

**SUPPORTING JUSTIFICATION**  
**Railroad Safety Appliance Standards**  
**OMB No. 2130-NEW**

Summary of Submission

- This is a new collection of information relating to miscellaneous revisions to 49 CFR, Part 231, Safety Appliance Standards.
- FRA is publishing a Notice of Proposed Rulemaking (NPRM) in the **Federal Register** on July 2, 2010. See 75 FR 38432.
- Total number of burden hours requested for this submission is 4,390 **hours**.
- Total **program changes** amount to 4,390 **hours**.
- By definition, there are no **adjustments** for this new collection of information.
- **\*\***The answer to question **number 12** itemizes the hourly burden associated with each requirement of this rule (See pp. 9-19).

**1. Circumstances that make collection of the information necessary.**

The Association of American Railroads (AAR) submitted a petition to amend 49 CFR part 231 on March 28, 2006. The AAR petition requested that FRA adopt new Railroad Safety Appliance Standards to incorporate changes in railcar design that have occurred since the safety appliance regulations were promulgated in their current form. FRA proposes to act on AAR's request by amending 49 CFR Part 231 to add sections 231.33 and 231.35 to the existing regulatory language. These new sections will create a special approval process similar to what is found in Parts 232 and 238. The proposed special approval process will enable the railroad industry to submit new rail equipment designs to FRA for approval with respect to the placement and securement of safety appliances on the designs.

The Railroad Safety Appliance Standards set forth in 49 CFR Part 231 arose out of an extended legislative and regulatory effort, beginning in the 19th century, to improve the safety of railroad employees and the public. As railroads began to rapidly grow and develop following the Civil War, it became increasingly apparent that new measures were needed to protect train service employees who were directly involved in the movement of trains. Most cars did not have adequate safety mechanisms and many of the practices and procedures used by train service employees were not safe. Employees regularly controlled the speed and stopped trains by using the handbrakes. In many cases, train service employees were required to perch themselves on top of freight cars

while the cars were moving at high rates of speed over rough track. Additionally, use of the “link and pin” coupler, which was the standard method for coupling railcars, required employees to go between the ends of railcars to operate or adjust the coupler. These practices and others of like type led to excessive numbers of deaths and injuries among train service employees during the expansion of the railroad system following the Civil War. Indeed, during the eight years prior to the passage of the first Safety Appliance Act in 1893, the number of employees killed or injured was equal to the total number of people employed by the railroad in a single year.

The rate at which railroad employees were killed or injured during this time frame spurred efforts to increase workplace safety in at least two areas related to appliances on railcars and locomotives. New technologies such as power brakes and automatic couplers were pursued, but also there were increased calls for regulation. Between 1890 and 1892, Congress responded with the introduction of seventeen (17) bills designed to promote the safety of employees and travelers on the railroad. Ultimately, the first Safety Appliance Act was passed by Congress and signed into law on March 2, 1893. Among other things, the first Safety Appliance Act required the use of power brakes on all trains engaged in interstate commerce as well as requiring all railcars engaged in interstate commerce to be equipped with automatic couplers, drawbars, and handholds. In 1903, Congress passed the second Safety Appliance Act, which extended the requirements of the first Act to any rail equipment operated by a railroad engaged in interstate commerce. Finally, in 1910 the third Safety Appliance Act was passed requiring that all cars be equipped with hand brakes, sill steps, and, where appropriate, running boards, ladders, and roof handholds. The third Safety Appliance Act also directed the Interstate Commerce Commission (ICC) to designate the number, dimensions, locations, and manner of application of the various safety appliances identified in the Act.

The ICC complied with this mandate by issuing its Order of March 13, 1911. The March 13, 1911, Order established the initial Railroad Safety Appliance Standards. This order, as amended, designated the number, dimensions, location, and manner of application for safety appliances on box cars, hopper cars, gondola cars, tank cars, flat cars, cabooses, and locomotives. It also contained a catch-all section for “cars of special construction” that were not covered specifically in the order. In many ways, the March 13, 1911, Order continues to serve as the basis for the present day regulations found in part 231. Indeed, although FRA supplanted the ICC as the agency responsible for promulgating and enforcing railroad safety programs in 1966 (see Department of Transportation Act of 1966, 49 U.S.C. §103), the general framework established by the Order of March 13, 1911, is still in existence today.

The Railroad Safety Appliance Standards encompassed in Part 231 serve the purpose of increasing railroad safety by identifying the applicable safety appliance requirements for various individual car types. (See e.g. 49 CFR § 231.1, Box and other house cars built or placed into service before October 1, 1966.) While these regulations continue to serve their purpose, FRA recognizes the railroad industry has evolved over time. The industry

has created and continues to create new railcar types to satisfy the demands for transporting freight as well as passengers on the present-day railroad. Many of the modern railcar types that are presently being built to handle railroad traffic do not fit neatly within any of the specific car body types identified in the existing regulations and ambiguities sometimes arise regarding the placement of safety appliances on these car types.

