (audited, if available), for the four calendar years immediately preceding the date of filing of the application, including: (i) A copy of Applicant's most recent year-end general balance sheet and a copy of Applicant's most recent unaudited general balance sheet; and (ii) Applicant's most recent annual income statement and a spread sheet showing unaudited monthly and year-to-date income statement data up to the date the application is filed; (2) Projected financial statements, including spread sheets showing for each of the four years subsequent to the year in which the application is filed, both before and after giving effect to the proceeds of the assistance requested in the application: (i) Forecasted annual income statement; (ii) Forecasted year-end balance sheets. These spread sheets shall be accompanied by a statement setting forth the bases for such forecasts; and (iii) A spread sheet showing changes in financial position for the year in which the application is filed, including the period ending on the date of the application based upon actual data and the period from the date of the application to the end of the year, based upon estimated and forecasted data; (c) Capital spending plans for the next five years; (d) Cash flow projections; (e) Contingency plans for termination of the project before completion, if necessary; and (f) A narrative description of Applicant's management team, including: (1) Rail experience of top management; (2) Management's plans for achieving growth and its long-term capital spending plan; and (3) A narrative description of Applicant's workforce and the historical rate of employee turnover. FRA estimates that approximately 13 financial document packages will be submitted per year under this requirement. FRA estimates that it will take approximately 50 hours for small railroads to gather and develop this information. Total annual burden for this requirement is 700 hours. (*Note:* FRA estimates that it will take 40 hours for supervisory staff and 10 hours for non-supervisory staff.)

Respondent universe:

	555 potential
applicants	
Burden time per response:	50 hours
Frequency of response:	Annual
Annual number of responses:	13 financial
document packages	
Annual burden:	650 hours
Annual cost:	\$26,390

**Calculation:**

13 Small Railroads:  
 13 x 40 supervisory hours = 520 hours  
 520 hours x \$42 = \$21,840

13 x 10 non-supervisory hours = 130 hours  
 130 hours x \$35 = \$4,550

**TOTAL**  
 \$26,390

**§260.27 Additional information for loan guarantees.**

Applications for a loan guarantee shall also include in the order indicated and identified by applicable numbers and letters corresponding to those used in this section, the following information: (a) With respect to each existing obligation to be refinanced or proposed obligation: (1) A certified copy of proposed or executed obligation agreements; (2) A detailed description of the obligation, and a description of the series or issue of which the obligation is, or will be a part, including: (i) Effective date, or anticipated effective date; (ii) Where a guarantee is sought for an outstanding obligation being refinanced, actual effective rate of interest; or where the obligation is new, the terms of the proposed obligation including the proposed effective rate of interest; and (iii) All related documents, whether executed or proposed; and (3) For an existing obligation, the Applicant's payment history on that obligation; and (b) With respect to each existing Lender, Holder, or prospective Lender, a statement as to: (1) Full and correct name and principal business address; (2) Reference to applicable provisions of law and the charter or other governing instruments conferring authority to do business on the Lender, Holder, or prospective Lender; (3) Brief statement of the circumstances and negotiations leading to the agreement by the Lender, Holder, or prospective Lender to make the loan; (4) Brief statement of the nature and extent of any affiliation or business relationship between the

Lender, Holder, or prospective Lender and the Applicant or any of Applicant's directors, partners, or principal executive officers; and (5) Full and complete statement of all sums to be provided by the Lender or Holder, or to be provided by the prospective Lender in connection with the proposed obligation including: (i) Name and address of each person to whom the payment has been made or will be made and nature of any affiliation, association, or prior business relationship between any person named in this paragraph and the Lender, Holder, or prospective Lender or any of its directors, partners, or officers; and (ii) Amount of the cash payment, or the nature and value of other consideration.

