ROADWAY WORKER PROTECTION
49 CFR 214
RIN 2130-AB89; OMB No. 2130-0539

Summary of Submission

- The collection of information entirely associated with this Proposed Rule is a revision to the previous three year approval granted by OMB on **January 23, 2012**, and which expires on **January 31, 2015**.

- On **November 30, 2011**, FRA published a Final Rule in the **Federal Register** titled Railroad Workplace Safety; Adjacent-Controlled-Track On-Track Safety for Roadway Workers to amend its regulations on railroad workplace safety to reduce further the risk of serious injury or death to roadway workers. See 76 FR 74586. FRA submitted the required information collection request associated with this Final Rule on the same day that the Final Rule was published in the Federal Register.

- FRA is publishing the Final Rule titled Railroad Workplace Safety; Roadway Worker Protection Miscellaneous Revisions in the **Federal Register** on **August 20, 2012**. See 77 FR 50324.

- Total number of hours previously approved by OMB for this collection is **845,230 hours** and total number of responses previously approved is **22,816,613**.

- Total number of burden hours requested is **1,090,826 hours** (and the total number of responses requested is **25,724,349**). Thus, the total burden for this collection has increased by **245,596 hours**.

- **Program changes** from the previously approved collection of information amount to/increased the burden by **260,933 hours**.

- **Adjustments** from the previously approved collection of information amount to/decreased the burden by **15,337 hours**.

- The total number of responses from the previously approved submission has increased by **2,907,736**.

- **The answer to question **number 12** itemizes the hourly burden associated with each requirement of this rule (See pp. 19-68). *** Also, please see page 73 below for a detailed explanation of a very significant decrease in cost to respondents.

- **The answer to question **number 15** itemizes program changes and adjustments associated with this final rule (See pp. 69-73).

1. Circumstances that make collection of the information necessary.

The Federal Railroad Safety Act of 1970, as codified at 49 U.S.C. 20103, provides that, ``[t]he Secretary of Transportation, as necessary, shall prescribe regulations and issue orders for every area of railroad safety supplementing laws and regulations in effect on October 16, 1970". The Secretary's responsibility under this provision and the balance of the railroad safety laws have been delegated to the Federal Railroad Administrator (FRA). 49 CFR 1.49(m). In the field of railroad workplace safety, FRA has traditionally pursued a very conservative course of regulation, relying upon the industry to implement suitable railroad safety rules and mandating in the broadest of ways that employees be "instructed" in the requirements of those rules and that railroads create and administer programs of operational tests and inspections to verify rules compliance. This approach is based on several factors, including recognition of the strong interest of railroads in avoiding costly accidents and personal injuries, the limited resources available to FRA to directly enforce railroad safety rules, and the apparent success of management and employees in accomplishing most work in a safe manner.

Over the years, however, it became necessary to codify certain requirements, either to remedy perceived shortcomings in the railroads' rules to emphasize the importance of compliance, or to provide FRA a more direct means of promoting compliance. These actions, which in many cases were preceded or followed by statutory mandates, included adoption of rules governing:

- Bridge Worker Safety Standards (49 CFR part 214 subpart B);
- Roadway Worker Protection (49 CFR part 214 subpart C); and
- On-Track Roadway Maintenance Machines and Hi-Rail Vehicles (49 CFR part 214 subpart D).

In 1990, FRA received a petition to amend its track safety standards from the Brotherhood of Maintenance of Way Employees Division (BMWED), which included issues pertaining to the hazards faced by roadway workers. Subsequently, in response to the Rail Safety Enforcement and Review Act, Public Law No. 102-365, 106 Stat. 972, enacted September 3, 1992. FRA issued an Advanced Notice of Proposed Rulemaking (ANPRM) on November 16, 1992, announcing the opening of a proceeding to amend the Federal Track Safety Standards to, in part, address hazards faced by roadway workers. 57 FR 54038.