Because modern car designs often cannot be considered a car type that is explicitly listed in part 231, they are typically treated as cars of special construction. See 49 CFR § 231.18. The “cars of special construction” provision does not identify specific guidelines that can be used by the railroad industry to assist it in the construction and maintenance of the safety appliances on modern railcar designs. Instead, § 231.18 directs the industry to use the requirements, as nearly as possible, of the nearest approximate car type. Problems arise because modern car designs are often combinations of multiple car types, and the design of any particular car may appear to be one type or another depending on the position of the individual viewing the car. As an example, a bulkhead flat car appears to be a box car when viewed from the A-end or B-end of the car, but appears to be a flat car when viewed from either side. As a result, the industry is forced to use bits and pieces from multiple sections of Part 231 in an effort to ensure compliance with the Safety Appliance Standards on bulkhead flatcars and other modern rail equipment.

Another problem for modern railcar designs is that Part 231 defines the location of many safety appliances by reference to the side or end of the car. While this worked well for the car types that were in existence when the ICC issued its March 13, 1911, Order, it often is difficult to define exactly what parts on modern railcars constitute the side or end. This results in ambiguity regarding what is the appropriate location for certain safety appliances, such as handholds and sill steps.

Together these factors can make compliance with the Railroad Safety Appliance Standards difficult and inefficient when dealing with modern railcar designs; however, there is an additional factor that hinders the use of available safety improvements in new car construction. The current regulations do not contemplate advancements in railcar design. This means the current regulations can operate to preclude the application of technological innovations and modern ergonomic design principles that would increase the safety of persons who work on and around rail equipment and use safety appliances on a regular basis.

The Association of American Railroads (AAR) Safety Appliance Task Force (Task Force) is developing new industry standards for safety appliance arrangements on new car construction. It consists of representatives from the Class I railroads, labor unions, car builders, and government (FRA and Transport Canada participate as a non-voting members), as well ergonomics experts. At this time, the Task Force has developed a base safety appliance standard as well as industry safety appliance standards for modern

boxcars, covered hopper cars, and bulkhead flat cars, which FRA expects to serve as the core safety appliance criteria that can be used to guide the safety appliance arrangements on railcars that are more specialized in design. The Task Force's new standards incorporate ergonomic design principles that increase the safety and comfort for persons working on and around safety appliance apparatuses. For example, the Task Force standards establish minimum foot clearance guidelines for end platforms that allow for wider and stiffer sill steps to support a person's weight.

The AAR petition to amend Part 231 requested that FRA adopt these new industry standards and amend its regulations to recognize changes in railcar design since the safety appliance regulations were promulgated in their current form. Because the standards submitted by AAR in connection with its petition require some modification before they can be approved and adopted by FRA, FRA is not proposing to incorporate the standards into Part 231 at this time. FRA prefers to utilize the process being proposed in this NPRM to fully evaluate and assess the industry standards developed by the Task Force to ensure that they are complete and enforceable. Thus, FRA proposes to act on AAR's petition for rulemaking by establishing a special approval process similar to that currently contained in 49 CFR Parts 232 and 238.

Existing § 232.17 allows railroads to adopt alternative standard for single car air brake tests and use new brake system technology where the alternative standard or new technology is shown to provide at least the equivalent level of safety. Similarly, § 238.21 allows railroads to adopt alternative standards related to passenger equipment safety in a wide range of areas such as performance criteria for flammability and smoke emission characteristics, fuel tank design and positioning, single car air brake testing, and suspension system design, where the alternative standards or new technologies are demonstrated to provide at least the equivalent level of safety. Section 238.230 borrows the process set out in § 238.21. It allows a recognized representative of the railroads to request special approval of industry-wide alternative standards relating to the safety appliance arrangements on any passenger car type considered to be a car of special construction.

The special approval process being proposed for Part 231 establishes a process for submitting, reviewing, and approving the use of new standards as they are developed by the industry. It would also allow for an industry representative to submit modifications of industry-approved safety appliance standards for FRA's review and approval. The proposed regulation closely follows the processes set forth in §§ 232.17, 238.21, and 238.230.

**2. How, by whom, and for what purpose the information is to be used.**

The information collected will be used by FRA to enhance rail safety by establishing clear industry standards to allow the safe placement and securement of safety appliances on modern rail equipment. The information collected will be used by FRA to better serve

the goal of adapting to changes in modern rail car design while also facilitating statutory and regulatory compliance.

Railroad industry representatives will be permitted to submit requests for the approval of existing industry standards regarding rail equipment. FRA will review such petitions for special approval of an existing industry standard for new car construction to determine whether it is safe, appropriate, and in the public interest to approve an industry standard relating to the safety appliance arrangements on newly constructed railroad cars and locomotives in lieu of the specific provisions currently codified in 49 CFR 213 for cars of special construction. FRA will review these special approval petitions to further rail safety by considering technological advancements and ergonomic design standards for new car construction. These petitions will be submitted by the Association of American Railroads (AAR).

The information collected will also be used by FRA to ensure that representatives of rail labor employees who operate, inspect, test, and maintain such rail equipment, other organizations or bodies that either issued the standard to which the special approval pertains or issued the industry standard that is proposed in the petition, and any other persons filing current statements of interest with FRA are fully informed in a timely manner of such special approval petitions and are provided an opportunity to comment before FRA makes a decision on such special approval petitions. FRA will review and consider all documents and comments submitted by respondents in the decision making process.