*Based on a 1993 FRA study, which found that long-term private financing was not available to short line and regional railroads, FRA estimates that no applicants will be requesting loan guarantees. As a result, FRA estimates that there will be no annual burden associated with this requirement.*

**§260.31 Execution and filing of the application.**

- A. The original application shall bear the date of execution, be signed in ink by or on behalf of the Applicant, and shall bear the corporate seal in the case of an Applicant which is a corporation. Execution shall be by all partners if a partnership, unless satisfactory evidence is furnished of the authority of a partner to bind the partnership, or if a corporation, an association or other similar form of organization, by its president or other executive officer having knowledge of the matters therein set forth. Persons signing the application on behalf of the Applicant shall also sign a certificate in form as stated in this section.

FRA estimates that approximately 15 certificates will be submitted per year under this requirement. FRA estimates that the burden response will be approximately 0.6 hours. Total annual burden for this requirement is nine (9) hours.

Respondent universe:  
21,956  
potential applicants  
Burden time per response:  
0.6 hours  
Frequency of response:  
Annual  
Annual number of responses:  
15 certificates  
Annual burden:  
9 hours  
Annual cost:  
\$418

**Calculation:**

1 State Department of Transportation:  
0.6 hour x \$71 = \$43

13 Small railroads:  
13 x 0.6 hour = 8 hours  
8 hours x \$42 = \$336

1 Amtrak:  
0.6 hour x \$64 = \$39

**TOTAL**  
\$418

- B. There shall be made a part of the original application the certificate listed in this section by the Chief Financial Officer or equivalent officer of the Applicant.

FRA estimates that approximately 15 certificates signed by Chief Financial Officer/equivalent officer will be submitted per year under this requirement. FRA estimates that the burden response will be approximately 0.6 hours. Total annual burden for this requirement is nine (9) hours.

Respondent universe:  
21,956  
potential applicants  
Burden time per response:  
0.6 hour  
Frequency of response:  
Annual  
Annual number of responses:  
15 certificates  
Annual burden:  
9 hours  
Annual cost:  
\$410

**Calculation:**  
1 State Department of Transportation:  
0.6 hour x \$58 = \$35  
13 Small Railroads:  
13 x 0.6 = 8 hours  
8 hours x \$42 = \$336  
  
1 Amtrak:  
0.6 hour x \$64 = \$39

**TOTAL**  
\$410

- C. The application shall be accompanied by a transmittal letter in form as listed under this section [260.31(d)].

FRA estimates that approximately 15 transmittal letters with a signed seal will be submitted per year under this requirement. FRA estimates that the burden response will be approximately 0.6 hours. Total annual burden for this requirement is nine (9) hours.

Respondent universe:  
21,956  
potential applicants  
Burden time per response:  
0.6 hours  
Frequency of response:  
Annual  
Annual number of responses:  
15 transmittal  
letters  
Annual burden:  
9 hours  
Annual cost:  
\$410

**Calculation:**

1 State Department of Transportation:  
 $0.6 \text{ hour} \times \$58 = \$35$

14 Small Railroads:  
 $14 \times 0.6 = 8 \text{ hours}$   
 $8 \text{ hours} \times \$42 = \$336$

1 Amtrak:  
 $0.6 \text{ hour} \times \$64 = \$39$

**TOTAL**  
\$410

- D. The original application and supporting papers, and two copies thereof for the use of the Administrator, shall be filed with the Associate Administrator for Railroad Development of the Federal Railroad Administration, 1200 New Jersey Ave., S.E., 3<sup>rd</sup> Fl., Washington, D.C. 20590. Each copy shall bear the dates and signatures that appear in the original and

shall be complete in itself, but the signatures in the copies may be stamped or typed.

FRA estimates that approximately 15 mailed application packages, including the original and two copies, will be submitted per year under this requirement. FRA estimates that the administrative staff of each applicant will take 1.5 hours to copy and mail the application package. Total annual burden requirement is 23 hours.

