

SUPPORTING JUSTIFICATION
Training, Qualification, and Oversight for Safety-Related RR Employees
RIN 2130-AC06; OMB No. 2130-NEW

Summary of Submission

- This is a new collection of information associated with **49 CFR Part 243, Training, Qualification, and Oversight for Safety-Related Railroad Employees**, which aims at establishing minimum training standards for each category of safety-related employee, as required by the Rail Safety Improvement Act of 2008.
- FRA is publishing a Notice of Proposed Rulemaking (NPRM) in the **Federal Register** on February 7, 2012. See 77 FR 6412.
- Respondent universe for this proposed collection of information consists of approximately 1,518 railroads/contractors, comprising 720 railroads – 8 Class I, 38 Class II, + 674 Class III – and 795 contractors/3 railroad associations.
- Total number of burden hours requested for this submission is **818,702 hours**.
- Total **program changes** amount to **818,702 hours**.
- By definition, there are no **adjustments** for this new collection of information.
- The number of responses requested for this proposed collection of information is **611,609**.
- ****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.

Pursuant to the Rail Safety Improvement Act of 2008 § 401(a), Pub. L. 110-432, 122 Stat. 4883, (Oct. 16, 2008) (codified at 49 U.S.C. 20162) (hereinafter “RSIA”) Congress required the Secretary of Transportation (Secretary) to establish minimum training standards for safety-related railroad employees and the submission of training plans from railroad carriers, contractors, and subcontractors for the Secretary’s approval. The Secretary delegated this authority to the Federal Railroad Administrator. 49 CFR § 1.49(oo).

Section 20162 of 49 U.S.C. (Section 401(a) of the RSIA) provides that:

“(a) In general.--The Secretary of Transportation shall . . . establish--

(1) minimum training standards for each class and craft of safety-related railroad employee (as defined in section 20102) and equivalent railroad carrier contractor and subcontractor employees, which shall require railroad carriers, contractors, and subcontractors to qualify or otherwise document the proficiency of such employees in each such class and craft regarding their knowledge of, and ability to comply with, Federal railroad safety laws and regulations and railroad carrier rules and procedures promulgated to implement those Federal railroad safety laws and regulations;

(2) a requirement that railroad carriers, contractors, and subcontractors develop and submit training and qualification plans to the Secretary for approval, including training programs and information deemed necessary by the Secretary to ensure that all safety-related railroad employees receive appropriate training in a timely manner; and

(3) a minimum training curriculum, and ongoing training criteria, testing, and skills evaluation measures to ensure that safety-related railroad employees, and contractor and subcontractor employees, charged with the inspection of track or railroad equipment are qualified to assess railroad compliance with Federal standards to identify defective conditions and initiate immediate remedial action to correct critical safety defects that are known to contribute to derailments, accidents, incidents, or injuries, and, in implementing the requirements of this paragraph, take into consideration existing training programs of railroad carriers.

(b) Approval.--The Secretary shall review and approve the plans required under subsection (a)(2) utilizing an approval process required for programs to certify the qualification of locomotive engineers pursuant to part 240 of title 49, Code of Federal Regulations.

(c) Exemption.--The Secretary may exempt railroad carriers and railroad carrier contractors and subcontractors from submitting training plans for which the Secretary has issued training regulations before the date of enactment of the Rail Safety Improvement Act of 2008.”

Section 20162(a)(1) contains a citation to the statutory definition of “safety-related railroad employee.” That definition, found in section 20102 of 49 U.S.C. provides that:

(4) “safety-related railroad employee” means--

(A) a railroad employee who is subject to chapter 211;

(B) another operating railroad employee who is not subject to chapter 211;

- (C) an employee who maintains the right of way of a railroad;
- (D) an employee of a railroad carrier who is a hazmat employee as defined in section 5102(3) of this title;
- (E) an employee who inspects, repairs, or maintains locomotives, passenger cars, or freight cars; and
- (F) any other employee of a railroad carrier who directly affects railroad safety, as determined by the Secretary.

FRA then is proposing regulations establishing minimum training standards for each category and subcategory of safety-related railroad employee, as required by the Rail Safety Improvement Act of 2008. The proposed rule would require each railroad or contractor that employs one or more safety-related railroad employees to develop and submit a training program to FRA for approval and to designate the qualification of each such employee. As part of that program, most employers would need to conduct periodic oversight of their own employees to determine compliance with Federal railroad safety laws, regulations, and orders applicable to those employees. The proposal would also require most railroads to conduct annual written reviews of their training programs to close performance gaps. Furthermore, FRA is proposing specific training and qualification requirements for operators of roadway maintenance machines that can hoist, lower, and horizontally move a suspended load. Finally, FRA proposes minor clarifying amendments to the existing training requirements for railroad and contractor employees that perform brake system inspections, tests, or maintenance.

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

As noted in the summary above, this is a new collection of information. The information collected will be used by FRA to ensure that each employer – railroad or contractor – conducting operations subject to Part 243 develops, adopts, submits, and complies with a training program for each category and subcategory of safety-related railroad employee. Because FRA has been particularly concerned with those employees charged with the inspection of track or railroad equipment, FRA has modified Part 214 accordingly to include new training requirements in addition to existing training requirements. Under the proposed rule, each training program must cover Federal safety laws, regulations, and orders that safety-related employees are required to comply with or the railroad rules that cover them and which are, at a minimum, as stringent. Each training program must have training components identified so that FRA will be able to understand how the program works when it reviews the program for approval. It is expected that a failure to include one or more component requirements would result in the disapproval of the program. Further, FRA will review the required training programs to ensure that they include initial, ongoing, and on-the-job criteria; testing and skills evaluation measures designed to foster continual compliance with Federal standards; and the identification of critical

safety defects and plans for immediate remedial actions to correct them.

FRA will also review and approve training programs filed by training organizations or learning institutions. Under this section of the NPRM, FRA seeks to facilitate the option of using training organizations or learning institutions. If FRA has already approved the training organization or learning institution's program, an employer could reference the approved program in its submission, avoid lengthy duplication, and likely expect a quick review and approval by FRA. This will reduce the time and cost burdens both on railroads and FRA.

Under the proposed rule, railroads are required to serve simultaneously to the president of each labor organization that represents the railroad's employees a copy of any training program submission, resubmission, or informational filing and to send a statement to FRA affirming that this service has been completed and the details of who has been served. The information will be used by FRA to ensure that necessary labor organizations are informed in a timely way regarding required training program submissions/resubmissions/informational filings so that they have an adequate opportunity to provide comment to FRA and can thereby participate in FRA's review and approval process of training program submissions/resubmission/informational filings.

FRA will review records required under section 243.203 to ensure that each employer maintains necessary information that demonstrates the qualification status of each safety-related employee whom it employs. FRA will review these records to verify that they contain the following: (1) The name of the employee; (2) Occupational category or subcategory designations for which the employee is deemed qualified; (3) The dates that each formal training course was completed; (4) The title of each formal training course successfully completed; (5) An indication of whether the person passed or failed any associated tests; (6) If the safety-related railroad employee attended safety-related training offered by a business, a training organization, or a learning institution with an FRA-approved program, a copy of the transcript or appropriate record from that business, training organization, or learning institution; (7) The employee's OJT performance, which shall include the unique name or identifier of the OJT program component in accordance with § 243.103, the date the OJT program component was successfully completed, and the identification of the person(s) determining that the employee successfully completed all OJT training necessary to be considered qualified to perform the safety-related tasks identified with the occupational categories or subcategories for which the employee is designated in accordance with the program required by this Part; (8) The date that the employee's status is determined to be qualified and the employee is designated to perform the safety-related duties identified with any particular occupational categories or subcategories, in accordance with the program required by this Part; (9) If an employee's qualification status was transferred from another entity with an approved program, a copy of the training record from that other entity; and (10) Any additional information required by this Part.

As mentioned, FRA will review the information collected to ascertain that

railroads/contractors designate the qualifications of their safety-related employees and also to confirm that each railroad or contractor conducts the required periodic oversight of their own employees to determine compliance with Federal railroad safety laws, regulations, and orders applicable to those employees. The periodic oversight information will be used by FRA to conduct audits so that FRA can confirm that the people administering the tests or inspections are qualified to perform the oversight.

Additionally, FRA will review the information collected to verify that railroads conduct annual written reviews of their training programs. Such reviews will be used by railroads – and FRA – to determine any performance gaps and to ensure that such performance gaps are closed to prevent accidents/incidents and the corresponding injuries, fatalities, and property damage that accompany them from occurring.

Finally, FRA will review the required railroad maintained list of contractors utilized in order to have basic information about each contractor engaged by a railroad so that it can determine each contractor's identity and qualifications and have current and accurate information of the employees that work for it. This is critical from an enforcement perspective so that FRA is able to identify which employees work for railroads and which for contractors. When an employee works for a contractor, FRA sometimes finds it an additional burden to figure out basic contact information for the contractor employer. This requirement will alleviate that burden and ensure that all employees are properly trained regarding their duties pertaining to Federal railroad safety laws, regulations, and orders.

In sum, the information collected will further FRA's comprehensive national regulatory safety program that seeks to promote and enhance rail safety.

3. Extent of automated information collection.

For many years now, FRA has strongly encouraged and highly endorsed the use of advanced information technology, wherever possible, to reduce burden on respondents. In this NPRM, section 243.113 proposes the option for any employer, training organization, or learning institution to which this Part applies to file any program submissions electronically. FRA intends to create a secure document submission site and will need basic information from each company before setting up the user's account. The points of contact information in proposed paragraph (b) of this section are necessary in order to provide secure access. Entities will also have the option to use a CD, DVD, or other electronic storage format to deliver required information to FRA rather than requesting access to upload the documents directly to FRA's proposed secure electronically database.

FRA is such a firm believer in the use of advanced information technology that it is considering whether to mandate electronic submission and only permit filing in writing based on a waiver request. FRA is strongly leaning toward finalizing this option because

the agency will be devoting significant resources to develop the electronic submission process. It will be more costly for the agency to develop the electronic submission process and then have to upload written submissions into the electronic database itself. FRA expects that there are few, if any, employers who do not have internet access and an e-mail address, or who cannot otherwise meet the minimum requirements for electronic submission. However, FRA is requesting comments on whether mandatory electronic submission is objectionable to any person or employer in keeping with its goal of minimizing burden on respondents.

Additionally, records required under sections 243.203 may be kept electronically. FRA anticipates that most employers that are not small entities will want to maintain these records electronically so that the records are accessible everywhere with a company computer loaded with the appropriate software and an internet connection.

Based on the above then, approximately 21 percent of all responses could be submitted electronically if railroads/contractors exercise the encouraged electronic option.

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.

“Small entity” is defined in 5 U.S.C. 601 (Section 601). Section 601(3) defines a “small entity” as having the same meaning as “small business concern” under Section 3 of the Small Business Act. This includes any small business concern that is independently owned and operated, and is not dominant in its field of operation. Section 601(4), likewise includes within the definition of “small entities” not-for-profit enterprises that are independently owned and operated, and are not dominant in their fields of operation. “Additionally, section 601(5) defines “small entities” as governments of cities, counties, towns, townships, villages, school districts, or special districts with populations less than 50,000. 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.”

Federal agencies may adopt their own size standards for small entities in 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 carrier. FRA is using the STB's threshold in its definition of "small entities" for railroads affected by this rule. FRA has also adopted the STB threshold for Class III railroad carriers as the size standard for railroad contractors.

FRA estimates that 720 railroads would be affected by this proposed rule. This number equals the number of railroads that reported to FRA in 2009, minus those railroads that are tourist, scenic, or historic railroads and are not part of the general system (these railroads are exempted from the proposed rule). Of those railroads, 46 are Class I, Class II, commuter, and intercity passenger railroads. The remaining 674 railroads are, therefore, assumed to be small railroads for purposes of this assessment.

The proposed rule would affect all employers of safety-related railroad employees, which, in addition to railroads of all sizes, includes contractors and subcontractors who are engaged to perform safety-related duties on railroads. FRA assumes in the Regulatory Impact Analysis (RIA) accompanying this proposed rule that approximately 795 railroad contractors and subcontractors exist, based on conversations with industry experts. That figure of 795 includes 155 well-established track and signal maintenance contractors, 500 very small (1 – 4 employees) or relatively new track and signal maintenance contractors, and another 140 contractors who do not perform track or signal maintenance. FRA has previously clarified its definition of small entity with respect to contractors, stating that FRA defines railroad contractors that meet the income level established for Class III railroads as small entities. For purposes of this analysis, FRA conservatively assumes that about 10 of these contractors have annual revenues in excess of \$20 million, leaving 785 contractors that are considered small entities that may be affected by this proposed rule. Thus, the total estimate of the number of small entities that the proposed rule may affect equals 674 Class III railroads plus approximately 785 contractors, totaling approximately 1,459 entities.

In the proposed rule, FRA is exercising its discretion to provide the greatest flexibility for small entities available under RSIA08. Throughout the development of this proposed rule, FRA met with the entire Working Group on several occasions and often focused discussions on issues specific to short line and regional railroads and contractors. The discussions yielded many insights and this proposed rule takes into account the concerns expressed by small railroads during the deliberations.