FRA will apply the same process and level of review and scrutiny to requests for modification of an approved industry safety appliance standards.

In sum, FRA will use all the information collected to further its comprehensive national regulatory safety program that seeks to reduce rail accidents and incidents, and corresponding fatalities, injuries, and property damage.

### **3. Extent of automated information collection.**

FRA has strongly encouraged and highly endorsed the use of advanced information technology, wherever possible, to reduce burden for many years now. However, in this instance, the legal requirements of the proposed rulemaking necessitate hard copy documents. In particular, the special approval petition service requirements necessitate paper.

It should be pointed that the estimated burden for this submission is fairly minimal (4,390 hours). Additionally, FRA will closely review comments submitted in response to this proposed rulemaking to determine if electronic submission of documents makes sense.

**4. Efforts to identify duplication.**

The information collection requirements are new and to our knowledge are not duplicated anywhere.

Similar data are not available from any other source.

**5. Efforts to minimize the burden on small businesses.**

The U.S. Small Business Administration (SBA) stipulates in its “Size Standards” that the largest a railroad business firm that is “for-profit” may be, and still be classified as a “small entity,” is 1,500 employees for “Line-Haul Operating Railroads,” and 500 employees for “Switching and Terminal Establishments.” “Small entity” is defined in the Act as a small business that is not independently owned and operated, and is not dominant in its field of operation. SBA’s “Size Standards” may be altered by Federal agencies after consultation with SBA and in conjunction with public comment. Pursuant to that authority, FRA has published a final policy that formally establishes “small entities” as railroads which meet the line haulage revenue requirements of a Class III railroad. The revenue requirements are currently \$20 million or less in annual operating revenue. The \$20 million limit (which is adjusted by applying the railroad revenue deflator adjustment) is based on the Surface Transportation Board’s (STB) threshold for a Class III railroad carrier. FRA uses the same revenue dollar limit to determine whether a railroad or shipper or contractor is a small entity.

There are approximately 728 railroads that would be affected by this regulation. Of this number, approximately 684, or 94 percent, are small entities. Consequently, this regulation affects a substantial number of small entities. However, FRA does not anticipate that this regulation would impose a significant economic impact on a substantial number of small entities.

The proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities, as there are no direct costs to small entities. Small entities will not be responsible for preparing the petitions for special approval.

Furthermore, FRA does not believe there will be any significant costs to implementing any approved industry standard as any such standard will likely be a repositioning of existing safety appliances and will only be applicable to newly manufactured units. FRA believes that these construction costs, if any, will be negligible. Moreover, few small entities purchase newly manufactured equipment, generally, these operators acquire used equipment from larger railroads. Accordingly, FRA does not consider this impact of this proposal to be significant for small entities, and has prepared and placed in the docket a Certification Statement that assesses the small entity impact of this proposed rule, and certifies that this proposed rule is not expected to have a significant economic impact on

a substantial number of small entities.

**6. Impact of less frequent collection of information.**

If FRA did not collect this information or collected it less frequently, railroad safety would be directly and negatively impacted. Without the information collected, there would be no clear, current, and accepted industry standard regarding the safe placement and securement of safety appliances on modern rail equipment. Without such a standard, technological advancements and ergonomic design standards for new car construction could not be incorporated for the construction of the new rail cars and locomotives. Safety appliances then might be placed and secured on newly built rail equipment in an unsafe, improper, or inconvenient location, thus contributing to more train crew and other rail employee injuries and fatalities.

Without the information collected, FRA would not have adequate, necessary, and critical information to make the best agency decision concerning special approval petitions of an existing industry safety appliance standard and modification requests to an approved industry safety appliance standard for new car construction. It is vital for all members of the rail industry to be fully informed in a timely manner of such special approval petitions and modification requests and for these various and sundry members. It is equally critical for the rail industry community and the general public to have the opportunity to provide their comments on such special approval petitions and modification requests before the agency makes a decision regarding approval of such a safety appliance industry standard.

In sum, the proposed collection of information assists both DOT and FRA in fulfilling their top goals and primary mission, which is to promote and enhance national safe transportation throughout the United States.

**7. Special circumstances.**

All information collection requirements are in compliance with this section.

**8. Compliance with 5 CFR 1320.8.**

FRA is publishing this Notice of Proposed Rulemaking on July 2, 2010, in the Federal Register. See 75 FR 38432. FRA is hereby soliciting public comments on the proposed rule and its accompanying information collection requirements. FRA will respond to any comments it receives in the agency final rulemaking and accompanying Supporting Justification.

Background

The Association of American Railroads (AAR) submitted a petition to amend 49 CFR Part 231 on March 28, 2006, and requested that FRA adopt these new industry standards

in order to recognize change in railcar design, since the safety appliance regulations were promulgated in their current form a long time ago. Because the standards submitted by AAR in connection with their petition require some modification before they can be approved and adopted by FRA, FRA is not proposing to incorporate the standards into part 231 at this time. FRA prefers to utilize the process being proposed by the AAR to fully evaluate and assess the industry standards developed by the Task Force to ensure that they are complete and enforceable. Thus, based on AAR's petition, FRA is proposing a special approval process similar to that currently contained in 49 CFR parts 232 and 238.