FRA held workshops to solicit the views of the railroad industry and representatives of railroad employees on the need for substantive change in the track regulations. The

subject of injury and death to roadway workers was of such great concern that FRA received petitions for emergency orders and requests for rulemaking from both the BMWED and the Brotherhood of Railroad Signalmen (BRS). Finding that no imminent hazards existed that would justify issuance of emergency orders at the time, FRA did not issue any emergency orders in response to those petitions, but instead initiated a separate proceeding to consider regulations to eliminate hazards faced by roadway workers.

On August 17, 1994, FRA published its notice of intent to establish a Federal Advisory Committee (FAC) for regulatory negotiation. 59 FR 42200. The FAC was tasked with submitting a report, including proposed regulatory language, containing the FAC's consensus recommendations. On December 27, 1994, the Office of Management and Budget approved the Charter to establish a Roadway Worker Safety Advisory Committee (Advisory Committee) comprised of twenty-five members. The Advisory Committee held seven multiple-day negotiating sessions. An independent task force, comprised of representatives of several railroads and labor organizations, had met during the preceding year and independently analyzed on-track safety practices. This task force presented information at the first Advisory Committee meeting. The Advisory Committee reached consensus on eleven specific recommendations and nine general recommendations. These recommendations served as the basis for FRA's first RWP Notice of Proposed Rule Making (NPRM), which was published on March 14, 1996. 61 FR 10528. FRA published a final rule establishing the original RWP regulation on December 16, 1996, which became effective on January 15, 1997 (61 FR 65959). The final rule largely incorporated the Advisory Committee's recommendations.

FRA is proposing to amend its regulations on railroad workplace safety to resolve interpretative issues that have arisen since the 1996 promulgation of the original Roadway Worker Protection (RWP) regulation. In particular, this NPRM proposes to define certain terms, establish new procedures for snow removal and cleaning on passenger station platforms, resolve miscellaneous interpretive issues, codify certain FRA Technical Bulletins, and requests comment on certain training requirements for roadway workers. FRA is also proposing to update three incorporations by reference of industry standards in existing sections of FRA's Bridge Worker Safety Standards.

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

The new information required under § 214.315(a)(3) regarding disclosure of additional information during daily on-track job briefings will be used by railroads and their roadway worker employees to maintain and enhance safety when working on tracks by ensuring that information is conveyed about any tracks adjacent to the track to be fouled, on-track safety for such tracks, if required by this Subpart, and identification of any roadway maintenance machines that will foul such tracks.

The new information required under § 214.336 will be used by roadway work groups to

ensure that it members are fully aware of adjacent track on-track safety procedures, know when they must stop work and occupy a predetermined place of safety, and are properly notified in sufficient time to move to places of safety when a train or other on-track equipment is authorized to move on adjacent track at various legal speeds.

The new information required under § 214.336 spells out precise procedures and practices that the roadway worker in charge and roadway work groups must follow for track movements by trains or other on-track equipment operating at speeds both above and below 25 miles per hour. The required on-track safety must be established through working limits or train approach warning provided by watchmen/lookout warnings and by notifications and communications prescribed in this section. Thus, all affected roadway workers musty be notified before working limits are released for the operation of trains. Working limits must not be released until all affected roadway workers have either left the track or have been afforded on-track safety through train approach warning in accordance with § 214.329.

The new information required under § 214.336 enables roadway work groups to know when it is safe to resume work. Thus, a component of a roadway work group may resume on-ground work and movement of any roadway maintenance machine or couple equipment on or fouling an occupied track only after the trailing-end of all the trains or other on-track equipment moving on the adjacent controlled (for which a notification or warning has been received) has passed and remains ahead of that component of the roadway work group. If the train or other on-track equipment stops before its trailing-end has passed all of the roadway workers in the roadway work group, the work to be performed on or fouling the occupied track ahead of the trailing-end of the train or other on-track equipment on the adjacent controlled track may resume only if on-track safety through train approach warning (in accordance with § 214.329) has been established on the adjacent controlled track; or after the roadway worker in charge has communicated with the train engineer or equipment operator and established that further movements of the train or other on-track equipment shall be made only as permitted by the roadway worker in charge.