Respondent universe:  
21,956  
potential applicants  
Burden time per response:  
1.5 hours  
Frequency of response:  
Annual  
Annual number of responses:  
15 application  
packages  
Annual burden:  
23 hours  
Annual cost:  
\$810

**Calculation:**

1 State Department of Transportation:  
1.5 hours x \$35 = \$53

13 Small Railroads:  
13 x 1.5 = 20 hours  
20 hours x \$35 = \$700

Amtrak:  
1.5 hours x \$38 = \$57

**TOTAL**  
\$810

Total annual burden for this entire requirement is 50 hours (9 + 9 + 9 + 23).

**§260.33 Information Requests**

If an Applicant desires that any information submitted in its application or any supplement not be released by the Administrator upon request from a member of the public, the Applicant must so state and must set forth any reasons why such information should not be released, including particulars as to any competitive harm which would

probably result from release of such information. The Administrator will keep such information confidential to the extent permitted by law.

FRA estimates that approximately 15 statements will be submitted per year under this requirement. FRA estimates that executive/professional staff of each applicant will take approximately 30 minutes to gather and organize this information. Total annual burden for this requirement is eight (8) hours.

Respondent universe:	21,956
potential applicants	
Burden time per response:	30 minutes
Frequency of response:	One-time
Annual number of responses:	15 statements
Annual burden:	8 hours
Annual cost:	\$355

**Calculation:**

1 State Department of Transportation:  
.5 hour x \$58 = \$29

13 Small Railroads:  
13 x .5 hour = 7 hours  
7 hours x \$42 = \$294

1 Amtrak:  
.5 hour x \$64 = \$32

**TOTAL**  
\$355

**§260.35 Environmental assessment.**

A. The provision of financial assistance by the Administrator under this Part is subject to a variety of environmental and historic preservation statutes and implementing regulations including the National Environmental Policy Act

(“NEPA”) (42 U.S.C. 4332 *et seq.*), Section 4(f) of the Department of Transportation Act (49 U.S.C. 303(c)), the National Historic Preservation Act (16 U.S.C. 470(f)), the Coastal Zone Management Act (16 U.S.C. 1451), and the Endangered Species Act (16 U.S.C. 1531). Appropriate environmental/historic preservation documentation must be completed and approved by the Administrator prior to a decision by the Administrator on the applicant’s financial assistance request. FRA’s “Procedures for Considering Environmental Impacts” (“FRA’s Environmental Procedures”) (65 *FR* 28545 (May 26, 1999)) or any replacement environmental review procedures that the FRA may later issue and the NEPA regulation of the Council on Environmental Quality (“CEQ Regulation”) (40 CFR. Part 1500) will govern the FRA’s compliance with applicable environmental/historic preservation review requirements. The Administrator, in cooperation with the applicant, has the responsibility to manage the preparation of the appropriate environmental document. The role of the applicant will be determined by the Administrator in accordance with the CEQ Regulation and Environmental Procedures.

FRA estimates that approximately one (1) applicant will be required to submit environmental impact statement documents once under this program. FRA estimates that the average contract for these environmental documents will cost \$250,000 and will require 1,000 hours to gather and analyze the data as well as develop the appropriate document(s). Total annual burden requirement is 1,000 hours. (*Note: Because environmental documents are usually completed by contractors, the hourly rate is estimated at \$250 per hour.*)

Respondent universe:	21,956
potential applicants	
Burden time per response:	1,000 hours
Frequency of response:	Annual
Annual number of responses:	1
environmental document	
Annual burden:	1,000 hours
Annual cost:	\$250,000

**Calculation:**

1 State Dept. of Transportation x 1,000 hours = 1,000 hours  
 1,000 hours x \$250 = \$250,000

- B. Applicants are strongly urged to consult with the Associate Administrator for Railroad Development at the earliest possible stage in project development in order to assure that the environmental/historic preservation review process can be completed in a timely manner.