Several alternatives were considered in the creation of this proposed rule in order to attempt to minimize its impact on small entities. FRA and the Working Group recognized very early on in the rulemaking process that small entities probably do not have training experts on staff. Requiring every small entity to create or revise a unique training program could create a disproportionate, and possibly unnecessary, burden on small entities because it might require the small entities to hire a training expert to perform the task, whereas larger railroads and contractors may already have training

experts on staff. As an alternative to requiring every entity to create unique programs, FRA is proposing to formalize a process for entities (including and especially small entities) to adopt a “model program.” FRA envisions a model program to be a state-of-the-art training program reflecting best practices in training program development. Any organization, business, or association may create a model program and submit that model program to FRA for approval. Subsequently, any employer may then choose to use a model program approved by FRA, rather than create its own program. An employer adopting a model program need only inform FRA that the employer plans to use a model program, submit the unique identifier for the program, and include any information reflecting customization or deviation from the model program that the employer has undertaken. This alternative can significantly simplify and consolidate the reporting requirements of this proposed rule for small entities. In the Regulatory Impact Analysis (RIA) accompanying this proposed rule, FRA posits that two Class III railroads would choose to develop their own program, while the remaining 674 Class III railroads adopt model programs. FRA also believes that all 785 small contractors would adopt model programs.

The proposed rule’s requirements with respect to periodic oversight also contain alternatives that were designed by FRA and the Working Group to limit the proposed rule’s impact on small entities. Periodic oversight operational tests and inspections would be required by the proposed rule to determine if safety-related railroad employees comply with Federal railroad safety laws, regulations, and orders particular to FRA-regulated personal and work group safety. FRA and the Working Group considered requiring that periodic oversight tests and inspections be performed by all employers of safety-related railroad employees. However, FRA and the Working Group also recognized that small entities may not employ supervisory employees who are qualified as safety-related railroad employees in some or all categories of employees, and requiring these entities to perform periodic oversight would necessitate that those entities expand their workforce expressly for that purpose. Additionally, one purpose of periodic oversight with respect to this proposed rule is to determine if changes in training programs are necessary to close any proficiency gaps found during oversight assessments. As such, it would make sense if the entity that performs the training of safety-related employees also is the entity that performs the periodic oversight tests and inspections.

As an alternative approach designed to ensure that periodic oversight is useful, and to minimize the burden that would arise if small entities had to expand their workforce just to comply, several provisions are included in the proposed rule that limit the extent to which small contractors will have to conduct periodic oversight. In general, railroads will be responsible for performing oversight for all railroad employees and some oversight for contractors performing safety-related duties on its property. Railroads would not be required to perform operational tests of contractor employees, but railroads would be required to perform periodic oversight inspections of contractor employees performing safety-related duties on railroad property. However, if a contractor employs

more than 15 safety-related railroad employees, trains its own employees, and employs supervisory safety-related railroad employees capable of performing oversight, the contractor, rather than the railroad, would be required to perform periodic oversight on its own employees. Contractors who meet those criteria may not be small entities, and contractors would only perform periodic oversight if it relied on its own training in accordance with its training program and could therefore improve the program with the results of the oversight program. In any case, a railroad and contractor may voluntarily agree that the contractor will perform the periodic oversight.

The requirements for periodic oversight also contain provisions designed to limit impact on small railroads. First, if a contractor conducts its own periodic oversight, then the railroad would not be required to also do so. Second, railroads would not be required to perform operational tests of contractor employees in any case, as mentioned above. Third, a railroad would not be required to perform oversight test or inspections for categories of a contractor's safety-related railroad employees if the railroad does not employ supervisory employees who are qualified as safety-related railroad employees in those categories. This final exception is designed mostly with small entities in mind. Small railroads may maintain a very small workforce and hire contractors to perform most safety-related duties. Those small entities who do not have employees on staff who are capable of performing oversight of contractor employees would, therefore, not be required to expand their workforces by hiring a supervisory employee trained in the safety-related duties that the contractor employees perform in order to perform oversight of contractor employees.

FRA and the Working Group also considered alternatives for small entities in the section of the proposed rule requiring annual reviews of safety data. Railroads would be required, under the proposed rule, to conduct an annual review of periodic oversight data, reportable accident/incident data, FRA inspection report data, employee training feedback, and feedback received from labor representatives if available. However, all railroads with less than 400,000 total employee work hours per year would be exempted from this annual review requirement. FRA believes that all but six Class III freight railroads would fall below this threshold.

Finally, it should be noted that, under the proposed rule, FRA has exempted tourist, scenic, historic, and excursion railroads that are not part of the general railroad system of transportation as well as plant railroads. Excluding these types of operations from this proposed rule is consistent with FRA's jurisdictional policy that excludes these operations from all but a limited number of Federal safety laws, regulations, and orders.

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 adversely impacted. Without the information collected, FRA would have no way to know that railroads and contractors are properly and adequately

training safety-related employees regarding Federal rail safety laws, regulations, and orders. Without approved and effective training programs, safety-related employees would not receive essential training to do their important jobs safely and effectively. The scientific literature on training in general and FRA's own experience with training in the railroad industry show a clear link between the quality of training programs – including whether training is engaging or “hands-on” – and safety. Even though rail transportation in the United States is generally an extremely safe mode of transportation, and rail safety has been improving, well-designed training programs have the potential to further reduce risk in the railroad environment. FRA believes that better designed training can reduce the number of accidents/incidents caused by human factors.

Without the information collected, FRA would not have an opportunity to carefully review and comment on the training provided by railroads, contractors, and learning institutions. Without review of required training program submissions, resubmissions, and informational filings, FRA staff could not determine whether essential Federal safety laws, regulations, and orders were being addressed in a thorough and systematic way as they relate to the daily tasks of safety-related employees. Without the required training program submissions and the opportunity to closely scrutinize them, FRA would have no way to verify that railroads, contractors, and training/learning institutions are providing necessary and critical on the job (OJT) and hands-on training for their employees. Without the benefit of such training, employees would not be able to do their jobs as effectively, and it is highly likely that there would be increased numbers of accidents/incidents and injuries, fatalities, and property damage that accompany them.

Without the information collected, FRA would not have access to lists of designated safety-related employees by occupational category or subcategory. Without this information and the required records under this rule, FRA would not know whether employees in a given category or subcategory have undergone formal and informal training and thus have been properly and adequately trained and are thereby qualified to do their jobs. FRA would have no way of knowing whether these employees have passed or failed tests, and what actions were taken by railroad, contractors, and learning/training institutions to address any deficiencies found from such testing. Unqualified employee performing critical safety-related tasks could cause major accidents/incidents leading to public/ worker injuries, fatalities, and damage to railroad equipment resulting in high dollar losses for their employers.

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.**

Under section 243.201(a)(1) of the proposed rule, the requirement stipulates that each employer keep records for former safety-related railroad employees for a six-year period

after the employment relationship ends. Those records must be accessible at the employer's system headquarters. By requiring employers to keep former employee records, FRA will have adequate time to obtain records even when an audit and investigation takes place several years after the employment relationship has terminated. This recordkeeping requirement is also intended to aid former employees who want to access their records to prove to a prospective employer that they received prior training. This proposed record retention requirement may be especially helpful to any former employees that may leave the railroading industry for several years, but want to return to safety-related railroad work within the six-year time frame.

Also, under sections 243.205 (Periodic Oversight) and 243.207 (Annual Review), FRA proposes a three-year record retention requirement for any records that are not employee records. The proposed three-year window for retention would actually be a bit longer than three years because it would be measured as three calendar years after the end of the calendar year to which the event relates. Thus, if a test occurred on March 1, 2012, the record would need to be maintained through December 31, 2015. Having information for the full third calendar year will help FRA in its audits and investigations to determine patterns regarding non-compliance related to Federal safety laws, regulations and orders, and aid railroads/FRA in modifying deficient training programs accordingly.

All information collection requirements are in compliance with this section.

8. Compliance with 5 CFR 1320.8.

FRA is publishing its Training Standards Notice of Proposed Rulemaking on February 7, 2012, in the Federal Register. See 77 FR 6412. FRA is thereby soliciting public comments on the proposed rule and its accompanying information collection requirements. FRA will respond to any comments it receives in response to the NPRM in the agency final rulemaking and accompanying Supporting Justification.

Background

In March 1996, FRA established the Railroad Safety Advisory Committee (RSAC), which provides a forum for collaborative rulemaking and program development. RSAC includes representatives from all of the agency's major stakeholder groups, including railroads, labor organizations, suppliers and manufacturers, and other interested parties. A list of RSAC members follows:

American Association of Private Railroad Car Owners (AARPCO);
American Association of State Highway & Transportation Officials (AASHTO);
American Chemistry Council;
American Petroleum Institute;
American Public Transportation Association (APTA);
American Short Line and Regional Railroad Association (ASLRRA);

American Train Dispatchers Association (ATDA);
Association of American Railroads (AAR);
Association of Railway Museums (ARM);
Association of State Rail Safety Managers (ASRSM);
Brotherhood of Locomotive Engineers and Trainmen (BLET);
Brotherhood of Maintenance of Way Employees Division (BMWED);
Brotherhood of Railroad Signalmen (BRS);
Chlorine Institute;
Federal Transit Administration (FTA);*
Fertilizer Institute;
High Speed Ground Transportation Association (HSGTA);
Institute of Makers of Explosives;
International Association of Machinists and Aerospace Workers;
International Brotherhood of Electrical Workers (IBEW);
Labor Council for Latin American Advancement (LCLAA);*
League of Railway Industry Women;*
National Association of Railroad Passengers (NARP);
National Association of Railway Business Women;*
National Conference of Firemen & Oilers;
National Railroad Construction and Maintenance Association (NRC);
National Railroad Passenger Corporation (Amtrak);
National Transportation Safety Board (NTSB);*
Railway Supply Institute (RSI);
Safe Travel America (STA);
Secretaria de Comunicaciones y Transporte;*
Sheet Metal Workers International Association (SMWIA);
Tourist Railway Association Inc.;
Transport Canada;*
Transport Workers Union of America (TWU);
Transportation Communications International Union/BRC (TCIU/BRC);
Transportation Security Administration (TSA); and
United Transportation Union (UTU)

*Indicates associate, non-voting membership.

When appropriate, FRA assigns a task to RSAC, and after consideration and debate, RSAC may accept or reject the task. If accepted, RSAC establishes a working group that possesses the appropriate expertise and representation of interests to develop recommendations to FRA for action on the task. These recommendations are developed by consensus. The working group may establish one or more task forces or other subgroups to develop facts and options on a particular aspect of a given task. The task force, or other subgroup, reports to the working group. If a working group comes to consensus on recommendations for action, the package is presented to RSAC for a vote. If the proposal is accepted by a simple majority of RSAC, the proposal is formally

recommended to FRA. FRA then determines what action to take on the recommendation. Because FRA staff play an active role at the working group level in discussing the issues and options and in drafting the language of the consensus proposal, and because the RSAC recommendation constitutes the consensus of some of the industry's leading experts on a given subject, FRA is often favorably inclined toward the RSAC recommendation. However, FRA is in no way bound to follow the recommendation and the agency exercises its independent judgment on whether the recommended rule achieves the agency's regulatory goals, is soundly supported, and is in accordance with applicable policy and legal requirements. Often, FRA varies in some respects from the RSAC recommendation in developing the actual regulatory proposal or final rule. Any such variations would be noted and explained in the rulemaking document issued by FRA. If the working group or RSAC is unable to reach consensus on recommendations for action, FRA resolves the issue(s) through traditional rulemaking proceedings or other action.

On February 11, 2010, the RSAC accepted a task (No. 10-01) entitled "Minimum Training Standards and Plans." The purpose of this task was defined as follows: "To establish minimum training standards for each class and craft of safety-related railroad employee and their railroad contractor and subcontractor equivalents, as required by the Rail Safety Improvement Act of 2008 (Act)." The task called for the RSAC Training Standards and Plans Working Group (Working Group) to perform the following:

- Assist FRA in developing regulations responsive to the legislative mandate.
- Determine a reasonable method for submission and FRA review of training plans.
- Establish reasonable oversight criteria to ensure training plans are effective.

The task also listed issues requiring specific report:

- What criteria should be used to determine which, if any, FRA-required training programs may be exempted from the new minimum standards?
- What training methodologies should be employed to ensure that current employees understand which tasks are covered by Federal laws, regulations, and orders, as well as the railroad rules and procedures which implement them?
- What criteria can be developed for the regulated community to determine whether there are safety-related tasks that require training for new employees?
- Should annual proficiency checks be established for all safety-related railroad employees, similar to those required for locomotive engineers and conductors? Should periodic training intervals be extended if such checks were used?
- Which employees should be covered by this regulation?

The Working Group was formed from interested organizations that are members of the RSAC. In addition to FRA, the following organizations contributed members:

Association of American Railroads (AAR), including members from BNSF Railway Company (BNSF), Canadian National Railway (CN), Canadian Pacific Railway (CP), CSX Transportation, Inc. (CSX), Kansas City Southern Railway (KCS), National Railroad Passenger Corporation (Amtrak), Northeast Illinois Regional Commuter Railroad Corporation (METRA), Norfolk Southern Railway Company (NS), Rail America, Inc. and Union Pacific Railroad (UP);

APTA, including members from Bombardier Transportation, Greater Cleveland Regional Transit Authority (GCRTA), Long Island Rail Road (LIRR), Maryland Transit Administration (MTA), Metro-North Railroad (MNCW), Mid-Region Council of Governments/New Mexico Rail Runner Express (MRCOG), Northern Indiana Commuter Transportation District (NICTD), Port Authority Transit Corporation (PATCO), Southeastern Pennsylvania Transportation Authority (SEPTA), and Southern California Regional Rail Authority (Metrolink);

American Short Line and Regional Railroad Association (ASLRRA), including members from Anacostia Rail Holdings (ARH), Genesee & Wyoming Inc. (GNWR), Omnitrax Inc.(Omnitrax), Rio Grande Pacific Corporation (RGP), and WATCO Companies, Inc. (WATCO);

Association of State Rail Safety Managers (ASRSM), including members from California Public Utilities Commission (CPUC) and Public Utilities Commission of Ohio (PUCO);

American Train Dispatchers Association (ATDA);

Brotherhood of Locomotive Engineers and Trainmen (BLET);

Brotherhood of Maintenance of Way Employees Division (BMWED);

Brotherhood of Railroad Signalmen (BRS);

International Brotherhood of Electrical Workers (IBEW);

National Railroad Construction and Maintenance Association (NRC), including members from Balfour Beatty Rail Inc. (BBRI), Delta Railroad Construction Inc., Herzog Transit Services (Herzog), RailWorks Track Systems, and Track Guy Consultants;

Railway Supply Institute (RSI), including members from GE Transportation;

Sheet Metal Workers International Association (SMWIA);

Tourist Railway Association Inc.;

Transport Workers Union of America (TWU); and

United Transportation Union (UTU)

In addition to the Working Group members, visitors to the meetings included The Railway Education Bureau and The Transportation Learning Center.