Under § 214.303 and § 214.307, the information collected is used by FRA to ensure that each railroad adopts and implements the required on-track safety program that will afford on-track safety to all roadway worker whose duties are performed on that railroad. Each such program – and any amendments to that program – must provide for the level of safety specified in this Subpart. Each on-track safety program adopted to comply with this Part must include procedures to be used by each railroad for monitoring for effectiveness and compliance with the program. When railroads determine that it is necessary to revise their on-track safety program, FRA reviews these program amendments to determine that the required level of safety is maintained.

The information collected under §§ 214.343/345/347/349/353/355 is used to ensure that

all roadway workers receive necessary training and are well-qualified for their positions. Railroad management must train – on an initial and recurring basis – roadway workers about on-track safety rules, practices, and procedures. Such training thereby enables roadway workers to be aware of and avoid inherent hazards and reduce risks associated with working on or near tracks with moving trains or other on-track equipment. Through ongoing training programs, railroad management has the ability to do its part to lessen the likelihood, number, and severity of accidents/incidents and corresponding casualties to roadway workers.

Further, under §§ 214.343/345/347/349/353/355, FRA uses the required written records regarding roadway worker qualifications to assist its investigators after an accident or incident resulting in roadway worker casualties. These records are required to contain the type of qualification attained by each roadway worker and the most recent date of qualification. By examining these and other records, FRA can determine whether or not appropriate personnel followed the required on-track safety procedures. Together with railroad management, FRA can then take corrective action, if necessary. The lack of this information would make the rail environment much more dangerous for roadway workers and impede FRA in its goal of reducing roadway worker injuries and deaths.

Under § 214.503, the information collected is used by railroad workers to improve safety and prevent accidents and casualties caused by the operation of on-track roadway maintenance machines and hi-rail vehicles. Employees operating on-track roadway maintenance machines are required to notify their employer whenever they make a good faith determination that the machines do not comply with FRA regulations. For their part, employers must have in place and follow written procedures to assure prompt and equitable resolution of these challenges resulting from the good faith determination made by employees. The employer can not require an employee challenging the fitness of a machine to operate the machine until the challenge has been resolved. By calling the employer's attention to problems with roadway maintenance machines, roadway workers can ensure that safety deficiencies and other defects are immediately addressed. Under the rule, employers are generally allowed up to seven days to repair a roadway maintenance machine found to be non-compliant.

Under § 214.505, employers are required to maintain a list of new and designated roadway maintenance machines that are equipped with enclosed cabs with operative heating systems, operative air conditioning systems, and operative positive pressurized ventilation systems. The list determines employer responsibilities related to environmental control and protection systems for new and existing on-track roadway maintenance machines with enclosed cabs. New on-track roadway maintenance machines and existing on-track roadway maintenance machines specifically designated by the employer (of the types identified in paragraphs (a)(1) through (a)(5) of this section or functionally equivalent thereto) must be capable of protecting employees in the cabs of the machines from exposure to air contaminants, in accordance with 29 CFR 1910.1000.

Included among the machines specified in paragraphs (a)(1) through (a)(5) of this section are the following: ballast regulators, tampers, mechanical brooms, rotary scarifiers, undercutters, or the functional equipment of any of these. The designation is irrevocable, and the designated existing roadway maintenance machine remains subject to the above protection requirement until the machine is retired or sold. If the ventilation system on a new on-track roadway maintenance machine or existing on-track roadway maintenance machine identified in paragraphs (a)(1) through (a)(5) of this section (or functional equivalent thereto) becomes incapable of protecting an employee in the cab of the machine from exposure to air contaminants in accordance with 29 CFR 1910.1000, personal respiratory equipment must be provided for each such employee until the machine is repaired in accordance with § 214.531. The list must be kept current, and made available to FRA and other Federal and State agencies upon request. FRA and other Federal and State inspectors use these rosters to determine which agency has responsibility for inspection and enforcement (compliance) of respiratory safety regulations for each roadway machine in order to assure railroad workers' health and safety are protected.