Existing § 232.17 allows railroads to adopt alternative standards for single car air brake tests and new brake system technology where the alternative standard or new technology is shown to provide at least the equivalent level of safety. Similarly, § 238.21 allows railroads to adopt alternative standards related to passenger equipment safety in a wide range of areas such as performance criteria for flammability and smoke emission characteristics, fuel tank design and positioning, single car air brake testing, and suspension system design, where the alternative standards or new technologies are demonstrated to provide at least the equivalent level of safety. Section 238.230, Safety Appliances: New Equipment, utilizes the process set out in § 238.21, Special Approval Procedure. It allows a recognized representative of the railroads to request special approval of industry-wide standards relating to the safety appliance arrangements of any passenger car type considered to be a "car of special construction".

The proposed special approval procedure for part 231 establishes a process for submitting, reviewing, and approving the use of new standards as they are developed by the industry. It would also allow for an industry representative to submit modifications of approved industry safety appliance standards for FRA's review and approval. The proposed regulation closely follows the processes set forth in §§ 232.17, 238.21, and 238.230.

The Association of American Railroads (AAR) Safety Appliance Task Force (Task Force) consists of representatives from the Class I railroads, labor unions, car builders, and government (FRA and Transport Canada participate as non-voting members), as well as ergonomics experts. It is developing new industry standards for safety appliances on modern railcar designs. At this time, the Task Force has developed a base safety appliance standard as well as industry safety appliance standards for modern boxcars, covered hopper cars, and bulkhead flat cars, which FRA expects to serve as the core safety appliance criteria that can be used to guide the safety appliance arrangements on railcars of more specialized design. The Task Force's new standards incorporate ergonomic design principles that increase the safety and comfort for persons working on and around safety appliance apparatuses. For example, the Task Force establishes minimum foot clearance guidelines for end platforms and allow for wider and stiffer sill steps to support a person's weight.



FRA is proposing to amend the regulations related to safety appliance arrangements on rail equipment. The proposed amendment is intended to promote the safe placement and securement of safety appliances on modern rail equipment by establishing a process for the review and approval of existing industry standards. This process will permit railroad industry representatives to submit requests for the approval of existing industry standards relating to the safety appliance arrangements on newly constructed railroad cars and locomotives in lieu of the specific provisions currently contained in part 231.

**9. Payments or gifts to respondents.**

There are no monetary payments or gifts made to respondents associated with the information collection requirements contained in this regulation.

**10. Assurance of confidentiality.**

Information collected is not of a confidential nature, and FRA pledges no confidentiality.

**11. Justification for any questions of a sensitive nature.**

There are no questions of a sensitive or private nature involving this regulation.

**12. Estimate of burden hours for information collected.**

*Note: Respondent universe for this proposed collection of information consists of approximately 728 railroads, five (5) labor unions, and the Association of American Railroads (AAR). As a result, the respondent universe consists of approximately 734 entities. The majority of requirements for this proposed rule call for a response from an industry representative, which most likely will come from the AAR.*

**§ 231.33 – Procedure for special approval of existing industry safety appliance standards.**

A. (a.) General. The following procedures govern the submission, consideration and handling of any petition for special approval of an existing industry safety appliance standard for new construction of railroad cars, locomotives, tenders, or similar vehicles.

(b.) Submission. An industry representative may submit a petition for special approval of an existing industry safety appliance standard for new construction. A petition for special approval of an industry standard for safety appliances shall include the following:

(1) The name, title, address, and telephone number of the primary individual to be contacted with regard to review of the petition.

- (2) An existing industry-wide standard that, at a minimum:
- (i) Identifies the type(s) of equipment to which the standard would be applicable and the section or sections within the safety appliance regulations that the existing industry standard would operate as an alternative to for new car construction;
  - (ii) Ensures, as nearly as possible, based upon the design of the equipment, that the standard provides for the same complement of handholds, sill steps, ladders, hand or parking brakes, running boards, and other safety appliances as are required for a piece of equipment of the nearest approximate type(s) already identified in this part;
  - (iii) Complies with all statutory requirements relating to safety appliances contained at 49 U.S.C. 20301 and 20302;
  - (iv) Addresses the specific number, dimension, location, and manner of application of each safety appliance contained in the industry standard;
  - (v) Provides appropriate data or analysis, or both, for FRA to consider in determining whether the existing industry standard will provide at least an equivalent level of safety;
  - (vi) Includes drawings, sketches, or other visual aids that provide detailed information relating to the design, location, placement, and attachment of the safety appliances; and
  - (vii) Demonstrates the ergonomic suitability of the proposed arrangements in normal use.

FRA estimates that approximately five (5) petitions for special approval will be filed each year with FRA under the above requirement. It is estimated that it will take approximately 160 hours to complete each petition and send it to FRA. Total annual burden for this requirement is 800 hours.

Respondent Universe:

	AAR (Industry Representative )
Burden time per response:	160 hours
Frequency of Response:	On occasion
Annual number of Responses:	5 petitions
Annual Burden:	800 hours

**Calculation:** 5 petitions x 160 hrs. = 800 hours

- (3) A statement affirming that the petitioner has served a copy of the petition on designated representatives of the employees responsible for the equipment's operation, inspection, testing, and maintenance under this part, together with a list of the names and

addresses of the persons served.