The Working Group convened 6 times on the following dates and locations:

- April 13-14, 2010 in Philadelphia, PA;
- June 2-3, 2010 in Savannah, GA;
- August 17-18, 2010 in Baltimore, MD;

- September 21-22, 2010 in Baltimore, MD;
- October 19-20, 2010 in Atlanta, GA; and
- November 15-16, and 23, 2010 in Washington, DC and via conference call.

To aid the Working Group in its development of recommendations for minimum training standards and plans, FRA prepared draft regulatory text, which it distributed prior to the April meeting. Portions of the draft text were modeled after existing regulations. For example, the training requirements closely followed 49 CFR § 232.203, which are the general training requirements for railroad and contractor personnel used to perform freight and passenger train brake inspections and tests. As statutorily mandated in 49 U.S.C. 20162(b), the program filing requirements followed the review and approval process required under the qualification and certification of locomotive engineers regulation (49 CFR Part 240), but with suggested improvements from the conductor certification RSAC working group. Similarly, the oversight and recordkeeping requirements were modeled after the programs of operational tests and inspections found in 49 CFR § 217.9 of the railroad operating rules regulation.

During each meeting, Working Group members made recommendations regarding changes and additions to the draft text. Following each meeting, FRA considered all of the recommendations and revised the draft text accordingly. Minutes of each of these meetings are part of the docket in this proceeding and are available for public inspection. Having worked closely with the RSAC in developing its recommendations, FRA believes that the RSAC has effectively addressed concerns with regard to requiring minimum training standards and plans. FRA has greatly benefited from the open, informed exchange of information during the meetings. The Working Group reached consensus on all of its recommended regulatory provisions. On December 14, 2010, the Working Group presented its recommendations to the full RSAC for concurrence. All of the members of the full RSAC in attendance at the December meeting accepted the regulatory recommendations submitted by the Working Group. Thus, the Working Group's recommendations became the full RSAC's recommendations to FRA.

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.

FRA does not expect the information in a training program submission to be of a confidential or proprietary nature. For instance, each railroad is expected to share the program submission, resubmission, or informational filing with the president of each labor organization that represents the railroad's employees subject to this part. See 243.109(d). It would be expected that information that needed to be kept private would need to be removed prior to sharing that programmatic material with the labor

organization. FRA suggests that entities consider this concern when drafting any programmatic material to be submitted to FRA and that each entity takes its own steps not to share such private material with FRA. In that way, FRA may make such programmatic material available to the general public upon request.

Information collected then 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.

As noted in the summary at the beginning of this document, respondent universe for this proposed collection of information consists of approximately 1,518 railroads and contractors, comprising 720 railroads – 8 Class I, 38 Class II, + 674 Class III – and 795 contractors/3 railroad associations.

§ 214.341 – Roadway Maintenance Machines.

(b) * * *

(2) No roadway worker shall operate a roadway maintenance machine without having knowledge of the safety instructions applicable to that machine. For purposes of this paragraph, the safety instructions applicable to that machine means:

(i) the manufacturer’s instruction manual for that machine; or

(ii) the safety instructions developed to replace the manufacturer’s safety instructions when the machine has been adapted for a specific railroad use. Such instructions shall address all aspects of the safe operation of the crane and shall be as comprehensive as the manufacturer’s safety instructions they replace.

The burden for the above requirement is included under training requirement for roadway workers approved under OMB No. 2130-0539 (sections 214.341-214.355). Consequently, there is no additional burden associated with this requirement.

§ 214.357 – Training and qualification for operators of roadway maintenance machines equipped with a crane.

(a) In addition to the general training and qualification requirements for operators of roadway maintenance machines set forth in §§ 214.341 and 214.355 of this Subpart,

each employer shall adopt and comply with a training and qualification program for operators of roadway maintenance machines equipped with a crane to ensure the safe operation of such machines.

(b) Each employer's training and qualification program for operators of roadway maintenance machines equipped with a crane shall require initial and periodic qualification of each operator of a roadway maintenance machine equipped with a crane and shall include:

(1) Procedures for determining that the operator has the skills to safely operate each machine the person is authorized to operate; and

(2) Procedures for determining that the operator has the knowledge to safely operate each machine the person is authorized to operate. Such procedures shall determine that either:

(i) The operator has knowledge of the safety instructions (i.e., the manufacturer's instruction manual) applicable to that machine; or

(ii) The operator has knowledge of the safety instructions developed to replace the manufacturer's safety instructions when the machine has been adapted for a specific railroad use. Such instructions shall address all aspects of the safe operation of the crane and shall be as comprehensive as the manufacturer's safety instructions they replace.

Each covered railroad already has a training and qualification program for operators of roadway maintenance machines. The burden for this requirement is included under **OMB No. 2130-0539**. However, FRA estimates that approximately 535 railroads/contractors will need to modify their programs to meet the above requirements. It is estimated that it will take approximately four (4) hours for each railroad to modify its training and qualification program. Total annual burden for this requirement is 2,140 hours.

Respondent Universe:

535
Railroads/contractors

Burden time per response:

4 hours

Frequency of Response:

On occasion

Annual number of Responses:

535 modified programs

Annual Burden:

2,140 hours

Calculation: 535 modified programs x 4 hrs. = 2,140 hours

Training for operators of roadway maintenance machines is included under §§ 214.341 and 214.355 (**OMB No. 2130-0539**). In that collection, FRA estimated that there are approximately 50,000 roadway workers. However, only 17,396 roadway workers each

year will need the initial additional training on roadway maintenance machines equipped with a crane to ensure the safe operation of such machines. It is estimated that approximately 1,750 roadway workers will be trained regarding cranes and that this training will take approximately 24 hours to complete and that approximately 15,646 roadway workers will be trained regarding boom trucks and that this training will take approximately four (4) hours to complete. Total annual burden for this requirement is 104,584 hours.

Respondents:	17,396
	Roadway Workers
Burden time per response:	24 hours + 4 hours
Frequency of Response:	One-time
Annual Number of responses:	17,396 trained roadway workers
Annual Burden:	104,584 hours

Calculation: 1,750 trained workers (cranes) x 24 hrs. + 15,646 trained workers (boom trucks) x 4 hours = 104,584 hours

Further, FRA estimates that approximately 17,396 roadway workers will receive the required periodic training on roadway machines equipped with cranes to operate them safely. It is estimated that this additional training will take approximately one (1) hour per employee to complete. Total annual burden for this requirement is 17,396 hours.

Respondents:	17,396
	Roadway Workers
Burden time per response:	1 hour
Frequency of Response:	On occasion
Annual Number of responses:	17,396 trained roadway workers
Annual Burden:	17,396 hours

Calculation: 17,396 trained roadway workers x 1 hr. = 17,396 hours

(c) Each employer shall maintain records that form the basis of the training and qualification determinations of each operator of roadway maintenance machines equipped with a crane that it employs.

Each employer required to maintain records under this Part shall make all records available for inspection and copying/photocopying to representatives of FRA, upon request during normal business hours.

Training conducted by an employer in accordance with operator qualification and certification required by the Department of Labor (29 CFR 1926.1427) may be used to satisfy the training and qualification requirements of this section.

FRA estimates that approximately 17,396 roadway workers records will be amended to reflect the required training and qualification determination. It estimates that it will take approximately 15 minutes to complete each employee record. Total annual burden for this requirement is 4,349 hours.

Respondents:	17,396
	Roadway Workers
Burden time per response:	15 minutes
Frequency of Response:	On occasion
Annual Number of responses:	17,396 roadway worker records
Annual Burden:	4,349 hours
Calculation:	17,396 roadway worker records x 15 min = 4,349 hours

Total annual burden for this entire requirement is 128,469 hours.

§ 232.203 – Training requirements.

(b) * * *

(6) * * *

(iv) Any combination of the training or testing contained in paragraphs (b)(6)(i) through (b)(6)(iii) of this section and paragraphs (b)(3) through (b)(5) of this section may be used to satisfy the training and testing requirements for an employee in accordance with this paragraph.

The burden for this requirement is included under the collection associated with FRA's Power Brakes regulation (OMB No. 2130-0008). Consequently, there is no additional burden associated with this requirement.

(e) * * *

(6) The tasks required to be performed under this Part which the employee is deemed qualified to perform;

(7) Identification of the person(s) determining that the employee has successfully completed the training necessary to be considered qualified to perform the tasks identified in paragraph (e)(6) of this section; and

(8) The date that the employee's status as qualified to perform the tasks identified in paragraph (e)(6) of this section expires due to the need for refresher training.

The above language solely changes the paragraph specification in items 7 and 8 above. The burden for training records of the Power Brakes regulation is already included

under OMB No. 2130-0008. Consequently, there is no additional burden associated with the above requirements.

§ 243.7 Waivers.

(a) A person subject to a requirement of this Part may petition the Administrator for a waiver of compliance with such requirement. The filing of such a petition does not affect that person's responsibility for compliance with that requirement while the petition is being considered.

(b) Each petition for a waiver under this section shall be filed in the manner and contain the information required by Part 211 of this chapter.

FRA estimates that approximately three (3) waiver petitions will be filed each year due to this requirement. It is estimated that it will take approximately six (6) hours to complete each petition. Total annual burden for this requirement is 18 hours.

Respondent Universe:	1,541 railroads/contractors/ associations
Burden time per response:	6 hours
Frequency of Response:	Annually
Annual number of Responses:	3 waiver petitions
Annual Burden:	18 hours

Calculation: 3 waiver petitions x 6 hrs. = 18 hours

§ 243.101 Employer program required.

(a) Effective [**INSERT DATE ONE YEAR AND 120 DAYS AFTER EFFECTIVE DATE OF THIS RULE**], each employer conducting operations subject to this Part shall submit, adopt, and comply with a training program for its safety-related railroad employees.

FRA believes that all Class I railroads will create/revise their own training programs rather than use a model program, and that all 26 commuter and both intercity railroads will also create/revise their own programs. FRA believes that Class II and Class III railroads and contractors will choose to either create/revise their own program or use a model program, depending on which option minimizes costs for each entity. Thus, FRA estimates that approximately 48 training programs (7 Class I, 5 Class II, 2 Class III, 3 contractors, 26 commuter railroads, and 2 intercity railroad plus 3 model programs) will be initially created/revise under the above requirement. It is estimated that it will take each railroad/contractor approximately 160 hours to develop and submit its training program. Further, FRA believes that most small railroads/small entities will use consortiums or model training programs developed by industry associations such as

ASLRRA, and they will choose to customize them. Thus, approximately 1,493 employers will customize their programs. It is estimated that the customization of a model program will take approximately eight (8) hours. Total annual burden for this requirement is 19,624 hours.

Respondent Universe:	1,541 railroads/contractors/ associations
Burden time per response:	160 hours + 8 hours
Frequency of Response:	One-time
Annual number of Responses:	1,541 initial training programs
Annual Burden:	19,624 hours

Calculation: 48 initial training programs x 160 hrs. + 1,493 training programs x 8 hrs. = 19,624 hours

Additionally, after the first year, employers that have created and implemented their own training programs will perform data analysis, annual reviews, and revisions to their training programs. FRA estimates that approximately 48 railroads/contractors will revise their training programs under these circumstances. It is estimated that it will take approximately 40 hours for each railroad/contractor to complete their training program revisions and send the amended document to FRA. Additionally, there are 11 other railroads/contractors that have adopted model training programs that will need to perform data analysis, annual reviews, and revisions to their training programs. However, since these revisions will be done for them by the provider of the model program, it is estimated that each training program revision will take approximately 20 hours. Total annual burden for this requirement is 2,140 hours.

Respondent Universe:	59 railroads/contractors
Burden time per response:	40 hours + 20 hours
Frequency of Response:	On occasion
Annual number of Responses:	59 revised training programs
Annual Burden:	2,140 hours

Calculation: 48 revised tr. prog. x 40 hrs. + 11 tr. prog. x 20 hrs. = 2,140 hours

(b) An employer commencing operations subject to this part after [INSERT DATE ONE YEAR AND 120 DAYS AFTER EFFECTIVE DATE OF THIS RULE] shall submit a training program for its safety-related railroad employees and request FRA approval at least 90 days prior to commencing operations. After FRA approves the training program in accordance with this Part, the employer shall adopt and comply with the training program.

FRA estimates that approximately 37 new Class II and Class III railroads and contractors will commence operation and thus 37 training programs for their safety-related employees will be adopted, complied with, and submitted to FRA under the above requirement. It is estimated that it will take each railroad approximately eight (8) hours to develop and submit its training program. Total annual burden for this requirement is 296 hours.