The information is also used to help protect the health and safety of railroad workers in other ways. Under § 214.511, audible warning devices are required on new on-track roadway maintenance machines. The triggering mechanism for this audible warning device must be clearly identifiable and within easy reach of the machine operator. Additionally, each existing on-track maintenance machine must be equipped with a permanent or audible warning device that produces a sound loud enough to be heard by roadway workers and other machine operators within the immediate work area. Again, the triggering mechanism for the audible warning device must be clearly identifiable and within easy reach of the machine operator. Thus, in critical situations, roadway workers will readily know where the triggering mechanism is located and will be able to sound the warning device before a potential accident/incident occurs and a fellow roadway worker is injured or possibly killed.

The information collected under § 214.515 serves to further enhance roadway workers' safety because their employers are now required to evaluate the feasibility of providing an overhead cover for existing on-track roadway maintenance machines, if requested in writing by the operator assigned to operate that machine or by the operator's designated representative. The employer must provide a written response for each request within 60 days. When the employer finds the addition of an overhead cover is not feasible, the response must include an explanation of the reasoning used by the employer to reach that conclusion. Many older on-track roadway maintenance machines were not designed with overhead covers. Covers or canopies provide important benefits to machine operators, most notably by shielding them from overhead sunlight and from severe weather such as sleet, snow, hail, and rain. Due to these provisions and corresponding information collection requirements, employers are not able to deny roadway workers equipment that will protect their health and safety, unless they have a legitimate reason. Being protected

from blinding sun or exposure to inclement weather enhances employee safety by serving to reduce the number of accidents/incidents and corresponding casualties that typically accompany caused by weather related factors.

Under § 214.517 and § 214.518, each existing on-track roadway maintenance machines must have stenciling or documentation on the machine identifying the light weight of the machine clearly displayed on it, and also the location of safe and secure positions for the machine operator and roadway workers to be transported on the machine. Thus, the displayed light weight identifies the machines's proper category and provides essential information to crane operators in the event the machine is lifted on to or loaded off a flat bed truck or rail car for movement from one work site to another. If roadway workers are not permitted on the machine, the prohibition must be noted by the stenciling or documentation on the machine. In both cases, such additional clear markings serve to reduce the likelihood of accidents/incidents and potentially serious injuries to machine operators and other roadway workers, as well to mitigate lost productivity to employers that such serious injuries bring.

Under § 214.523, the operator of a high-rail vehicle must check the vehicle for compliance with this Subpart, prior to using the vehicle at the star of the operator's work shift. Non-complying conditions that can not be immediately repaired must be tagged and dated in a manner determined by the employer and reported to the designated official. This tagging requirement then serves to alert roadway workers to potential hazards and further enhance railroad safety by reducing the likelihood of accidents/incidents involving hi-rail vehicles.

FRA also uses the information collected under § 214.523. Specifically, FRA uses the records required regarding mandatory hi-rail vehicle annual safety inspections to ensure that the safety critical components of these vehicles are adequately maintained and, if necessary, promptly repaired or replaced. In particular, tram, wheel wear and gage measurements must be checked at least annually and adjusted, as warranted, to provide for continued safe operation of these vehicles. Thus, FRA uses these hi-rail inspection records to verify compliance with this subpart.

Finally, FRA inspectors of all five rail safety disciplines use the violation report form (FRA F 6180.119) to cite any violations of the Part 214 regulations and to recommend civil penalties for serious infractions.

3. <u>Extent of automated information collection</u>.

In keeping with the requirements of the Paperwork Reduction Act (PRA) and the Government Paperwork Elimination Act (GPEA), FRA has strongly supported and highly encouraged the use of advanced information technology, including electronic recordkeeping, to reduce burden on respondents, wherever possible, for many years. In

reference to the requirements involving Subpart D, FRA has explicitly provided railroads the option of maintaining the required records electronically. For example, under § 214.505, railroads are required to maintain a roster of machinery that falls under FRA's jurisdiction for purposes of this regulation. The roster may be maintained on paper or electronically, but it must be accessible and available to FRA, Occupational Safety and Health Administration (OSHA), and other Federal, as well as State, agencies so that inspectors may determine which agency has responsibility for inspection of which machines and for enforcement of respiratory safety regulations relating to each roadway maintenance machine. Also, under § 214.523, compliance records pertaining to hi-rail vehicle annual safety inspections may be kept electronically. The employer must maintain the record of the last inspection of each vehicle until the next inspection is performed. Additionally, under § 214.533, roadway maintenance machine or new hi-rail vehicle records pertaining to compliance with the schedule of repairs may be kept electronically.