FRA estimates that approximately five applicants will consult with the Associate Administrator for Railroad Development about project development under the above requirement. FRA estimates that it will take approximately one (1) hour to conduct this consultation. Total annual burden requirement is five (5) hours.

	Respondent universe:	
		21,956
potential applicants		
	Burden time per response:	
		1 hour
	Frequency of response:	
		Annual
	Annual number of responses:	
		5
consultations		
	Annual burden:	
		5 hours
	Annual cost:	
		\$261

**Calculation:**

1 State Department of Transportation:

1 hour x \$71 = \$71

3 Small Railroads:

3 x 1 hour = 3 hours

3 hours x \$42 = \$126

1 Amtrak:

1 hour x \$64 = \$64

**TOTAL**

**\$261**

- C. Applicants may not initiate any activities that would have an adverse environmental impact or limit the choice of reasonable alternatives in advance of the completion of the environmental review process. This does not preclude development by applicants of plans or designs or performance of other work necessary to support the application for financial assistance.

*FRA estimates that none of the applicants will submit additional information regarding development of plans or designs to support the application for financial assistance. Consequently, there is no burden associated with this requirement.*

Total burden for this entire requirement is 1,005 hours (1,000 + 5).

**§260.41 Inspection and reporting.**

Each Borrower shall submit annually to the Administrator financial records and other documents detailing the maintenance and inspections which demonstrate that the Borrower has complied with the standards in §260.39.

FRA estimates that approximately 15 financial records and other documents will be submitted per year under this requirement. FRA estimates that it will take approximately 10 hours to develop and submit this information. Total annual burden requirement is 150 hours.

Respondent universe:  
21,956  
applicants  
Burden time per response:  
10 hours  
Frequency of response:  
Annual  
Annual number of responses:  
15 financial  
records/other documents  
Annual burden:  
150 hours  
Annual cost:  
\$6,680

**Calculation:**

1 State Department of Transportation:  
10 hours x \$58 = \$580

13 Small Railroads:  
13 x 10 hours = 130 hours  
130 hours x \$42 = \$5,460

1 Amtrak:

10 hours x \$64 = \$640

**TOTAL**  
\$6,680

**§260.49 Avoiding defaults.**

Borrowers are encouraged to contact the Administrator prior to the occurrence of an event of default to explore possible avenues for avoiding such an occurrence.

*Since FRA will be scrutinizing applications carefully and working with applicants very closely throughout the entire application process and thereafter, it does not anticipate the occurrence of any events of default. Consequently, it will not be necessary to contact the Administrator to avoid the occurrence of an event of default, and there is no burden associated this requirement.*

**§260.53 Lenders' functions and responsibilities.**

Lenders have the primary responsibility for the successful delivery of the program consistent with the policies and procedures outlined in this part. All lenders obtaining or requesting a loan guarantee from the Administrator are responsible for:

(a) *Loan processing.* Lender shall be responsible for all aspects of loan processing, including: (1) Processing applications for the loan to be guaranteed; (2) Developing and maintaining adequately documented loan files; (3) Recommending only loan proposals that are eligible and financially feasible; (4) Obtaining valid evidence of debt and collateral in accordance with sound lending practices; (5) Supervising construction, where appropriate; (6) Distributing loan funds; (7) Servicing guaranteed loans in a prudent manner, including liquidation if necessary, and (8) Obtaining the Administrator's approval or concurrence as required in the loan guarantee documentation.

(b) *Credit Evaluation.* Lender must analyze all credit factors associated with each proposed loan and apply its professional judgment to determine that the credit factors, considered in combination, ensure loan repayment. The Lender must have an adequate underwriting process to ensure that loans are reviewed by other than the originating officer. There must be good credit documentation procedures.