FRA estimates that approximately five (5) statements that the petitioner has served copies on the parties stipulated in 231.33(c) will be made each year under the above requirement. It is estimated that it will take approximately 30 minutes to complete each statement and send it to FRA. Total annual burden for this requirement is three (3) hours.

Respondent Universe:

AAR  
(Industry  
Representative  
)

Burden time per response:	30 minutes
Frequency of Response:	On occasion
Annual number of Responses:	5 affirmation statements
Annual Burden:	3 hours

**Calculation:** 5 affirmation statements x 30 min. = 3 hours

B. (c.) Service.

(1) Each petition for special approval under paragraph (b) of this section shall be submitted to the FRA Docket Clerk, West Building Third Floor, Office of Chief Counsel, 1200 New Jersey Ave. S.E., Washington, D.C. 20590.

(2) Service of each petition for special approval of an existing industry safety appliance standard under paragraph (b) of this section shall be made on the following:

(i) Designated representatives of the employees responsible for the equipment's operation, inspection, testing, and maintenance under this part;

(ii) Any organizations or bodies that either issued the standard to which the special approval pertains or issued the industry standard that is proposed in the petition; and

(iii) Any other person who has filed with FRA a current statement of interest in reviewing special approvals under the particular requirement of this part at least 30 days but not more than five (5) years prior to the filing of the petition.

There are approximately 90 current members/affiliated members of the Association of American Railroads (AAR). Copies will be served on all these members. Copies will also be served on the five (5) rail labor unions, two (2) ergonomic groups, TTX Company (1), and an estimated 15 persons of interest. Thus, for each of the previously estimated five (5) special approval petitions, FRA estimates that approximately 113 copies will be served on the specified parties under the above requirement (or grand total of 565 copies

per year). It is estimated that it will take approximately two (2) hours to copy each special approval petition and serve it on the designated party. Total annual burden for this requirement is 1,130 hours.

Respondent Universe:

AAR  
(Industry  
Representative  
)

Burden time per response: 2 hours  
 Frequency of Response: On occasion  
 Annual number of Responses: 565 special approval petition copies  
 Annual Burden: 1,130 hours  
**Calculation:** 565 spec. approval petition copies x 2 hrs. = 1,130 hours

If filed, a statement of interest shall be filed with the FRA Docket Clerk, West Building Third Floor, Office of the Chief Counsel, 1200 New Jersey Ave. S.E., Washington, D.C. 20590, and shall reference the specific section(s) of this part in which the person has an interest. A statement of interest that properly references the specific section(s) in which the person has an interest will be posted in the docket to ensure that each statement is accessible to the public.

FRA estimates that approximately 15 statements of interest will be filed with FRA under the above requirement. It is estimated that it will take approximately seven (7) hours to complete each statement of interest and send it to FRA. Total annual burden for this requirement is 105 hours.

Respondent Universe:

5 RR  
Labor  
Unions/Gener  
al Public

Burden time per response: 7 hours  
 Frequency of Response: On occasion  
 Annual number of Responses: 15 statements of interest  
 Annual Burden: 105 hours

**Calculation:** 15 statement of interest x 7 hrs. = 105 hours

C. (e.) Comment

Not later than 60 days from the date of publication of the notice in the Federal Register concerning a petition received pursuant to paragraph (b) of this section, any person may comment on the petition. Any such comment shall:

(1) Set forth specifically the basis upon which it is made and contain a concise statement of the interest of the commenter in the proceeding; and

(2) Be submitted by mail or hand-delivery to the Docket Clerk, DOT Docket Management Facility, West Building Ground Floor, Room W12-140, 1200 New Jersey Ave. S.E., Washington, D.C. 20590 or electronically via the internet at <http://www.regulations.gov>. Any comments or information sent directly to FRA will be immediately provided to the DOT FeP for inclusion in the public docket related to the petition. All comments should identify the appropriate docket number for the petition to which they are commenting.

FRA estimates that approximately 25 comments will be made under the above requirement. It is estimated that it will take approximately six (6) hours to complete each comment and send it to FRA. Total annual burden for this requirement is 150 hours.

Respondent Universe:

728  
Railroads/5  
Labor Groups

/General  
Public

Burden time per response:	6 hours
Frequency of Response:	On occasion
Annual number of Responses:	25 comments
Annual Burden:	150 hours

**Calculation:** 25 comments x 6 hrs. = 150 hours

D. (f.) Disposition of Petitions.

(1) FRA will conduct a hearing on a petition in accordance with the procedures provided in § 211.25 of this chapter, if necessary.

FRA estimates that approximately one (1) hearing will be held under the above requirement. It is estimated that it will take approximately eight (8) hours to complete

the hearing. Total annual burden for this requirement is eight (8) hours.

Respondent Universe:

AAR  
(Industry  
Representative  
)

5  
Labor  
Groups/Gener  
al Public

Burden time per response:	8 hours
Frequency of Response:	On occasion
Annual number of Responses:	1 hearing
Annual Burden:	8 hours

**Calculation:** 1 hearing x 8 hrs. = 8 hours

(2) FRA will normally act on a petition within 90 days of the close of the comment period related to the petition. If the petition is neither granted nor denied within that timeframe, the petition will remain pending unless withdrawn by the petitioner.