Respondent Universe:	37 railroads/contractors
Burden time per response:	8 hours
Frequency of Response:	One-time
Annual number of Responses:	37 initial training programs
Annual Burden:	296 hours

Calculation: 37 initial training programs x 8 hrs. = 296 hours

(c) In the program required by this Part, the employer shall:

- (1) Classify its safety-related railroad employees in occupational categories or subcategories by craft, class, task, or other suitable terminology;
- (2) Define the occupational categories or subcategories of safety-related railroad employees. The definition of each category or subcategory shall include a list of the Federal railroad safety laws, regulations, and orders that the employee is required to comply with, based on the employee's assignments and duties, broken down at a minimum to the applicable part of the Code of Federal Regulations, section of the United States Code, or citation to an order. The listing of the Federal requirements shall contain the descriptive title of each law, regulation, or order;
- (3) Create tables or utilize other suitable formats which summarize the information required in paragraphs (c)(1) and (c)(2) of this section, segregated by major railroad departments (e.g., Operations, Maintenance of Way, Maintenance of Equipment, Signal and Communications). After listing the major departments, the tables or other formats should list the categories and subcategories of safety-related railroad employees within those departments;
- (4) Develop procedures to design and develop key learning points for any task-based or knowledge-based training; and
- (5) Determine how training shall be structured, developed, and delivered, including an appropriate combination of classroom, simulator, computer-based, correspondence, OJT, or other formal training. The curriculum shall be designed to impart knowledge of, and ability to comply with applicable Federal railroad safety laws, regulations, and orders, as well as any relevant railroad rules and procedures promulgated to implement those applicable Federal railroad safety laws, regulations, and orders.

The burden for this requirement is already included under that of § 243.101(a) and § 243.101(b) above. Consequently, there is no additional burden associated with this requirement.

(d) *On-the-job (OJT) training requirements.*

(1) The OJT portion of the training program shall consist of the following three key components:

(i) A brief statement describing the tasks and related steps the employee learning the job shall be able to perform;

(ii) A statement of the conditions (prerequisites, tools, equipment, documentation, briefings, demonstrations, and practice) necessary for learning transfer; and

(iii) A statement of the standards by which proficiency is measured through a combination of task/step accuracy, completeness, and repetition.

(2) Prior to beginning the initial safety-related tasks associated with OJT exercises, employers shall make any relevant information or materials, such as operating rules, safety rules, or other rules available to employees involved for referencing.

(3) The tasks and related steps associated with OJT exercises for a particular category or subcategory of employee shall be maintained together in one manual, checklist, or similar document. This reference shall be made available to all employees involved in those OJT exercises.

The burden for this requirement is already included under that of § 243.101(a) and § 243.101(b) above. Consequently, there is no additional burden associated with this requirement.

(e) *Contractor's responsibility to validate approved program to a railroad.* A contractor that chooses to train its own safety-related railroad employees shall provide each railroad that utilizes it with a document indicating that the contractor's program of training was approved by FRA. A contractor is being utilized by a railroad when any of the contractor's employees conduct safety-related duties on behalf of the railroad and the railroad does not otherwise qualify those employees of the contractor that are allowed to perform those duties.

The burden for this requirement is already included under that of § 243.101(a) above. Consequently, there is no additional burden associated with this requirement.

Further, FRA estimates that approximately 155 validated training documents will be provided by contractors to railroads under the above requirement. It is estimated that it will take each contractor approximately 15 minutes to copy their approved training document and send it to railroads that utilize its training program. Total annual burden for this requirement is 39 hours.

Respondent Universe:	795 contractors
Burden time per response:	15 minutes
Frequency of Response:	On occasion
Annual number of Responses:	155 validated training documents
Annual Burden:	39 hours

Calculation: 155 validated training documents x 15 min. = 39 hrs.

(f) *Railroad's responsibility to retain contractor's validation of program.* A railroad that chooses to utilize contractor employees to perform safety-related duties and relies on contractor-provided training as the basis for those employees' qualification to perform those duties shall retain a document from the contractor indicating that the contractor's program was approved by FRA. A copy of the document required in paragraph (e) of this section satisfies this requirement.

FRA estimates that approximately 155 copies of the contractors FRA-approved training documents will be kept by railroads utilizing contractor trained employees under the above requirement. It is estimated that it will take each railroad approximately 15 minutes to file its copy of the contractor's validation document. Total annual burden for this requirement is 39 hours.

Respondent Universe:	743 railroads
Burden time per response:	15 minutes
Frequency of Response:	On occasion
Annual number of Responses:	155 contractor's validation document copies
Annual Burden:	39 hours

Calculation: 155 contractor's validation document copies x 15 min. = 39 hrs.

Total annual burden for this entire requirement is 22,138 hours (19,624 + 2,140 + 296 + 39 + 39).

§ 243.103 Training components identified in program.

(a) Each employer's program shall include the following components:

(1) A unique name and identifier for each formal course of study;

- (2) A course outline for each course that includes the following:
- (i) Any prerequisites to course attendance;
 - (ii) A brief description of the course, including the terminal learning objectives;
 - (iii) A brief description of the target audience, e.g., a list of the occupational categories and subcategories of employees the course will be delivered to;
 - (iv) The method(s) of course delivery, which may include, but are not limited to, classroom, computer-based, simulator, laboratory, correspondence courses, or any combination thereof;
 - (v) The anticipated course duration;
 - (vi) A syllabus of the course to include any applicable U.S.C. Chapters, 49 CFR Parts, or FRA Orders covered in the training; and
 - (vii) The kind of assessment (written test, performance test, verbal test, OJT standard, etc.) performed to demonstrate employee competency.
- (3) A document for each OJT program component that includes the following:
- (i) The roles and responsibilities of each category of person involved in the administration and implementation, guidelines for program coordination, and the progression and application of the OJT;
 - (ii) A listing of the occupational categories and subcategories of employees for which the OJT program applies; and
 - (iii) Details of the safety-related tasks and subtasks, conditions, and standards covered by the program components.
- (4) The job title and telephone number of the employer's primary training point(s) of contact, listed separately by major department or employee occupational category, if applicable.
- (5) If any training organization or learning institution developed and will deliver all or any part of the training, the employer must include the following:
- (i) A narrative, text table, or other suitable format which describes those portions of the training that fit into this category;

(ii) The business name of the organization that developed and will deliver the training; and

(iii) The job title and telephone number of the training organization or learning institution's primary training point of contact.

The burden for this requirement is already included under that of § 243.101(a) and § 243.101(b) above. Consequently, there is no additional burden associated with this requirement.

(b) An employer that is required to submit similar training programs or plans pursuant to other regulatory requirements contained elsewhere in this chapter may elect to cross-reference these other programs or plans in the program required by this Part rather than resubmitting that similar program or plan. When any such similar program or plan did not include the OJT components specified in paragraph (a)(3) of this section, the employer shall supplement its program in accordance with this Part by providing that additional information.

FRA estimates that approximately two (2) training programs will need to be supplemented to include the OJT components specified in paragraph (a)(3) of this section. It is estimated that it will take each railroad/employer approximately 80 hours to complete the OJT supplement and send it to FRA. Total annual burden for this requirement is 160 hours.

Respondent Universe:	1,541 railroads/contractors/ associations
Burden time per response:	80 hours
Frequency of Response:	One time
Annual number of Responses:	2 supplemented training programs
Annual Burden:	160

Calculation: 2 supplemented training programs x 80 hrs. = 160 hours

(c) If an employer arranges job-related practice and practice related feedback sessions to supplement classroom, laboratory, simulator training, or OJT, the program shall include a description of the supplemental training.

The burden for this requirement is already included under that of § 243.101(a) and § 243.101(b) above. Consequently, there is no additional burden associated with this requirement.

(d) FRA may require modifications to any programs, including those programs referenced in paragraph (b) of this section, if it determines essential program components, such as OJT, or arranged practice and feedback, are missing or inadequate.

FRA estimates that approximately 385 training programs will be required by the agency to be modified under the above requirement. It is estimated that it will take each railroad approximately eight (8) hours to modify its training program and send it to FRA. Total annual burden for this requirement is 3,080 hours.

Respondent Universe:	1,541 railroads/contractors/ associations
Burden time per response:	8 hours
Frequency of Response:	On occasion
Annual number of Responses:	385 modified training programs
Annual Burden:	3,080 hours

Calculation: 385 modified training programs x 8 hrs. = 3,080 hours

Total annual burden for this entire requirement is 3,240 hours (160 + 3,080).

§ 243.105 Optional model program development.

(a) Any organization, business, or association may develop and submit one or more model training programs to FRA for review and approval so that the model program(s) may be used by multiple employers.

(1) Any such model program should be submitted with a unique identifier associated with the program, or FRA will assign a unique identifier.

(2) The program associated with the organization's unique identifier shall include all information required by § 243.103.

The burden for this requirement is already included above under that of § 243.101(a). Consequently, there is no additional burden associated with this requirement.

(b) An employer that chooses to use a model program approved by FRA is not required to submit the entire program to FRA. Instead, the employer must submit only the unique identifier, and all other information that is specific to that employer or deviates from the model program.

The burden for this requirement is already included above under that of § 243.101(a). Consequently, there is no additional burden associated with this requirement.

§ 243.107 Training program submission, introductory information required.

(a) An employer who provides or is responsible for the training of safety-related railroad employees shall submit its training program to FRA for review and approval. Each employer shall state in its submission whether, at the time of filing, it:

(1) Primarily conducts the training program of its own safety-related railroad employees, utilizing its own resources;

(2) Conducts any training for other than its own safety-related railroad employees;

(3) Implements any training programs conducted by some other entity on its behalf but adopted by that employer;

(4) Qualifies safety-related railroad employees previously qualified by other employers;

(5) Qualifies safety-related railroad employees previously trained by training organizations or learning institutions; or

(6) Any combination of paragraph (a)(1) through (a)(5) of this section.

(b) An employer who utilizes any of the options specified in paragraphs (a)(2) through (a)(5) of this section shall provide the following information in its submission:

(1) The categories of safety-related railroad employees who, at the time of filing, will receive training utilizing one or more of these options; and

(2) Whether the training delivered, utilizing one or more of these options, composes all or part of the overall training program regimen for that category of employee at the time of filing.

(c) An employer that elects to use training organizations or learning institutions to train some or all of its safety-related railroad employees, or to hire new safety-related railroad employees that have previously received training from any training organizations or learning institutions, shall include the full name of the training organization or learning institution in its submission.

The burden for this requirement is already included under that of § 243.101, § 243.103, and § 243.105 above. Consequently, there is no additional burden associated with this requirement.

§ 243.109 Training program submission, review, and approval process.

(a) *Initial programs.* (1) Apprenticeship or similar intern programs, that began prior to submission of the employer's initial program filed in accordance with this Part, shall be described in the employer's initial program. Any such apprenticeship or similar intern programs may continue, but if the Associate Administrator advises the employer of

specific deficiencies, the employer shall resubmit that portion of its program, as revised to address specific deficiencies, within 90 days after the date of any notice of deficiencies from the Associate Administrator. A failure to resubmit the program with the necessary revisions shall be considered a failure to implement a program under this Part. The Associate Administrator may extend this 90-day period upon written request.

(2) An employer's initial program, as required by § 243.101(a), must be submitted to the Associate Administrator and is considered approved, and may be implemented immediately upon submission. Following submission, the Associate Administrator will review the program and inform the employer as to whether the initial program conforms to this Part. If the Associate Administrator determines that all or part of the program does not conform, the Associate Administrator will inform the employer of the specific deficiencies. The deficient portions of the non-conforming program may remain in effect until approval of the revised program, unless FRA provides notification otherwise. An employer shall resubmit the portion of its program, as revised to address specific deficiencies, within 90 days after the date of any notice of deficiencies from the Associate Administrator. A failure to resubmit the program with the necessary revisions shall be considered a failure to implement a program under this Part. The Associate Administrator may extend this 90-day period upon written request.

FRA estimates that approximately 385 initial training programs will be found with deficiencies relating to apprenticeship or intern programs and will need to be revised under the above requirement. It is estimated that it will take each employer/railroad approximately eight (8) hours to revise its initial training program and send the updated document to FRA. Total annual burden for this requirement is 3,080 hours.

Respondent Universe:	1,541 railroads/contractors/ associations
Burden time per response:	8 hours
Frequency of Response:	One-time
Annual number of Responses:	385 revised training programs
Annual Burden:	3,080 hours

Calculation: 385 revised training programs x 8 hrs. = 3,080 hours

Additionally, FRA estimates that it will receive approximately 19 written requests to extend the 90-day resubmission deadline under the above requirement. It is estimated that it will take each employer/railroad approximately 15 minutes to complete its written extension request and send it to FRA. Total annual burden for this requirement is five (5) hours.

Respondent Universe:	1,541 railroads/contractors/ associations
Burden time per response:	15 minutes

Frequency of Response:	On occasion
Annual number of Responses:	19 written extension requests
Annual Burden:	5 hours

Calculation: 19 written extension requests x 15 min. = 5 hours

(3) For an employer that is commencing operations in accordance with §243.101(b), the employer’s initial program, must be submitted to the Associate Administrator and is considered approved upon notification from the Associate Administrator that the program has been approved. Following submission, the Associate Administrator will review the program and inform the employer as to whether the initial program conforms to this Part. If the Associate Administrator determines that the program does not conform to this Part, the employer shall resubmit the portion of its program, as revised to address specific deficiencies, within 90 days after the date of any notice of deficiencies from the Associate Administrator. At the Associate Administrator’s discretion, the Associate Administrator may determine that the employer may implement any portion of its program prior to resubmission. A failure to resubmit the program with the necessary revisions shall be considered a failure to implement a program under this Part. The Associate Administrator may extend this 90-day period upon written request.