(c) *Environmental Responsibilities.* Lender has a responsibility to become familiar with Federal environmental requirements; to consider, in consultation with the prospective borrower, the potential environmental impacts of their proposals at the earliest planning stages; and to develop proposals that minimize the potential to adversely impact the environment. Lender must alert the Administrator to any controversial environmental issues related to a proposed project or items that may require extensive environmental

review. Lender must assist borrowers as necessary to comply with the environmental requirements outlined in this part. Additionally, Lender will assist in the collection of additional data when the Agency needs such data to complete its environmental review of the proposal; and assist in the resolution of environmental problems.

(d) *Loan Closing.* The Lender will conduct or arrange for loan closings; and

(e) *Fees and Charges.* The Lender may establish charges and fees for the loan provided they are similar to those normally charged other Applicants for the same type of loan in the ordinary course of business.

*FRA anticipates no loan guarantees; therefore, no lenders will be involved in the program. Consequently, there is no burden associated with these requirements.*

#### **§260.55 Lender's loan servicing.**

(a) The lender is responsible for servicing the entire loan and for taking all servicing actions that are prudent. This responsibility includes but is not limited to the collection of payments, obtaining compliance with the covenants and provisions in the loan documents, obtaining and analyzing financial statements, verification of tax payments, and insurance premiums, and maintaining liens on collateral.

(b) The lender must report the outstanding principal and interest balance on each guaranteed loan semiannually.

(c) At the Administrator's request, the lender will periodically meet with the Administrator to ascertain how the guaranteed loan is being serviced and that the conditions and covenants of the loan documents are being enforced.

(d) The lender must obtain and forward to the Administrator the Borrower's annual financial statements within 120 days after the end of the Borrower's fiscal year and the due date of other reports as required by the loan documents. The Lender must analyze the financial statements and provide the Agency with a written summary of the Lender's analysis and conclusions, including trends, strengths, weaknesses, extraordinary transactions, and other indications of the financial condition of the Borrower.

(e) Neither the Lender nor the Holder shall alter, nor approve any amendments of, any loan instrument without the prior written approval of the Administrator.

*Since FRA estimates that no applicants will be requesting loan guarantees, no lenders will be required to provide financial reports. Consequently, there is no burden associated with these requirements.*

The total burden for this entire information collection is 5,413 hours.

**13. PROVIDE AN ESTIMATE OF THE TOTAL ANNUAL COST BURDEN TO RESPONDENTS OR RECORD KEEPERS RESULTING FROM THE COLLECTION OF INFORMATION. (DO NOT INCLUDE THE COSTS OF ANY HOUR BURDEN SHOWN IN ITEMS 12 AND 14).**

**B THE COST ESTIMATES SHOULD BE SPLIT INTO TWO COMPONENTS: (A) A TOTAL CAPITAL AND START-UP COST COMPONENT (ANNUALIZED OVER ITS EXPECTED USEFUL LIFE); AND (B) A TOTAL OPERATION AND MAINTENANCE AND PURCHASE OF SERVICES COMPONENT. THE ESTIMATES SHOULD TAKE INTO ACCOUNT COSTS ASSOCIATED WITH GENERATING, MAINTAINING, AND DISCLOSING OR PROVIDING THE INFORMATION. INCLUDE DESCRIPTIONS OF METHODS USED TO ESTIMATE MAJOR COSTS FACTORS INCLUDING SYSTEM AND TECHNOLOGY ACQUISITION, EXPECTED USEFUL LIFE OF CAPITAL EQUIPMENT, THE DISCOUNT RATE(S), AND THE TIME PERIOD OVER WHICH COSTS WILL BE INCURRED. CAPITAL AND START-UP COSTS INCLUDE, AMONG OTHER ITEMS, PREPARATIONS FOR COLLECTING INFORMATION SUCH AS PURCHASING COMPUTERS AND SOFTWARE; MONITORING, SAMPLING, DRILLING AND TESTING EQUIPMENT; AND RECORD STORAGE FACILITIES.**