Although 91 percent of this information collection's responses are completed verbally in the form of daily job safety briefings/other verbal communication (23,394,786 responses) and are not conducive to use of the advanced information technology available today, FRA has provided the option of using advanced information technology, wherever possible, to reduce burden. For example, railroads are given the authority to use computers for the recording of training examinations. They may also use an interactive training course to train the roadway workers on the hazards and risks involved while working on or around tracks caused by moving trains and other on-track equipment. Moreover, the train dispatcher or control operator in charge of the track may record by electronic means all authorities issued to establish exclusive track occupancy. Each employer may also use electronic recordkeeping to maintain the required records of each roadway worker's current qualification.

Railroads are always looking for ways to improve their operations and presently have in development technology such as Positive Train Separation (PTS) and personnel warning devices. Once these new technologies are tested and implemented, they may further reduce or eliminate some of the hazards and, therefore, risks for roadway workers, and concomitantly also reduce the paperwork burden by making unnecessary some of the requirements imposed by this rule. This would, of course, reduce the overall burden.

Finally, Form FRA F 6180.119 is used within FRA's Railroad Inspection System for the Personal Computer (RISPIC system) by agency and state safety inspectors. As a result, the top one-third of the form is automatically filled-in or auto-populated once the inspector fills out the inspection report (Form FRA F 6180.96). This serves to reduce the time necessary to complete the entire form. Also, as a result of this form being in the RISPIC system, it can be easily updated by the safety inspector and can be quickly transmitted to FRA regional office specialists if further action is warranted. Thus, approximately one (1) percent of responses are collected electronically because of the

nature of the rule's requirements.

4. Efforts to identify duplication.

To our knowledge, this information is not duplicated anywhere.

Similar data is 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(3) defines a "small entity" as having the same meaning as "small business concern" under § 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 field of operations.

The U.S. Small Business Administration (SBA) has authority to regulate issues related to small businesses, and stipulates in its size standards that a "small entity" in the railroad industry is a for profit "line-haul railroad" that has fewer than 1,500 employees, a "short line railroad with fewer than 500 employees, or a "commuter rail system" with annual receipts of less than seven million dollars. See "Size Eligibility Provisions and Standards," 13 CFR part 121 subpart A.

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 statement of agency policy that formally establishes "small entities" or "small businesses" as being railroads, contractors and hazardous materials shippers that meet the revenue requirements of a Class III railroad as set forth in 49 CFR § 1201.1-1, which is $20 million or less in inflation-adjusted annual revenues, and commuter railroads or small governmental jurisdictions that serve populations of 50,000 or less. See 68 FR 24891 (May 9, 2003), codified at Appendix C to 49 CFR part 209. The $20 million limit is based on the Surface Transportation Board's revenue threshold for a Class III railroad carrier. Railroad revenue is adjusted for inflation by applying a revenue deflator formula in accordance with 49 CFR part 1201-1. The same dollar limit on revenues is established to determine whether a railroad shipper or contractor is a small entity. FRA is proposing to use this definition for this rulemaking.

Included in the entities impacted by the proposed rule are governmental jurisdictions or transit authorities—most of which are not small for purposes of this certification. There are two commuter railroads that are privately owned and would be considered small entities. However, both of these entities are owned by Class III freight railroads and, therefore, are already considered to be small entities for purposes of this certification.

There are approximately 708 small railroads.[1] Class III railroads do not report to the STB, and the precise number of Class III railroads is difficult to ascertain due to conflicting definitions, conglomerates, and even seasonal operations. Potentially all small railroads (a substantial number) could be impacted by this proposed regulation. However, because of certain characteristics that these railroads typically have, there should not be very little impact on most, if not all of them. A large number of these small railroads only have single-track operations. Some small railroads, such as the tourist and historic railroads, operate on the lines of other railroads that would bear the burden or impact of the proposed rules requirements. Finally, other small railroads, if they do have more than a single track, typically have operations that are infrequent enough such that the railroads have generally always performed the pertinent trackside work with the track and right-of-way taken out of service, or conducted during hours that the track is not used.