Regarding employers commencing operations in accordance with §243.101(b), FRA estimates that approximately nine (9) initial training programs will be found with deficiencies and will need to be revised under the above requirement. It is estimated that it will take each employer/railroad approximately eight (8) hours to revise its initial training program and send the updated document to FRA. Total annual burden for this requirement is 72 hours.

Respondent Universe:	37 railroads/contractors
Burden time per response:	8 hours
Frequency of Response:	On occasion
Annual number of Responses:	9 revised initial training programs
Annual Burden:	72 hours

Calculation: 9 revised training programs x 8 hrs. = 72 hours

Additionally, regarding employers commencing operations in accordance with §243.101(b), FRA estimates that it will receive approximately two (2) written requests to extend the 90-day resubmission deadline under the above requirement. It is estimated that it will take each employer/railroad approximately 15 minutes to complete its written extension request and send it to FRA. Total annual burden for this requirement is one (1) hour.

Respondent Universe:	37 railroads/contractors
Burden time per response:	15 minutes
Frequency of Response:	On occasion
Annual number of Responses:	2 written extension requests
Annual Burden:	1 hour

Calculation: 2 written extension requests x 15 min. = 1 hour

(b) *Previously approved programs require an informational filing when modified.* The employer must review its previously approved training program and modify it accordingly when new safety-related Federal railroad laws, regulations, or orders are issued, or new safety-related technologies, procedures, or equipment are introduced into the workplace and result in new knowledge requirements, safety-related tasks, or modification of existing safety-related duties. An employer that modifies its training program for these described reasons shall submit an informational filing to the Associate Administrator not later than 30 days after the end of the calendar year in which the modification occurred, unless FRA advises otherwise to individual employers, one or more group of employers, or the general public. Programs modified in accordance with this paragraph, after the initial FRA approval, are considered approved upon being modified and may be implemented immediately. Any program deficiencies noted by the Associate Administrator shall be addressed in the same manner as paragraph (a)(2) of this section. The filing shall contain a summary description of sufficient detail that FRA can associate the changes with the employer's previously approved program, and shall include:

- (1) Descriptions of all new or refresher training courses developed since the previous FRA approval, using the same criteria required for an initial filing;
- (2) Explanations whenever OJT or arranged practice is added to, or discontinued from, a program;
- (3) Explanations as to how the methods of delivering training, or qualifying employees has changed; and
- (4) A statement from an organization, business, or association that has submitted a model program pursuant to this Part, that the organization, business, or association has informed each employer who requested the right to use the effected training program of the changes and the need for the employer to comply with those changes that apply to the employer's operation.

FRA estimates that approximately 150 informational filings relating to previously approved training programs will be completed under the above requirement. It is estimated that it will take each employer/railroad approximately six (6) hours to complete

its informational filing and send it to FRA. Total annual burden for this requirement is 900 hours.

Respondent Universe:	1,541 railroads/contractors/ associations
Burden time per response:	6 hours
Frequency of Response:	On occasion
Annual number of Responses:	150 informational filings
Annual Burden:	900 hours

Calculation: 150 informational filings x 6 hrs. = 900 hours

Additionally, FRA estimates that approximately seven (7) modified training programs will be found with deficiencies and will need to be revised under the above requirement. It is estimated that it will take each employer/railroad approximately four (4) hours to revise its initial training program and send the updated document to FRA. Total annual burden for this requirement is 28 hours.

Respondent Universe:	1,541 railroads/contractors/ associations
Burden time per response:	4 hours
Frequency of Response:	On occasion
Annual number of Responses:	7 further revised training programs
Annual Burden:	28 hours

Calculation: 7 further revised training programs x 4 hrs. = 28 hrs.

(c) *New portions or revisions to an approved program.* Substantial additions or revisions to a previously approved program, that are not described as informational filings in accordance with paragraph (b) of this section, shall be considered approved and may be implemented immediately upon submission. Following submission, the Associate Administrator will review the new portions or revisions to the previously approved program and inform the employer as to whether the modifications conform to this Part. Any program deficiencies noted by the Associate Administrator shall be addressed in the same manner as paragraph (a)(2) of this section. The Associate Administrator will inform the employer as to whether a new portion or revision to an approved program conforms to this Part. If the Associate Administrator has determined that the changes do not conform to this Part, the employer shall resubmit the portion of its program, as revised to address specific deficiencies, within 90 days after the date of any notice of deficiencies from the Associate Administrator. Failure to resubmit the program with the necessary revisions shall be considered a failure to implement a program under this Part. The Associate Administrator may extend this 90-day period upon written request.

FRA estimates that approximately 15 modified training programs will be found with deficiencies and will need to be further revised under the above requirement. It is

estimated that it will take each employer/railroad approximately four (4) hours to further revise its modified training program and send the updated document to FRA. Total annual burden for this requirement is 60 hours.

Respondent Universe:	1,541 railroads/contractors/ associations
Burden time per response:	4 hours
Frequency of Response:	On occasion
Annual number of Responses:	15 further revised training program docs.
Annual Burden:	60 hours

Calculation: 15 further revised training programs x 4 hrs. = 60 hrs.

Additionally, FRA estimates that it will receive approximately three (3) additional written requests to extend the 90-day resubmission deadline under the above requirement. It is estimated that it will take each employer/railroad approximately 15 minutes to complete its written extension request and send it to FRA. Total annual burden for this requirement is one (1) hour.

Respondent Universe:	1,541 railroads/contractors/ associations
Burden time per response:	15 minutes
Frequency of Response:	On occasion
Annual number of Responses:	3 written extension requests
Annual Burden:	1 hour

Calculation: 3 written extension requests x 15 min. = 1 hour

(d) *Additional submission, resubmission, or informational filing requirement for railroads.* (1) Each railroad shall:

(i) Simultaneous with its filing with the FRA, serve a copy of any submission, resubmission, or informational filing required pursuant to this section, to the president of each labor organization that represents the railroad's employees subject to this Part; and

(ii) Include in its submission, resubmission, or informational filing required pursuant to this section a statement affirming that the railroad has served a copy to the president of each labor organization that represents the railroad's employees subject to this Part, together with a list of the names and addresses of persons served. (*Note: The burden for the first part of this requirement is already included above. Consequently, there is no additional burden associated with this requirement.*)

FRA estimates that railroads will serve approximately 2,000 copies of submissions, resubmissions, and informational filings to the presidents of relevant labor organizations

under the above requirement. It is estimated that it will take each railroad approximately 15 minutes to complete each copy and send it to the presidents of the relevant labor organizations. Total annual burden for this requirement is 500 hours.

Respondent Universe:	720 railroads
Burden time per response:	15 minutes
Frequency of Response:	On occasion
Annual number of Responses:	2,000 submission/resubmission/filing copies
Annual Burden:	500 hours

Calculation: 2,000 submission/resubmission/filing copies x 15 min. = 500 hours

(2) Not later than 90 days from the date a railroad files its submission, resubmission, or informational filing required pursuant to this section, a representative designated by the president of each labor organization that represents railroad employees subject to this part, may file a comment on the submission, resubmission, or informational filing:

(i) Each comment shall be submitted to the Associate Administrator for Railroad Safety/Chief Safety Officer, Federal Railroad Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590; and

(ii) The commenter shall certify that a copy of the comment was served on the railroad.

FRA estimates that 500 comments (with the required certification) will be made by labor organizations under the above requirement. It is estimated that it will take each labor organization approximately four (4) hours to complete its comment and send it to FRA. Total annual burden for this requirement is 2,000 hours.

Respondent Universe:	5 RR labor organizations
Burden time per response:	4 hours
Frequency of Response:	On occasion
Annual number of Responses:	500 comments
Annual Burden:	2,000 hours

Calculation: 500 comments x 4 hrs. = 2,000 hours

Total annual burden for this requirement is 6,647 hours (3,080 + 5 + 72 + 1 + 900 + 28 + 60 + 1 + 500 + 2,000).

§ 243.111 Approval of programs filed by training organizations or learning institutions.

(a) A training organization or learning institution that provides training services for safety-related railroad employees, including providing such training services to independent students who enroll with such training organization or learning institution

and who will rely on the training services provided to qualify to become safety-related railroad employees, must submit its program to FRA for review and approval.

FRA estimates that approximately 72 training programs will be submitted by training organizations or learning institutions to FRA for approval under the above requirement. It is estimated that it will take each training organization or learning institution approximately 80 hours to develop its training program and send the document to FRA. Total annual burden for this requirement is 5,760 hours.

Respondent Universe:	12 training organizations/learning institutions
Burden time per response:	80 hours
Frequency of Response:	On occasion
Annual number of Responses:	72 training program documents
Annual Burden:	5,760 hours

Calculation: 72 training program documents x 80 hrs. = 5,760 hours

(b) A training organization or learning institution that has provided training services to employers covered by this Part prior to **[INSERT EFFECTIVE OF THIS RULE]** may continue to offer such training services without FRA approval for a period not to exceed one year. The Associate Administrator may extend this period at any time based on a written request. Such written requests for an extension of time to submit a program should contain any factors the training organization or learning institution wants the Associate Administrator to consider prior to approving or disapproving the extension.

FRA estimates that approximately three (3) written requests for an extension of time to submit a program will be sent to FRA by training organizations or learning institutions under the above requirement. It is estimated that it will take each training organization or learning institution approximately 15 minutes to complete its written extension request and send the document to FRA. Total annual burden for this requirement is one (1) hour.

Respondent Universe:	12 training organizations/learning institutions
Burden time per response:	15 minutes
Frequency of Response:	On occasion
Annual number of Responses:	3 written extension requests
Annual Burden:	1 hour

Calculation: 3 written extension requests x 15 min. = 1 hour

(c) A program submitted by a training organization or learning institution must include all information required for an employer's program in accordance with this Part, unless the requirement could only apply to an employer's program. The submitted program for a training organization or learning institution must also include the following information:

- (1) The full corporate or business name of the training organization or learning institution;
- (2) The training organization or learning institution's primary business and email address;
- (3) The training organization or learning institution's primary telephone number and point of contact;
- (4) A listing of the training organization or learning institution's designated instructors;
- (5) A resume for each designated instructor, showing how the instructor achieved the subject-matter and training expertise necessary to develop and deliver training to safety-related railroad employees, unless the designated instructors are currently employed by a railroad;
- (6) A list of references of employer customers the learning organization or training institution has provided services to in the past; and
- (7) A brief summary statement indicating how the training organization or learning institution determined the knowledge, skills, and abilities necessary to develop the training courses it provides to employers and independent students who enroll with such training organization or learning institution in order to become safety-related railroad employees. This brief summary should be of sufficient detail so that FRA can ascertain the methodologies the training organization or learning institution used during training development.

The burden for this requirement is already included under that of § 243.111(a) above. Consequently, there is no additional burden associated with this requirement.

(d) Except as specified in paragraph (b) of this section, prior approval by the Associate Administrator is required before FRA will accept such training as sufficient to meet the requirements of this Part. The Associate Administrator will advise the training organization or learning institution in writing whether FRA has approved the program. If all or part of the program is not approved by FRA, the Associate Administrator will inform the training organization or learning institution of specific deficiencies. At the time that the Associate Administrator informs of any deficiencies, the Associate Administrator will clarify whether any particular training courses shall be considered approved.

(e) *Previously approved programs require an informational filing when modified.* The training organization or learning institution shall review its previously approved training program and modify it accordingly when new safety-related Federal railroad laws, regulations, or orders are issued, or new safety-related technologies, procedures, or equipment are introduced into the workplace and result in new knowledge requirements, safety-related tasks, or in modifications of existing safety-related duties. A training organization or learning institution that modifies its training program for these described reasons shall submit an informational filing to the Associate Administrator not later than 30 days after the end of the calendar year in which the modification occurred, unless FRA advises otherwise. Programs modified in accordance with this paragraph are considered approved upon modification and may be implemented immediately. Any program deficiencies noted by the Associate Administrator shall be addressed as specified in this section. The filing shall contain a summary description of sufficient detail so that FRA can associate the changes with the training organization's or learning institution's previously approved program, and shall include:

- (1) Descriptions of all new or refresher training courses developed after the previous FRA approval, using the same criteria required for an initial filing;
- (2) Explanations whenever OJT or arranged practice is added to, or discontinued from, a program; and
- (3) Explanations as to how the methods of delivering training, or qualifying employees has changed.

FRA estimates that approximately seven (7) informational filings will be completed under the above requirement. It is estimated that it will take each employer/railroad approximately six (6) hours to complete its informational filing and send it to FRA. Total annual burden for this requirement is 42 hours.

Respondent Universe:	12 training organizations/learning institutions
Burden time per response:	6 hours
Frequency of Response:	On occasion
Annual number of Responses:	7 informational filings
Annual Burden:	42 hours

Calculation: 7 informational filings x 6 hrs. = 42 hours

(f) *New portions or revisions to an approved program.* Substantial additions or revisions to a previously approved program, that are not described as informational filings in accordance with paragraph (e) of this section, shall require prior approval by the

Associate Administrator before FRA will accept such training as sufficient to meet the requirements of this Part. The Associate Administrator will advise the training organization or learning institution in writing whether FRA has approved the new or revised program. If all or part of the program is not approved by FRA, the Associate Administrator will inform the training organization or learning institution of specific deficiencies. At the time that the Associate Administrator informs the training organization or learning institution of any deficiencies, the Associate Administrator will clarify whether any particular new or revised training courses shall be considered approved.

FRA estimates that approximately 3 substantial additions or revisions to previously approved training programs will be submitted by training organizations or learning institutions to FRA for approval under the above requirement. It is estimated that it will take each training organization or learning institution approximately four (4) hours to further revise its training program and send the document to FRA. Total annual burden for this requirement is 12 hours.