**B IF COST ESTIMATES ARE EXPECTED TO VARY WIDELY, AGENCIES SHOULD PRESENT RANGES OF COST BURDENS AND EXPLAIN THE REASONS FOR THE VARIANCE. THE COST OF PURCHASING OR CONTRACTING OUT INFORMATION COLLECTION SERVICES SHOULD BE A PART OF THIS COST BURDEN ESTIMATE. IN DEVELOPING COST BURDEN ESTIMATES, AGENCIES MAY CONSULT WITH A SAMPLE OF RESPONDENTS (FEWER THAN 10), UTILIZE THE 60-DAY PRE-OMB SUBMISSION PUBLIC COMMENT PROCESS AND USE EXISTING ECONOMIC OR REGULATORY IMPACT ANALYSIS ASSOCIATED WITH THE RULEMAKING CONTAINING THE INFORMATION COLLECTION, AS APPROPRIATE.**

**B GENERALLY, ESTIMATES SHOULD NOT INCLUDE PURCHASES OF EQUIPMENT OR SERVICES, OR PORTIONS THEREOF, MADE (1)**

**PRIOR TO OCTOBER 1, 1995, (2) TO ACHIEVE REGULATORY COMPLIANCE WITH REQUIREMENTS NOT ASSOCIATED WITH THE INFORMATION COLLECTION, (3) FOR REASONS OTHER THAN TO PROVIDE INFORMATION OR KEEP RECORDS FOR THE GOVERNMENT, OR (4) AS PART OF CUSTOMARY AND USUAL BUSINESS OR PRIVATE PRACTICES.**

Total additional costs to applicants and lenders, outside of the burden hour costs above, are as follows:

Applications (15)

Copies (2 copies of  
125 pages)  
\$ 350

Postage (Overnight@\$40.6)  
\$ 812

Annual reporting

Postage  
\$ 60

**Total**  
\$1,222

**Grand Total**  
\$1,222

- 14. PROVIDE ESTIMATES OF ANALYZED COST TO THE FEDERAL GOVERNMENT. ALSO, PROVIDE A DESCRIPTION OF THE METHOD USED TO ESTIMATE COSTS, WHICH SHOULD INCLUDE QUANTIFICATION OF HOURS, OPERATIONAL EXPENSES SUCH AS EQUIPMENT, OVERHEAD, PRINTING, AND SUPPORT STAFF, AND ANY OTHER EXPENSE THAT WOULD NOT HAVE BEEN INCURRED WITHOUT THIS COLLECTION OF INFORMATION. AGENCIES ALSO MAY AGGREGATE COST ESTIMATES FROM ITEMS 12, 13, AND 14 IN A SINGLE TABLE.**

The estimated total annual cost to the Federal government is \$300,000. This cost is salary expense for government salaries associated with the information collection, such as assembling documentation, and reviewing paperwork submitted by respondents. No special equipment aside from that already used for day-to-day operations is needed. Therefore, no costs are included for these items.

FRA estimates that approximately five (5) person-years annually will be used to

administer the Railroad Rehabilitation and Improvement Financing Program. This includes time spent for financial assistance requests, disbursing funds, and monitoring of project implementation and repayments.

Time estimates are derived from discussions with staff from similar government loan programs. Hourly salary is based on average of management and staff using OPM hourly rates for the Washington, D.C. area.

**15. EXPLAIN THE REASONS FOR ANY PROGRAM CHANGES OR ADJUSTMENTS REPORTED IN ITEMS 13 OR 14 OF THE OMB FORM 83-1.**

The total burden has increased by 3,200 hours from the previous submission. The increase is due to three (3) **program changes** and one (1) **adjustment**. Specifically, there were three new requirements under § 260.23 (p-r). These three **program changes** *increased* the burden by *3,250 hours*.

There was also one (1) adjustment:

(1) Under § 260.25, FRA revised (decreased) the number of applicants without a credit rating (from 14 to 13). This change in estimate *decreased* the burden by *50 hours* (from 700 hours to 650 hours).