(3) A petition may be:

(i) Granted where it is determined that the petition complies with the requirements of this section and that the existing industry safety appliance standard provides at least an equivalent level of safety as the existing FRA standards;

(ii) Denied where it is determined that the petition does not comply with the requirements of this section or that the existing industry safety appliance standard does not provide at least an equivalent level of safety as the existing FRA standards; or

(iii) Returned to the petitioner for additional consideration where it is determined that further information is required or that the petition may be amended in a reasonable manner to comply with the requirements of this section or to ensure that the existing industry standard provides at least an equivalent level of safety as the existing FRA standards. Where the petition is returned to the petitioner, FRA will provide written notice to the petitioner of the item(s) identified by FRA as requiring additional consideration. Petitioner shall reply within 60 days from the date of FRA's written notice

of return for additional consideration or the petition will be deemed withdrawn, unless good cause is shown. Petitioner's reply shall:

(A) Address the item(s) raised by FRA in the written notice of the return of the petition for additional consideration;

(B) Comply with the submission requirements of paragraph (b) of this section; and

(C) Comply with the service requirements in paragraph (c) of this section.

FRA estimates that approximately one (1) petition will be returned requesting additional information and thus one (1) information document or amended petition will be completed under the above requirement. It is estimated that it will take approximately three (3) hours to complete the additional information document or amended petition. Total annual burden for this requirement is three (3) hours.

Respondent Universe:

AAR  
(Industry  
Representative  
)

Burden time per response:	3 hours
Frequency of Response:	On occasion
Annual number of Responses:	1 additional document
Annual Burden:	3 hours

**Calculation:** 1 additional document x 3 hrs. = 3 hours

(4) When FRA grants or denies a petition, or returns a petition for additional consideration, written notice will be sent to the petitioner and other interested parties.

(5) If a petition is granted, it shall go into effect on January 1st, not less than one (1) year and not more than two (2) years from the date of FRA's written notice granting the petition. FRA will place a copy of the approved industry safety appliance standard in the related public docket where it can be accessed by all interested parties.

(6) A petition, once approved, may be re-opened upon good cause shown. Good cause exists where subsequent evidence demonstrates that an approved petition does not comply with the requirements of this section; that the existing industry safety appliance standard does not provide at least an equivalent level of safety as the corresponding FRA regulation for the nearest car type; or that further information is required to make such a determination. When a petition is re-opened for good cause shown, it shall return to pending status and shall not be considered approved or denied.

*FRA estimates that zero (0) petitions will be reopened for good cause shown. Consequently, there is no burden associated with the above requirement.*

Total annual burden for this entire requirement is 2,199 hours (800 + 3 + 1,130 + 105 + 150 + 8 + 3).

**§ 231.35 -- Procedure for modification of an approved industry safety appliance standard for new car construction.**

- A. (a.) Petition for modification of an approved industry safety appliance standard. An industry representative may seek modification of an existing industry safety appliance standard for new car construction of railroad cars, locomotives, tenders, or similar vehicles after the petition for special approval has been approved pursuant to 49 CFR § 231.33. The petition for modification shall include each of the elements identified in 49 CFR § 231.33(b).

FRA estimates that approximately five (5) petitions for modification of an approved industry safety appliance standard will be made each year under the above requirement. It is estimated that it will take approximately 160 hours to complete each petition for modification. Total annual burden for this requirement is 800 hours.

Respondent Universe:

AAR  
(Industry  
Representative  
)

Burden time per response:	160 hours
Frequency of Response:	On occasion
Annual number of Responses:	5 modification petitions
Annual Burden:	800 hours

**Calculation:** 5 modification petitions x 160 hrs. = 800 hours

Under 49 CFR § 231.33(b)(3), a statement affirming that the petitioner has served a copy of the petition on designated representatives of the employees responsible for the equipment's operation, inspection, testing, and maintenance under this part, together with a list of the names and addresses of the persons served.

FRA estimates that approximately five (5) statements that the petitioner has served copies on the parties stipulated in 231.33(c) will be made under the above requirement. It is estimated that it will take approximately 30 minutes to complete each statement and send it to FRA. Total annual burden for this requirement is three (3) hours.

Respondent Universe:



AAR  
(Industry  
Representative  
)

Burden time per response: 30 minutes  
Frequency of Response: On occasion  
Annual number of Responses: 5 affirmation statements  
Annual Burden: 3 hours  
**Calculation:** 5 affirmation statements x 30 min. = 3 hours

B. (b.) Service.

(1) Each petition for modification of an approved industry standard under paragraph (a) of this section shall be submitted to the FRA Docket Clerk, West Building Third Floor, Office of Chief Counsel, 1200 New Jersey Ave. SE., Washington, D.C. 20590.