Respondent Universe:	12 training organizations/learning institutions
Burden time per response:	4 hours
Frequency of Response:	On occasion
Annual number of Responses:	3 revised training program documents
Annual Burden:	12 hours

Calculation: 3 revised training prog. documents x 4 hrs. = 12 hours

Additionally, FRA estimates that approximately one (1) revised training program will be found deficient and need further revision under the above requirement. It is estimated that it will take each training organization or learning institution approximately four (4) hours to further revise its training program and send the document to FRA. Total annual burden for this requirement is four (4) hours.

Respondent Universe:	12 training organizations/learning institutions
Burden time per response:	4 hours
Frequency of Response:	On occasion
Annual number of Responses:	1 further revised training prog. document
Annual Burden:	4 hours

Calculation: 1 further revised training prog. doc. x 4 hrs. = 4 hours

(g) Training organizations and learning institutions subject to this Part are required to maintain records for each safety-related railroad employee that attends the training, in accordance with the recordkeeping requirements of this Part.

FRA estimates that approximately 20,000 records of safety-related employees will attend training and approximately 20,000 records will be kept by training organizations and learning institutions under the above requirement. It is estimated that it will take approximately eight (8) hours to train each employee and approximately five (5) minutes to complete each record. Total annual burden for this requirement is 161,667 hours.

Respondent Universe:	12 training organizations/learning institutions
Burden time per response:	5 minutes
Frequency of Response:	On occasion
Annual number of Responses:	20,000 records
Annual Burden:	161,667 hours

Calculation: 20,000 tr. employees x 8 hrs. + 20,000 tr. records x 5 min. = 161,667 hours

(h) Training organizations and learning institutions subject to this Part shall provide a student's training transcript or training record to any employer upon request by the student.

FRA estimates that approximately 2,500 requests for training transcripts or training records will be made by students and thus 2,500 records will be provided by training organizations and learning institutions under the above requirement. It is estimated that it will take each student approximately five (5) minutes to complete his/her record request and that it will take each training organization/learning institution approximately five (5) minutes to provide each record. Total annual burden for this requirement is 416 hours.

Respondent Universe:	1,538 railroads/contractors
Burden time per response:	5 minutes + 5 minutes
Frequency of Response:	On occasion
Annual number of Responses:	2,500 record requests + 2,500 records
Annual Burden:	416 hours

Calculation: 2,500 record requests x 5 min. + 2,500 records x 5 min. = 416 hours

Total annual burden for this entire requirement is 167,901 (5,760 + 42 + 12 + 4 + 161,667 + 416).

§ 243.113 Option to file program electronically.

(a) Each employer, training organization, or learning institution to which this Part applies is authorized to file by electronic means any program submissions required under this Part in accordance with the requirements of this section.

(b) Prior to any person submitting an employer, training organization, or learning institution's first program submission electronically, the person shall provide the Associate Administrator with the following information in writing:

- (1) The name of the employer, training organization, or learning institution;
- (2) The names of two individuals, including job titles, who will be the entity's points of contact and will be the only individuals allowed access to FRA's secure document submission site;
- (3) The mailing addresses for the entity's points of contact;
- (4) The entity's system or main headquarters address located in the United States;
- (5) The e-mail addresses for the entity's points of contact; and
- (6) The daytime telephone numbers for the entity's points of contact.

FRA estimates that approximately 1,155 letters with the required written information will be sent by training organizations and learning institutions to FRA under the above requirement. It is estimated that it will take each training organizations/learning institutions approximately 15 minutes to complete its letter and send it to FRA. Total annual burden for this requirement is 289 hours.

Respondent Universe:	1,541 railroads/contractors/ associations
Burden time per response:	15 minutes
Frequency of Response:	On occasion
Annual number of Responses:	1,155 letters
Annual Burden:	289 hours

Calculation: 1,155 letters x 15 min. = 289 hours

(c) An entity that electronically submits an initial program, informational filing, or new portions or revisions to an approved program required by this Part shall be considered to have provided its consent to receive approval or disapproval notices from FRA by e-mail.

(d) A request for electronic submission or FRA review of written materials shall be addressed to the Associate Administrator for Railroad Safety/Chief Safety Officer, Federal Railroad Administration, 1200 New Jersey Avenue, SE, Washington, DC 20590.

(e) FRA may electronically store any materials required by this Part regardless of whether the entity that submits the materials does so by delivering the written materials to the Associate Administrator and opts not to submit the materials electronically.

(f) An entity that opts not to submit the materials required by this Part electronically, but provides one or more email addresses in its submission, shall be considered to have provided its consent to receive approval or disapproval notices from FRA by e-mail or mail.

The burden for this requirement is already included under that of the requirements above and below. Consequently, there is no additional burden associated with this requirement.

Total annual burden for this entire requirement is 289 hours.

Subpart C – Program Implementation and Oversight Requirements

§ 243.201 Employee qualification requirements.

(a) *Designating existing employees.* By no later than **[INSERT DATE 2 YEARS AFTER EFFECTIVE DATE OF THIS RULE]**, each employer, in operation as of **[INSERT DATE ONE YEAR AND 120 DAYS AFTER EFFECTIVE DATE OF THIS RULE]**, shall declare the designation of each of its existing safety-related railroad employees by occupational category or subcategory, and only permit designated employees to perform safety-related service in that occupational category or subcategory. The Associate Administrator may extend this period based on a written request.

FRA estimates that approximately 1,541 lists containing employee designations will be made by employers/railroads under the above requirement. It is estimated that it will take each employer/railroad approximately 15 minutes to complete its designation list and send it to FRA. Total annual burden for this requirement is 385 hours.

Respondent Universe:	1,541 railroads/contractors/ associations
Burden time per response:	15 minutes
Frequency of Response:	On occasion
Annual number of Responses:	1,541 designation lists
Annual Burden:	385 hours

Calculation: 1,541 designation lists x 15 min = 385 hours

Additionally, FRA estimates that approximately 100 written requests for an extension of time to submit the designation list will be sent to FRA by employers/railroads under the above requirement. It is estimated that it will take each employer/railroad approximately 15 minutes to complete its written extension request and send the document to FRA. Total annual burden for this requirement is 25 hours.

Respondent Universe:	1,541 railroads/contractors/ associations
Burden time per response:	15 minutes
Frequency of Response:	On occasion
Annual number of Responses:	100 written extension requests
Annual Burden:	25 hours

Calculation: 100 written extension requests x 15 min. = 25 hours

(b) An employer commencing operations after [**INSERT DATE ONE YEAR AND 120 DAYS AFTER EFFECTIVE DATE OF THIS RULE**] shall declare the designation of each of its existing safety-related railroad employees by occupational category or subcategory prior to beginning operations, and only permit designated employees to perform safety-related service in that category or subcategory. Any person designated shall have met the requirements for newly hired employees or those assigned new safety-related duties in accordance with paragraph (c) of this section.

FRA estimates that approximately 37 lists containing designations of their existing safety-related railroad employees will be made by new employers/railroads under the above requirement. It is estimated that it will take each new employer/railroad approximately 15 minutes to complete its designation list and send it to FRA. Total annual burden for this requirement is nine (9) hours.

Respondent Universe:	37 railroads
Burden time per response:	15 minutes
Frequency of Response:	On occasion
Annual number of Responses:	37 designation lists
Annual Burden:	9 hours

Calculation: 37 designation lists x 15 min = 9 hours

(c) *Newly hired employees or those assigned new safety-related duties.* The following requirements apply to qualifying a safety-related railroad employee who, subsequent to the employer's designation in accordance with paragraphs (a) and (b) of this section, is newly hired or is to engage in a safety-related task not associated with the employee's previous training.

(1) Prior to an employee becoming a qualified member of an occupational category or subcategory, the employer shall require a safety-related railroad employee who is newly hired or is to engage in safety-related duties not associated with the employee's previous training to successfully complete the formal training curriculum for that category or subcategory of safety-related railroad employee. Successful completion of the formal training curriculum includes passing any required examinations covering the skills and knowledge the employee will need to possess in order to perform the safety-related duties necessary to be a member of the occupational category or subcategory.

(2) If the training curriculum includes OJT, the employee shall demonstrate, to the satisfaction of a designated instructor, OJT proficiency by successfully completing the safety-related tasks necessary to become a qualified member of the occupational category or subcategory. However, as part of the OJT process and prior to completing such training and passing the field evaluation, a person may perform such tasks under the direct onsite observation of any qualified person, provided the qualified person has been advised of the circumstances and is capable of intervening if an unsafe act or non-compliance with Federal railroad safety laws, regulations, or orders is observed.

FRA estimates that approximately 2,250 newly hired employees or employees assigned new safety duties will successfully complete the formal training curriculum/OJT safety-related tasks/field tests and correspondingly 2,250 training records of these employees will be kept under the above requirement. It is estimated that it will take approximately eight (8) hours to complete the necessary training and approximately 15 minutes to complete each record. Total annual burden for this requirement is 18,563 hours.

Respondent Universe:	1,541 railroads/contractors/ associations
Burden time per response:	8 hours + 15 minutes
Frequency of Response:	On occasion
Annual number of Responses:	2,250 trained employees + 2,250 records
Annual Burden:	18,563 hours

Calculation: 2,250 trained employees x 8 hrs. + 2,250 records x 15 min. =
18,563 hours

(d) *Employees previously qualified or trained, but not by the current employer.* If an employee has received relevant qualification or training for a particular occupational category or subcategory through participation in a FRA-approved training program submitted by an entity other than the employee's current employer, that training shall satisfy the requirements of this Part:

Provided that:

(i) a current record of training is obtained from that other entity; or
 FRA estimates that approximately 250 requests for records and 250 records of relevant qualification or training of previously qualified employees will be made under the above requirement. It is estimated that it will take approximately five (5) minutes to complete each record request to the current employer and approximately five (5) minutes to provide the necessary record. Total annual burden for this requirement is 42 hours.

Respondent Universe:	1,538 railroads/contractors
Burden time per response:	5 minutes + 5 minutes
Frequency of Response:	On occasion
Annual number of Responses:	250 record requests + 250 records
Annual Burden:	42 hours

Calculation: 250 record requests x 5 min. + 250 records x 5 min. = 42 hours

(ii) when a current record of training is unavailable from that other entity, an employer performs testing to ensure the employee has the knowledge necessary to be a member of that category or subcategory of safety-related railroad employee;

FRA estimates that approximately 1,667 employees per year will be tested and correspondingly 1,667 records will be kept each year under the above requirement. It is estimated that it will take approximately eight (8) hours to test that each employee has the knowledge necessary to be a member of that category or subcategory of safety-related railroad employee and approximately 30 minutes to complete each record. Total annual burden for this requirement is 14,170 hours.

Respondent Universe:	1,538 railroads/contractors
Burden time per response:	8 hours + 30 minutes
Frequency of Response:	On occasion
Annual number of Responses:	1,667 employee tests + 1,667 records
Annual Burden:	14,170 hours

Calculation: 1,667 employee tests x 8 hrs. + 1,667 records x 30 min. = 14,170 hours

(2) When the employee, in the previous 180 days, has either not performed the safety-related duties or not received initial or periodic training for an occupational category or subcategory, the employer shall perform testing to ensure the employee has retained the knowledge necessary to remain a member of that occupational category or subcategory. In the situation where an employee's records are unavailable and the employee is subject to testing under paragraph (d)(1)(ii) of this section, no additional testing is required.

FRA estimates that approximately 2,667 employees per year will need to be tested and correspondingly 2,667 records each year will be kept under the above scenario. It is

estimated that it will take approximately 16 hours to test that each employee has the knowledge necessary to be a member of that category or subcategory of safety-related railroad employee and approximately 30 minutes to complete each record. Total annual burden for this requirement is 44,006 hours.

Respondent Universe:	1,538 railroads/contractors
Burden time per response:	16 hours + 30 minutes
Frequency of Response:	On occasion
Annual number of Responses:	2,667 employee tests + 2,667 records
Annual Burden:	44,006 hours

Calculation: 2,667 employee tests x 16 hrs. + 2,667 records x 30 min. = 44,006 hours

(e) *Refresher training requirements and options.* Beginning [INSERT DATE on **January 1, TWO YEARS AFTER EFFECTIVE DATE OF THIS RULE**], each employer shall deliver refresher training at an interval not to exceed three (3) calendar years from the date of an employee’s last training event, except where refresher training is specifically required more frequently in accordance with this chapter. Each employer shall ensure that, as part of each employee’s refresher training, the employee is trained and qualified on the application of any Federal railroad safety laws, regulations, and orders the person is required to comply with, as well as any relevant railroad rules and procedures promulgated to implement those Federal railroad safety laws, regulations, and orders.

FRA is requiring that all safety-related employees undergo refresher training every three years. This coincides with the existing training cycle that most employers presently follow. FRA estimates that there are approximately 105,000 safety-related employees who will need to undergo this training once every three years. Consequently, approximately 35,000 employees will receive refresher training each year and correspondingly approximately 35,000 records will be kept as well. It is estimated that it will take approximately one (1) hour to complete the refresher training and approximately 15 minutes to complete each record. Total annual burden for this requirement is 43,750 hours.

Respondent Universe:	1,538 railroads/contractors
Burden time per response:	1 hour + 15 minutes
Frequency of Response:	On occasion
Annual number of Responses:	35,000 retrained employees + 35,000 rcds.
Annual Burden:	43,750 hours

Calculation: 35,000 retrained employees x 1 hr. + 35,000 rcds. x 15 min. = 43,750 hours

(f) An employee designated to provide formal training to other employees, and who is not a designated instructor, shall be qualified on the safety-related topics or tasks in accordance with the employer's training program and the requirements of this Part.