Almost all commuter railroads do not qualify as small entities. This is likely because almost passenger/commuter railroad operations in the United States are part of larger governmental entities whose jurisdictions exceed 50,000 in population. As noted above two of these commuter railroads are privately owned and would be considered small. However, they are already considered to be small because of being owned by a Class III freight railroad. FRA is uncertain as to how many contractor companies would be involved with this issue. FRA is aware that some railroads hire contractors to conduct some of the functions of roadway workers on their properties. However, the costs for the burdens associated with the proposed requirements of this rulemaking would get passed on to the pertinent railroad. Most likely the contracts would be written to reflect that, and the contractor would bear no additional burden for the proposed requirements. Since contractors would not be the entities directly impacted by any burdens, it is not necessary to assess them in the certification.

No other small businesses (non-railroads) are expected to be impacted by this proposed rulemaking.

The process used to develop most of this proposed rule provided outreach to small entities in two ways. First, the RSAC Working Group had at least one representative from a small railroad association, the American Short Line and Regional Railroad Association (ASLRRA). Second, members of the RSAC itself include the ASLRRA and other organizations that represent small entities. Thus, it is possible to conclude that small entities had an opportunity for input as part of the process to develop a consensus-based RSAC recommendation made to the FRA Administrator.

[1] FRA data for 2010 indicates that there are 754 railroads. Thus, 754 Total Railroads – 7 Class I Railroads – 12 Class II Railroads (Includes Alaska RR) – 27 Commuter/Amtrak (non-small) = 708 Small Railroads.

The impacts from this regulation are primarily a result of the proposed requirements for certain changes to the existing roadway worker protection regulations, particularly regarding job briefings and training of roadway workers.

Short line railroads, the vast majority of which are Class III railroads, represent an estimated 8 percent of the railroad industry. Since small railroads generally collect carloads in such small numbers and low densities, at low speeds, they require much less track maintenance. Furthermore, generally small railroads have single tracks that are not active around the clock. As such, road work can be done when the track is not active, greatly reducing the burden of having to provide roadway worker protection. As such, the cost of this rulemaking is very minimal to the small railroad segment of the industry. Eight percent of the total 20-year cost is $467,274. That is an average annual cost of $33 per small railroad.[2] Although the rule may impact a substantial number of small entities, FRA is confident that this proposed rulemaking does not impose a significant burden.

6. <u>Impact of less frequent collection of information</u>.

If this collection were not conducted or if this collection were conducted less frequently, the risk of injury or death to those working on or about railway tracks would be much greater. Without the new information required to be conveyed to roadway worker groups under § 214.315(a)(3) in the daily on-track safety briefing, it is highly likely that more roadway workers will sustain serious injuries or be killed because they did not have necessary information about any tracks adjacent to the track to be fouled, on-track safety for such tracks (if required by this Subpart), and identification of roadway maintenance machines that will foul such tracks.

Without the new requirements stipulated under § 214.336, the rail environment would be much more dangerous and deadly than it is presently. Without these requirements, roadway workers would not know the precise procedures and practices that they must follow for track movements by trains or other on-track equipment operating at speeds both above and below 25 miles per hour. Without the specified watchmen/lookout warnings, notifications, and communications, affected roadway workers would not know when they must stop work and occupy a predetermined place of safety. Also, without this information, roadway workers might not be properly notified in sufficient time to move to places of safety when a train or other on-track equipment is authorized to move on adjacent track at various legal speeds. Consequently, there would likely be a greater number of serious injuries and fatalities to members of these roadway worker groups.

If roadway workers could not challenge the fitness of on-track roadway machines and hi-rail vehicles and if employers were not required to have in place and follow written procedures to assure prompt and equitable resolution of these challenges, these workers might be forced to operate machines with safety defects. This could lead to greater

[2] $5,840,921 * .08 = $467,274 / 20 years / 708 small railroads = $33 per year per small railroad.

numbers of accidents/incidents and corresponding increases in roadway worker casualties, resulting in lost productivity to the employer.