(2) Service of each petition for modification of an existing industry safety appliance standard under paragraph (a) of this section shall be made on the following:

(i) Designated representatives of the employees responsible for the equipment's operation, inspection, testing, and maintenance under this part;

(ii) Any organizations or bodies that either issued the standard incorporated in the section(s) of the rule to which the modification pertains or issued the industry standard that is proposed in the petition for modification; and

(iii) Any other person who has filed with FRA a current statement of interest in reviewing special approvals under the particular requirement of this part at least 30 days but not more than five (5) years prior to the filing of the petition. If filed, a statement of interest shall be filed with FRA's Associate Administrator for Safety and shall reference the specific section(s) of this part in which the person has an interest.

There are approximately 90 current members/affiliated members of the Association of American Railroads (AAR). Copies will be served on all these members. Copies will also be served on the five (5) rail labor unions, two (2) ergonomic groups, TTX Company (1), and an estimated 15 persons of interest. Thus, for each of the previously estimated five (5) special approval petitions, FRA estimates that approximately 113 copies will be served on the specified parties under the above requirement (or grand total of 565 copies per year). It is estimated that it will take approximately two (2) hours to copy each special approval petition and serve it on the designated party. Total annual burden for this requirement is 1,130 hours.

Respondent Universe:

AAR

(Industry Representative )

Burden time per response: 2 hours  
Frequency of Response: On occasion  
Annual number of Responses: 565 special approval petition copies  
Annual Burden: 1,130 hours

**Calculation:** 565 spec. approval petition copies x 2 hrs. = 1,130 hours

If filed, a statement of interest shall be filed with the FRA Docket Clerk, West Building Third Floor, Office of the Chief Counsel, 1200 New Jersey Ave. S.E., Washington, D.C. 20590, and shall reference the specific section(s) of this part in which the person has an interest.

FRA estimates that approximately 15 statements of interest will be filed with FRA under the above requirement. It is estimated that it will take approximately seven (7) hours to complete each statement of interest and send it to FRA. Total annual burden for this requirement is 105 hours.

Respondent Universe:

5 RR  
Labor  
Unions/General Public

Burden time per response: 7 hours  
Frequency of Response: On occasion  
Annual number of Responses: 15 statements of interest  
Annual Burden: 105 hours

**Calculation:** 15 statement of interest x 7 hrs. = 105 hours

- C. (d.) Comment. Not later than 60 days from the date of publication of the notice Federal Register concerning a petition for modification under paragraph (a) of this section, any person may comment on the petition. Any such comment shall:

(1) Set forth specifically the basis upon which it is made, and contain a concise statement of the interest of the commenter in the proceeding; and

(2) Be submitted by mail or hand-delivery to the Docket Clerk, DOT Docket Management Facility, West Building Ground Floor, Room W12-140, 1200 New Jersey Ave. SE, Washington, D.C. 20590 or electronically via the internet at <http://www.regulations.gov>. Any comments or information sent directly to FRA will be

immediately provided to the DOT FeP for inclusion in the public docket related to the petition. All comments should identify the appropriate docket number for the petition to which they are commenting.

FRA estimates that approximately 25 comments concerning modification petitions will be made under the above requirement. It is estimated that it will take approximately six (6) hours to complete each comment and send it to FRA. Total annual burden for this requirement is 150 hours.

Respondent Universe:

728  
Railroads/5  
Labor Unions/

	General Public
Burden time per response:	6 hours
Frequency of Response:	On occasion
Annual number of Responses:	25 comments
Annual Burden:	150 hours

**Calculation:** 25 comments x 6 hrs. = 150 hours

- D. (e.) FRA Review. During the 60 days provided for public comment, FRA will review the petition. If FRA objects to the requested modification, written notification will be provided within this 60-day period to the party requesting the modification detailing FRA's objection.

FRA estimates that approximately one (1) petition will be returned requesting additional information and thus one (1) information document or amended petition will be completed under the above requirement. It is estimated that it will take approximately three (3) hours to complete the additional information document or amended petition. Total annual burden for this requirement is three (3) hours.

Respondent Universe:

AAR  
(Industry  
Representative  
)

Burden time per response:	3 hours
Frequency of Response:	On occasion
Annual number of Responses:	1 additional document
Annual Burden:	3 hours

**Calculation:** 1 additional document x 3 hrs. = 3 hours

- F. (f) Disposition of petitions for modification.

(1) If no comment objecting to the requested modification is received during the 60-day comment period, provided by paragraph (d) of this section, or if FRA does not issue a written objection to the requested modification, the modification will become effective fifteen (15) days after the close of the 60-day comment period.

(2) If an objection is raised by an interested party, during the 60-day comment period, or if FRA issues a written objection to the requested modification, the requested modification will be treated as a petition for special approval of an existing industry safety appliance standard and handled in accordance with the procedures provided in 49 CFR § 231.33(f).

*FRA estimates that zero (0) objections will be raised by an interested party during the 60-day comment period. Consequently, there is no burden associated with the above requirement.*

(3) A petition for modification, once approved, may be re-opened upon good cause shown. Good cause exists where subsequent evidence demonstrates that an approved petition does not comply with the requirements of this section; that the existing industry safety appliance standard does not provide at least an equivalent of safety as the corresponding FRA regulation for the nearest car type; or that further information is required to make such a determination. When a petition is re-opened for good cause shown, it shall return to pending status and shall not be considered approved or denied.