FRA estimates that approximately 2,100 employees will be designated to provide formal training and will need to be qualified under the above requirement. It is estimated that it will take approximately 30 minutes to designate each employee and approximately 24 hours to qualify each designated instructor. Correspondingly 2,100 records will be kept as well, and it is estimated that it will take approximately five (5) minutes to keep each record. Total annual burden for this requirement is 51,625 hours.

Respondent Universe:	1,538 railroads/contractors
Burden time per response:	30 minutes + 24 hours + 5 minutes
Frequency of Response:	On occasion
Annual number of Responses:	2,100 designations + 2,100 qualifications + 2,100 records
Annual Burden:	51,625 hours

Calculation: 2,100 designations x 30 min. + 2,100 qualifications x 24 hrs. +
2,100 records x 5 min. = 51,625 hours

Total annual burden for this entire requirement is 172,575 hours (385 + 25 + 9 + 18,563 + 42 + 14,170 + 44,006 + 43,750 + 51,625).

§ 243.203 Records.

(a) *General requirements for qualification status records; accessibility.* Each employer shall maintain records to demonstrate the qualification status of each safety-related railroad employee whom it employs.

(1) The records for former safety-related railroad employees shall be accessible for six (6) years at the employer's system headquarters after the employment relationship ends.

(2) Current employee records shall be accessible at the employer's system headquarters.

(b) The records shall include the following information concerning each such employee:

(1) The name of the employee;

(2) Occupational category or subcategory designations for which the employee is deemed qualified;

(3) The dates that each formal training course was completed;

- (4) The title of each formal training course successfully completed;
- (5) An indication of whether the person passed or failed any associated tests;
- (6) If the safety-related railroad employee attended safety-related training offered by a business, a training organization, or a learning institution with an FRA-approved program, a copy of the transcript or appropriate record from that business, training organization, or learning institution;
- (7) The employee's OJT performance, which shall include the unique name or identifier of the OJT program component in accordance with § 243.103, the date the OJT program component was successfully completed, and the identification of the person(s) determining that the employee successfully completed all OJT training necessary to be considered qualified to perform the safety-related tasks identified with the occupational categories or subcategories for which the employee is designated in accordance with the program required by this Part;
- (8) The date that the employee's status is determined to be qualified and the employee is designated to perform the safety-related duties identified with any particular occupational categories or subcategories, in accordance with the program required by this Part;
- (9) If an employee's qualification status was transferred from another entity with an approved program, a copy of the training record from that other entity; and
- (10) Any additional information required by this Part.

The burden for the above requirements is included under that of § 243.111 and §243.201 above. Consequently, there is no additional burden associated with these requirements.

(c) *Record accessibility for other than individual employee records.* Except for records demonstrating the qualification status of each safety-related railroad employee as described in paragraph (b) of this section or otherwise specified in this Part, each record required by this Part shall be accessible at the system headquarters and at each division headquarters where the test, inspection, annual review, or other event is conducted for three (3) calendar years after the end of the calendar year to which the event relates.

(d) *Availability of records.* Each employer, training organization, or learning institution required to maintain records under this Part shall:

- (1) Make all records available for inspection and copying/photocopying to representatives of FRA, upon request during normal business hours; and

(2) Make an employee's records available for inspection and copying/photocopying to that employee, former employee, or such person's representative upon written authorization by such employee during normal business hours.

(e) *Electronic recordkeeping.* Each employer, training organization, or learning institution to which this Part applies is authorized to retain by electronic recordkeeping the information prescribed in this section, provided that all of the following conditions are met:

(1) The electronic system is designed so that the integrity of each record is maintained through appropriate levels of security such as recognition of an electronic signature, or other means, which uniquely identify the initiating person as the author of that record. No two persons shall have the same electronic identity;

(2) The electronic system shall ensure that each record cannot be modified in any way, or replaced, once the record is transmitted and stored;

(3) The employer, training organization, or learning institution adequately limits and controls accessibility to such information retained in its electronic database system and identifies those individuals who have such access;

(4) The employer, training organization, or learning institution has a terminal at the system headquarters, and each railroad that has operating divisions has a terminal at each division headquarters;

(5) Each such terminal has a computer (i.e., monitor, central processing unit, and keyboard) and either a facsimile machine or a printer connected to the computer to retrieve and produce information in a usable format for immediate review by FRA representatives;

(6) The employer, training organization, or learning institution has a designated representative who is authorized to authenticate retrieved information from the electronic system as true and accurate copies of the electronically kept records; and

FRA estimates that 4,200 representatives will be designated by employers, training organizations, or learning institutions to authenticate retrieved information from the electronic system as true and accurate copies of the electronically kept records under the above requirement. It is estimated that it will take approximately five (5) minutes to designate each representative. Total annual burden for this requirement is 350 hours.

Respondent Universe:	1,538 railroads/contractors
Burden time per response:	5 minutes
Frequency of Response:	On occasion
Annual number of Responses:	4,200 designations

Annual Burden: 350 hours

Calculation: 4,200 designations x 5 min. = 350 hours

(f) *Transfer of records.* If an employer ceases to do business and its assets will be transferred to a successor employer, it shall transfer to the successor employer all records required to be maintained under this Part, and the successor employer shall retain them for the remainder of the period prescribed in this Part.

FRA estimates that approximately 500 records will be transferred as a result of an employer ceasing to do business. It is estimated that it will take approximately 15 minutes to transfer each record to the new employer. Total annual burden for this requirement is 125 hours.

Respondent Universe:	1,538 railroads/contractors
Burden time per response:	15 minutes
Frequency of Response:	On occasion
Annual number of Responses:	500 transfer records
Annual Burden:	125 hours

Calculation: 500 transfer records x 15 min. = 125 hours

Total annual burden for this entire requirement is 475 hours (350 + 125).

§ 243.205 Periodic oversight.

(a) As part of the program required in accordance with this Part, an employer shall adopt and comply with a program to conduct periodic oversight tests and inspections to determine if safety-related railroad employees comply with Federal railroad safety laws, regulations, and orders particular to FRA-regulated personal and work group safety. The program of periodic oversight shall commence on the day the employer files its program with FRA pursuant to § 243.101(a) or on the day the employer commences operations pursuant to § 243.101(b). The data gathered through the testing and inspection components of the program shall be used to determine whether systemic performance gaps exist, and to determine if modifications to the training component of the program are appropriate to close those gaps.

The burden for adopting and complying with a program of periodic oversight tests and inspections is included above under the training program requirements in § 243.101. Consequently, there is no additional burden associated with this part of the requirement.

Further, FRA estimates that approximately 10 training programs will be modified as a result of the data gathered under the above requirement. It is estimated that it will take

approximately 40 hours to modify each training program. Total annual burden for this requirement is 400 hours.

Respondent Universe:	1,538 railroads/contractors
Burden time per response:	40 hours
Frequency of Response:	On occasion
Annual number of Responses:	10 modified training programs
Annual Burden:	400 hours

Calculation: 10 modified training programs x 40 hrs. = 400 hours

Additionally, FRA estimates that approximately 210,000 periodic tests and inspections of safety-related railroad employees will be conducted each year under the above requirement. It is estimated that it will take approximately 10 minutes/hour to conduct each test/inspection. Total annual burden for this requirement is 35,000 hours.

Respondent Universe:	1,538 railroads/contractors
Burden time per response:	10 minutes
Frequency of Response:	On occasion
Annual number of Responses:	210,000 periodic tests/inspections
Annual Burden:	35,000 hours

Calculation: 210,000 periodic tests/inspections x 10 min. = 35,000 hours

(b) Periodic oversight specified in this section is not required for employees covered by Parts 240 and 242 of this Chapter, but a railroad shall use results of the assessments required by those Parts to determine if changes in its training programs are necessary to close any proficiency gaps found during those assessments.

FRA estimates that approximately five (5) training programs will be modified as a result of assessments made under the above requirement. It is estimated that it will take approximately eight (8) hours to modify each training program. Total annual burden for this requirement is 40 hours.

Respondent Universe:	1,538 railroads/contractors
Burden time per response:	8 hours
Frequency of Response:	On occasion
Annual number of Responses:	5 modified training programs
Annual Burden:	40 hours

Calculation: 5 modified training programs x 8 hrs. = 40 hours

(c) *Railroad oversight.* Each railroad shall identify supervisory employees, by category or subcategory, responsible for conducting periodic oversight tests and inspections for the

safety-related railroad employees that it authorizes to perform safety-related duties on its property, except a railroad is not required to:

- (1) Provide oversight for a contractor's safety-related railroad employees if that contractor is required to conduct its own periodic oversight because it meets the criteria specified in paragraph (g) of this section;
- (2) Provide oversight for categories or subcategories of a contractor's safety-related railroad employees if the railroad does not employ supervisory employees who are qualified as safety-related railroad employees in those categories or subcategories; or
- (3) Provide oversight for any supervisory employee identified by the railroad as responsible for conducting oversight in accordance with this section.

FRA estimates that approximately 250 identifications of supervisory employees by category or subcategory will be made by railroads under the above requirement. It is estimated that it will take approximately five (5) minutes to record each supervisory employee. Total annual burden for this requirement is 21 hours.

Respondent Universe:	1,538 railroads/contractors
Burden time per response:	5 minutes
Frequency of Response:	On occasion
Annual number of Responses:	250 identifications
Annual Burden:	21 hours

Calculation: 250 identifications x 5 min. = 21 hours

(d) A railroad is not required to perform operational tests of safety-related railroad employees employed by a contractor.

(e) A railroad may choose to require supervisory employees to perform oversight of safety-related railroad employees employed by a contractor either:

- (1) When oversight test and inspection sessions are scheduled specifically to determine if safety-related employees are in compliance with Federal railroad safety laws, regulations, and orders particular to FRA-regulated personal and work group safety; or
- (2) When a qualified railroad supervisory employee's duties place this person in the vicinity of one or more safety-related railroad employees employed by a contractor and performing the oversight would result in minimal disruption of this person's other assigned duties.

FRA estimates that approximately 65,000 periodic tests and inspections of safety-related contractor railroad employees will be conducted by railroad supervisory employees each year under the above requirement. It is estimated that it will take approximately 10

minutes to conduct each test/inspection. Total annual burden for this requirement is 10,833 hours.

Respondent Universe:	720 railroads
Burden time per response:	10 minutes
Frequency of Response:	On occasion
Annual number of Responses:	65,000 contractor periodic tests/inspections
Annual Burden:	10,833 hours

Calculation: 65,000 contractor periodic tests/inspections x 10 min. = 10,833 hours

(f) Any railroad that finds evidence of contractor employee non-compliance with Federal railroad safety laws, regulations, and orders particular to FRA-regulated personal and work group safety during the periodic oversight shall provide that employee and that employee's employer with details of the non-compliance.

FRA estimates that approximately 2,500 cases of non-compliance by contractor employees will be found by railroads under the above circumstances. Thus, a total of 2,500 notifications will be made both to the affected employees and to their employers (a total of 5,000) under the above requirement. It is estimated that it will take approximately five (5) minutes to complete each notification. Total annual burden for this requirement is 416 hours.

Respondent Universe:	743 railroads
Burden time per response:	5 minutes
Frequency of Response:	On occasion
Annual number of Responses:	2,500 employee notifications / 2,500 employer notifications
Annual Burden:	416 hours

Calculation: 2,500 employee notifications x 5 min. + 2,500 employer notifications x 5 min = 416 hours

(g) *Contractor oversight.* Each contractor shall conduct periodic oversight tests and inspections of its safety-related railroad employees provided:

- (1) A contractor employs more than 15 safety-related railroad employees;
- (2) A contractor relies on training it directly provides to its own employees as the basis for qualifying those employees to perform safety-related duties on a railroad; and
- (3) A contractor employs supervisory safety-related railroad employees capable of performing oversight.

FRA estimates that approximately 65,000 periodic tests and inspection of contractor safety-related contractor railroad employees will be conducted by the contractors themselves under the above requirement. It is estimated that it will take approximately 10 minutes/hours to conduct each test/inspection. Total annual burden for this requirement is 10,833 hours.

Respondent Universe:	795 contractors
Burden time per response:	10 minutes
Frequency of Response:	On occasion
Annual number of Responses:	65,000 contractor employee periodic tests/inspections
Annual Burden:	10,833 hours

Calculation: 65,000 contractor empl. periodic tests/inspections x 10 min. = 10,833 hours

Further, FRA estimates that 32,000 contractor employees will be directly trained by the contractor to perform safety-related duties on a railroad. It is estimated that it will take approximately eight (8) hours to train each contractor employee. Total annual burden for this requirement is 256,000 hours.

Respondent Universe:	795 contractors
Burden time per response:	8 hours
Frequency of Response:	On occasion
Annual number of Responses:	32,000 trained contractor employee
Annual Burden:	256,000 hours

Calculation: 32,000 trained contractor employee x 8 hrs. = 256,000 hours

(h) Notwithstanding the requirements of paragraphs (c) and (g) of this section, a railroad and a contractor may agree that the contractor will provide the oversight by specifying in the program that the railroad has trained the contractor employees responsible for training and oversight.

The burden for this requirement is included above under the training program requirements in § 243.101. Consequently, there is no additional burden associated with this part of the requirement.

(i) Each employer that conducts periodic oversight in accordance with this section must keep a record of the date, time, place, and result of each test or inspection. The records shall specify each person administering tests and inspections, and each person tested. The record shall also provide a method to record whether the employee complied with the monitored duties, and any interventions used to remediate non-compliance. Modifications of the program required by § 217.9 of this chapter may be used in lieu of

this oversight program, provided a railroad specifies it has done so in its program submitted in accordance with this Part.