The current OMB inventory shows a total of 2,213 hours, while the present submission reflects a total of 5,413 hours. Hence, there is a burden increase of 3,200 hours.

There is also a change in costs to respondents from the last submission. This reduction is an **adjustment** due to the elimination of the start-up and capital costs for a firm such as Ernst and Young to develop a Credit Risk Assessment Model. The previous submission showed a total cost to respondents of \$151,222 while the present submission exhibits a cost to respondents of \$1,222. Hence, there is a decrease in cost to respondents of \$150,000

**16. FOR COLLECTIONS OF INFORMATION WHOSE RESULTS WILL BE PUBLISHED, OUTLINE PLANS FOR TABULATION, AND PUBLICATION. ADDRESS ANY COMPLEX ANALYTICAL TECHNIQUES THAT WILL BE USED. PROVIDE THE TIME SCHEDULE FOR THE ENTIRE PROJECT, INCLUDING BEGINNING AND ENDING DATES OF THE COLLECTION OF INFORMATION, COMPLETION OF REPORT, PUBLICATION DATES, AND OTHER ACTIONS.**

FRA plans no publication of any information collected from this submission. The information will be used by Office of Railroad Development staff to accurately calculate Credit Risk Premiums and monitor repayment of the loans made.

**17. IF SEEKING APPROVAL TO NOT DISPLAY THE EXPIRATION DATE FOR OMB APPROVAL OF THE INFORMATION COLLECTION, EXPLAIN THE REASONS THAT DISPLAY WOULD BE INAPPROPRIATE.**

Upon OMB approval, FRA will publish the approval number for these information collection requirements in the **Federal Register**.

**18. EXPLAIN EACH EXCEPTION TO THE CERTIFICATION STATEMENT IDENTIFIED IN ITEM 19, “CERTIFICATION FOR PAPERWORK REDUCTION ACT SUBMISSIONS,” OF OMB FORM 83-1.**

There are no exceptions at this time.

Meeting Department of Transportation (DOT) Strategic Goals

This information collection supports the main DOT strategic goal, namely transportation safety. Without this collection of information, rail safety throughout the U.S. might be seriously impeded. Specifically, without the financial and other information collected to effectively implement and administer the Railroad Rehabilitation and Improvement Financing Program, almost 100 short line and regional railroads would not have the possibility/opportunity to upgrade their track so as to safely accommodate the 286,000 pound cars that the major carriers are now using. Such a failure to upgrade might lead to a greater number of accidents/incidents, particularly derailments, and to an increase in the number of injuries and deaths that ensue when such accidents/incidents take place.

Also, this collection of information and the program associated with it support the DOT strategic goal of economic growth and trade. Specifically, projects for the improvement/rehabilitation of rail equipment/facilities, the refinancing of outstanding debt for these purposes, or the development of new intermodal or railroad facilities (including tracks, components of tracks, bridges, yards, buildings, and shops) serve both to improve rail transportation and to create jobs. By terms of the Act (“TEA 21 “), not less than \$1 billion of the total \$3.5 billion is to be solely available for projects benefiting freight railroads (other than Class I railroads). This amount will provide a major boost to various communities where projects are undertaken. Also, it will help ensure that segments of track operated by small railroads continue in operation and thus prevent

freight traffic being moved by more expensive and less efficient means. This, in turn, will have a positive impact on economic growth and trade.

In sum, this collection of information serves to comply with the law, facilitate RRIF Funding, and improve and enhance rail transportation in this country. This, in turn, will help promote and improve rail safety, as well as bolster the economy and positively affect state and local communities. It furthers DOT's goals of promoting transportation safety by working toward the elimination of transportation-related deaths, injuries, and property damage, and of reducing the real economic cost of transportation, particularly the cost of moving products.

In this information collection, as in all its information collection activities, FRA seeks to do its utmost to fulfill DOT Strategic Goals and to be an integral part of One DOT.