*FRA estimates that zero (0) petitions will be reopened for good cause shown. Consequently, there is no burden associated with the above requirement.*

Total annual burden for this entire requirement is 2,191 hours (800 + 3 + 1,130 + 105 + 150 + 3).

Total annual burden for this entire information collection is 4,390 hours (2,199 + 2,191).

**13. Estimate of total annual costs to respondents.**

Additional costs to respondents outside of the burden hour estimates above are as follows:

- A. Envelopes and Postage \$22 -- (Five (5) 9" x 12" envelopes for special approval petition documents to FRA @\$.40 ea. + \$4 ea. postage)
- B. Envelopes and Postage \$4 -- (Five (5) 4.125" x 9.5" plain white envelopes for affirmation statements to FRA @\$.25 ea. + \$.44 ea. postage; rounded off)

C.	Envelopes and Postage	\$2,500 -- (565 copies of special approval petition documents to employee representatives/other parties in 9" x 12" envelopes for @\$\$.40 ea. + \$4 ea. postage; rounded off)
D.	Envelopes and Postage	\$18 -- (Fifteen (15) 4.125" x 9.5" plain white envelopes for statements of interest to FRA @\$\$.25 ea. + \$.90 ea. postage; rounded off)
E.	Envelopes and Postage	\$18 -- (Twenty-five (25) 4.125" x 9.5" plain white envelopes for comments to FRA @\$\$.25 ea. + \$.44 ea. postage; rounded off)
F.	Envelopes and Postage	\$5 -- (One (1) 9" x 12" envelope for special approval petition additional document to FRA @\$\$.40 ea. + \$4 ea. postage)
G.	Envelopes and Postage	\$22 -- (Five (5) 9" x 12" envelopes for modification petition documents to FRA @\$\$.40 ea. + \$4 ea. postage)
H.	Envelopes and Postage	\$4 -- (Five (5) 4.125" x 9.5" plain white envelopes for affirmation statements to FRA @\$\$.25 ea. + \$.44 ea. postage; rounded off)
I.	Envelopes and Postage	\$2,500 -- (565 copies of modification petition documents to employee representatives/other parties in 9" x 12" envelopes for @\$\$.40 ea. + \$4 ea. postage)
J.	Envelopes and Postage	\$18 -- (Fifteen (15) 4.125" x 9.5" plain white envelopes for statements of interest to FRA @\$\$.25 ea. + \$.90 ea. postage; rounded off)
K.	Envelopes and Postage	\$18 -- (Twenty-five (25) 4.125" x 9.5" plain white envelopes for comments to FRA @\$\$.25 ea. + \$.44 ea. postage; rounded off)
L.	Envelopes and Postage	\$5 -- (One (1) 9" x 12" envelope for modification petition additional document to FRA @\$\$.40 ea. + \$4 ea. postage)
<b>TOTAL COST</b>		<b>\$5,134</b>

**14. Estimate of Cost to Federal Government.**

FRA Headquarters employees will perform most of the duties regarding the requirements of this proposed rulemaking and the information collection requirements associated with it during the course of their normal duties.

The additional annual cost to the Federal Government entails the hourly wage expenses for a once a year meeting of members of FRA's Internal Task Force who helped developed this rulemaking. This meeting will last approximately a whole week (8 hrs per day x 5 days) or a total of 40 hours. (*Note: Hourly wages include 75% overhead costs.*)

The members of the task force are as follows:

(1) SIDT Instructor – (GS-14-5) 40 hrs. x \$100 p/hr. = \$ 4,000

(2) 1 Engineer – (GS-14-5) 40 hrs. x \$100 p/hr. = \$ 4,000

(3) 1 Attorney – (GS-14-5) 40 hrs. x \$100 p/hr. = \$ 4,000

(4) 8 Prog. Specialists (GS-13-5) 320 hrs. x \$85 p/hr. = \$27,200

**TOTAL = \$39,200**

**15. Explanation of program changes and adjustments.**

This is a new collection of information. By definition, the entire requested information collection burden of 4,390 hours is a **program change**.

The cost to respondents of \$5,100 is also a **program change**.

**16. Publication of results of data collection.**

FRA has no plans to publish this information.

**17. Approval for not displaying the expiration date for OMB approval.**

Once OMB approval is received, FRA will publish the approval number for these information collection requirements in the Federal Register.

**18. Exception to certification statement.**

No exceptions are taken at this time.

### Meeting Department of Transportation (DOT) Strategic Goals

This information collection supports the top DOT strategic goal, namely transportation safety. FRA's rules and resulting information collections are designed to promote and enhance national rail safety. Without the information collected, there would be no clear, current, and accepted industry standard regarding the safe placement and securement of safety appliances on modern rail equipment. Without such a standard, technological advancements and ergonomic design standards for new car construction could not be incorporated for the construction of the new rail cars and locomotives. Safety appliances then might be placed and secured on newly built rail equipment in an unsafe, improper, or inconvenient location, thus contributing to more train crew and other rail employee injuries and fatalities.

The proposed collection of information assists both DOT and FRA in fulfilling their top goals and primary mission, which is to promote and enhance national safe transportation throughout the United States.

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.