(j) Records required under this section are subject to the requirements of § 243.203.

FRA estimates that approximately 32,000 records of periodic oversight with the necessary will be kept by employers under the above requirement. It is estimated that it will take approximately five (5) minutes to complete each record. Total annual burden for this requirement is 2,667 hours.

Respondent Universe:	1,538 railroads/contractors
Burden time per response:	5 minutes
Frequency of Response:	On occasion
Annual number of Responses:	32,000 periodic oversight records
Annual Burden:	2,667 hours

Calculation: 32,000 periodic oversight records x 5 min. = 2,667 hours

Total annual burden for this entire requirement is 316,210 hours (400 + 35,000 + 40 + 21 + 10,833 + 416 + 10,833 + 256,000 + 2,667).

§ 243.207 Annual review.

(a) *Review of safety data and adjustments to required training programs.* The purpose of this review is to determine if knowledge or performance gaps exist in the application of Federal railroad safety laws, regulations, and orders. This section shall apply to each railroad once a program has been approved by FRA in accordance with this Part. This section does not apply to a railroad with less than 400,000 total employee work hours annually. In addition, this section does not apply to employers other than railroads except as specified in paragraph (f) of this section.

(b) Each railroad that is required to conduct periodic oversight in accordance with §243.205 is also required to conduct an annual review, as provided in this section, and shall retain, at its system headquarters, one copy of the written annual review.

FRA estimates that approximately 53 annual reviews will be conducted by railroads under the above requirement. It is estimated that it will take approximately two (2) hours to complete each annual review. Total annual burden for this requirement is 106 hours.

Respondent Universe:	53 railroads
Burden time per response:	2 hours
Frequency of Response:	On occasion
Annual number of Responses:	53 annual reviews
Annual Burden:	106 hours

Calculation: 53 annual reviews x 120 min. = 106 hours

Additionally, FRA estimates that approximately 53 copies of their written annual reviews will be kept by railroads at their system headquarters under the above requirement. It is estimated that it will take approximately one (1) hour to complete each copy of the written annual review. Total annual burden for this requirement is 53 hours.

Respondent Universe:	53 railroads
Burden time per response:	1 hour
Frequency of Response:	On occasion
Annual number of Responses:	53 copies of written annual reviews
Annual Burden:	53 hours

Calculation: 53 copies of written annual reviews x 1 hour. = 53 hours

(c) Each railroad shall designate a person(s) who shall conduct a written annual review. The annual review shall be designed to identify knowledge or performance gaps in occupational categories and determine whether adjustments to the training component of the program are the appropriate intervention to close those gaps or otherwise improve the effectiveness of the program. Such review shall include analysis of the following data:

- (1) Periodic oversight data required by § 243.205;
- (2) Reportable accident/incident data as defined in Part 225 of this Chapter;
- (3) FRA inspection report data;
- (4) Employee training feedback received through a course evaluation process, if such feedback is available; and
- (5) Feedback received from labor representatives, if such feedback is available.

The burden for annual review is included above. Consequently, there is no additional burden associated with this requirement.

FRA estimates that approximately 106 designations of person(s) who shall conduct a written annual review will be made by railroads under the above requirement. It is estimated that it will take approximately 15 minutes to complete each designation. Total annual burden for this requirement is 27 hours.

Respondent Universe:	53 railroads
Burden time per response:	15 minutes
Frequency of Response:	On occasion

Annual number of Responses: 106 designations
Annual Burden: 27 hours

Calculation: 106 designations x 15 min. = 27 hours

(d) Based upon the results of the annual review, the designated person(s) shall coordinate any necessary adjustments to the initial and refresher training programs. At the railroad's option, the annual review required under this section may be conducted in conjunction with any periodic review required under Part 217 of this chapter.

FRA estimates that approximately five (5) adjustments to the initial and refresher training programs will be made by railroads under the above requirement. It is estimated that it will take approximately one (1) hour to adjust the railroad program. Total annual burden for this requirement is five (5) hours.

Respondent Universe: 53 railroads
Burden time per response: 1 hour
Frequency of Response: On occasion
Annual number of Responses: 5 adjusted initial/refresher training programs
Annual Burden: 5 hours

Calculation: 5 adjusted initial and refresher training programs x 1 hr. = 5 hours

(e) If a railroad utilizes a contractor that directly trains its own safety-related railroad employees, the railroad shall notify the contractor of the relevant training program adjustments made to the railroad's program in accordance with paragraph (d) of this section.

The burden for contractors training their own employees is included under 243.205 above. Consequently, there is no additional burden associated with this requirement.

FRA estimates that approximately 8 notifications will be made by railroads to contractors of the relevant railroad training program adjustments under the above requirement. It is estimated that it will take approximately 15 minutes to complete each notification. Total annual burden for this requirement is two (2) hours.

Respondent Universe: 53 railroads
Burden time per response: 15 minutes
Frequency of Response: On occasion
Annual number of Responses: 8 notifications
Annual Burden: 2 hours

Calculation: 8 notifications x 15 min. = 2 hours

(f) A contractor shall use any information provided by a railroad to adjust its training specific to the Federal railroad safety laws, regulations, and orders particular to FRA-regulated personal and work group safety.

FRA estimates that approximately eight (8) contractor training programs will be adjusted based on the information provided by railroads. It is estimated that it will take each contractor approximately 16 hours to adjust its training program. Total annual burden for this requirement is 128 hours.

Respondent Universe:	795 contractors
Burden time per response:	16 minutes/hours
Frequency of Response:	On occasion
Annual number of Responses:	8 adjusted contractor training programs
Annual Burden:	128 hours

Calculation: 8 adjusted contractor training programs x 16 min. = 128 hours

(g) Prior to September 1 of each calendar year, each railroad to which this section applies shall complete its annual review for the previous calendar year.

The burden for this requirement is included under § 243.207(a) above. Consequently, there is no additional burden associated with this requirement.

Total annual burden for this entire requirement is 321 hours (106 + 53 + 27 + 5 + 2 + 128).

§ 243.209 Railroad maintained list of contractors utilized.

(a) Each railroad utilizing contractors to supply the railroad with safety-related railroad employees shall maintain a list, at its system headquarters, with information regarding each contractor utilized unless:

(1) The railroad qualifies each of the contractor's safety-related railroad employees utilized; and

(2) The railroad maintains the training records for each of the contractor's safety-related railroad employees utilized.

(b) The listing required by paragraph (a) of this section shall include:

(1) The full corporate or business name of the contractor;

(2) The contractor's primary business and email address; and

(3) The contractor's primary telephone number.

FRA estimates that approximately 795 lists with the required information will be made by railroads at their system headquarters under the above requirement. It is estimated that it will take approximately 30 minutes to complete each list. Total annual burden for this requirement is 398 hours.

Respondent Universe:	720 railroads
Burden time per response:	30 minutes
Frequency of Response:	On occasion
Annual number of Responses:	795 lists
Annual Burden:	398 hours

Calculation: 795 lists x 30 min. = 398 hours

(c) The information required by this section shall be continuously updated as additional contractors are utilized, and no contractor information shall be deleted from the list unless the contractor has not been utilized for at least three (3) years from the end of the calendar year the contractor was last utilized.

FRA estimates that approximately 79 lists will be updated continuously under the above requirement. It is estimated that it will take approximately 15 minutes to complete each list. Total annual burden for this requirement is 20 hours.

Respondent Universe:	720 railroads
Burden time per response:	15 minutes
Frequency of Response:	On occasion
Annual number of Responses:	79 updated lists
Annual Burden:	20 hours

Calculation: 79 updated lists x 15 min. = 20 hours

Total annual burden for this entire requirement is 418 hours (398 + 20).

Total annual burden for this entire collection of information is 818,702 hours.

13. Estimate of total annual costs to respondents.

Besides the costs fully itemize in answer to question number 12, there are no other costs to respondents associated with the proposed collection of information.

14. Estimate of Cost to Federal Government.

The costs to the Federal Government are as follows:

- I. FRA staff review of Class I Railroad Training Program
Submissions/Resubmissions/Informational Filings – 1 GS-15 staff x 40 hrs. x \$118 p/hr. x 8 railroads + 4 GS-14 staff x 40 hrs. x \$100 p/hr. x 8 railroads = **\$165,760**
 - II. FRA staff review of Class II/Commuter Railroad Training Program
Submissions/Resubmissions/Informational Filings – 1 GS-15 staff x 32 hrs. x \$118 p/hr. x 26 railroads + 4 GS-14 staff x 32 hrs. x \$100 p/hr. x 26 railroads = **\$430,976**
 - III. FRA staff review of Other Class II Railroad Training Program
Submissions/Resubmissions/Informational Filings – 1 GS-15 staff x 24 hrs. x \$118 p/hr. x 9 railroads + 4 GS-14 staff x 24 hrs. x \$100 p/hr. x 9 railroads = **\$111,888**
 - IV. FRA staff review of Class II Railroad Model Training Program
Submissions/Resubmissions/Informational Filings – 4 GS-14 staff x 8 hrs. x \$100 p/hr. x 3 railroads = **\$9,600**
 - V. FRA staff review of Class III Railroad Training Program
Submissions/Resubmissions/Informational Filings – 4 GS-14 staff x 4 hrs. x \$100 p/hr. x 674 railroads = **\$1,078,400**
 - VI. FRA staff review of Contractor/Learning Institution Training Program
Submissions/Resubmissions/Informational Filings – 1 GS-15 staff x 24 hrs. x \$118 p/hr. x 821 contractors/learning institutions + 4 GS-14 staff x 24 hrs. x \$100 p/hr. x 821 contractors/learning institutions = **\$10,206,672**
- SUBTOTAL = \$12,003,296**

Implementation Audits (Note: Audit costs below are calculated for the first two years. In the second and third years, only 12 remaining Class II railroads will need to undergo implementation audits. As a result, the implementation audit costs for the third year will drop substantially and will amount to a total of **\$271,872**).

- VII. Class I Railroad Audits – 1 GS-15 FRA staff x 40 hrs. x \$118 p/hr. x 8 railroads + 4 GS-14 staff x 40 hrs. x \$100 p/hr. x 8 railroads + 8 GS-12 staff x 40 hrs. x \$71p/hr. x 8 railroads = **\$347,520**
- VIII. Class II/Commuter Railroad Audits – 1 GS-15 FRA staff x 24 hrs x \$118 p/hr. x 26 railroads + 4 GS-14 x 24 hrs. x \$100 p/hr. x 26 railroads + 4 GS-12 staff x 24 hrs. x \$71 p/hr. x 26 railroads = **\$500,448**

IX. Class III Railroad Audits –1 GS-14 staff x 8 hrs. x \$100 p/hr. x 674 railroads + 1 GS-12 staff x 8 hrs. x \$71 p/hr. x 674 railroads = **\$922,032**

X. Contractor/Learning Institution Audits – 1 GS-15 FRA staff x 8 hrs. x \$118 p/hr. x 821 contractors/learning institutions + 4 GS-14 x 8 hrs. x \$100 p/hr. x 821 contractors/learning institutions = **\$3,402,224**

SUBTOTAL = \$5,172,224

GRANDTOTAL = \$17,175,520

15. Explanation of program changes and adjustments.

This is a new collection of information. By definition, the entire requested information collection burden of **818,702** hours is a **program change**. [*Note: The dollar equivalent to the 818,702 burden hours requested for this proposed collection of information amounts to \$42,695,309 at an average hourly wage of \$52.15 that includes 75 percent overhead costs.*]

There are no additional costs to respondents besides those enumerated in the answer to question number 12 of this Justification.

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. Without the information collected, FRA would have no way to know that railroads and contractors are properly and adequately training safety-related employees regarding Federal rail safety laws, regulations, and orders. Without approved and effective training programs, safety-related employees would not receive essential training to do their important jobs safely and effectively.

The scientific literature on training in general and FRA's own experience with training in the railroad industry show a clear link between the quality of training programs – including whether training is engaging or “hands-on” – and safety. Even though rail transportation in the United States is generally an extremely safe mode of transportation, and rail safety has been improving, well-designed training programs have the potential to further reduce risk in the railroad environment. FRA believes that better designed training can reduce the number of accidents/incidents caused by human factors.

Without the information collected, FRA would not have an opportunity to carefully review and comment on the training provided by railroads, contractors, and learning institutions. Without review of required training program submissions, resubmissions, and informational filings, FRA staff could not determine whether essential Federal safety laws, regulations, and orders were being addressed in a thorough and systematic way as they relate to the daily tasks of safety-related employees. Without the required training program submissions and the opportunity to closely scrutinize them, FRA would have no way to verify that railroads, contractors, and training/learning institutions are providing necessary and critical on the job (OJT) and hands-on training for their employees. Without the benefit of such training, employees would not be able to do their jobs as effectively, and it is highly likely that there would be increased numbers of

accidents/incidents and injuries, fatalities, and property damage that accompany them.

Without the information collected, FRA would not have access to lists of designated safety-related employees by occupational category or subcategory. Without this information and the required records under this rule, FRA would not know whether employees in a given category or subcategory have undergone formal and informal training and thus have been properly and adequately trained and are thereby qualified to do their jobs. FRA would have no way of knowing whether these employees have passed or failed tests, and what actions were taken by railroad, contractors, and learning/training institutions to address any deficiencies found from such testing. Unqualified employee performing critical safety-related tasks could cause major accidents/incidents leading to public/ worker injuries, fatalities, and damage to railroad equipment resulting in high dollar losses for their employers.

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.

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.