Without the requirement that employers maintain a list of new and designated roadway maintenance machines that are enclosed with cabs with operative heating systems, operative air conditioning systems, and operative ventilation systems, FRA and other Federal and State inspectors would not be able to use these rosters to determine which agency has the responsibility for inspection and enforcement of respiratory safety regulations for each roadway machine. The roster is intended to eliminate the possibility that certain machines would be inspected by two Federal agencies while other machines go uninspected altogether. If this were to occur, the health of roadway workers would suffer as a consequence, and also avoidable accident/incidents might take place because a machine was not inspected. Furthermore, without the provision that the triggering mechanism of audible warning devices required on new on-track roadway maintenance machines be clearly identifiable and within easy reach of the machine operator, more railway workers might be injured or killed because they did not know where the mechanism was in a critical situation and were not able to sound it in time.

Without the requirement that employers will now have to evaluate the feasibility of providing an overhead cover for existing on-track roadway maintenance machines if requested in writing by the operator assigned to a particular machine or by the operator's representative, the safety and health of railroad workers would be at increased risk. Employers are now required to provide a written response within 60 days, and have to include an explanation of the reasoning used if it is determined that an overhead cover is not feasible. Unless employers have a valid reason, they can not deny roadway workers essential equipment. Covers or canopies provide protection from blinding sun and from inclement weather, such as rain, sleet, hail, and snow, and thus serve to improve roadway worker visibility. Overhead covers then could make all the difference in preventing accidents/incidents and the often accompanying injuries experienced by roadway workers.

More accidents/incidents and corresponding casualties might ensue if records were not required to be kept regarding hi-rail vehicle annual safety inspections. In particular, safety-critical components might not be checked at least once annually and adjusted, if necessary. Without this type of oversight, employers might not be as conscientious to check tram, wheel wear, and gage measurements, and FRA would have no way to verify compliance with this Subpart. As a result of this information collection, each non-complying condition not immediately repaired following an inspection must be tagged and reported to the employer's designated official, which further protects roadway workers. Non-complying conditions that were left uncorrected could lead to severe consequences, including damaged/unusable machinery, lost productivity, and lost time on-the-job, affecting both railroads and their employees.

Without this collection of information, roadway workers would be less well-trained and therefore, less well-qualified for their respective crafts (whether watchmen/lookouts, flagmen, lone workers, roadway machine operators, etc.). They would not receive the initial and recurring training (once every year) now required under this rule. Consequently, they would not be as knowledgeable of railroad operating procedures and safety practices, nor would they be as familiar with overall conditions in today's railroad environment. Furthermore, if this collection were not conducted (or conducted less frequently), there would not be the clear delineation of employers' responsibilities for providing on-track safety and employees' corresponding rights and responsibilities. Roadway workers might then unnecessarily or inadvertently place themselves in hazardous situations.

Additionally, without this collection of information, there would not be the well-defined procedures for communication and protection now required of roadway workers. As a result, there would likely be greater confusion around railroad tracks and greater uncertainty regarding the correct use of railroad equipment. More roadway worker injuries and fatalities would inevitably follow. FRA data tend to support this conclusion. FRA data indicate a continuing downward trend in roadway worker injuries and fatalities. For example, there were 4,481 injuries to maintenance of equipment and stores employees in 2008, while there were 4,039 to this same class of employees in 2010. FRA's objective is to continue and facilitate this downward trend.

As a result of this information collection, each employer must maintain written or electronic records of each roadway worker's current qualifications, and make these records available to FRA for inspection and copying upon request. Also, roadway workers who provide on-track safety for roadway work groups are required to take a recorded examination as part of the qualification process. These and other required records are very valuable in assisting investigators after an injury or fatality involving a roadway worker or group of roadway workers. Furthermore, should a potential violation or dispute of roadway worker rights and responsibilities occur, FRA can consider all the available evidence, including written records, in making its determination. Without this collection of information, all the required records would be unavailable to FRA.

Finally, without Form FRA F 6180.119, FRA would not have a mechanism to cite serious individual or corporate violations of Part 214 that it could use to recommend civil penalties. Such a mechanism – recommending civil penalties – has a deterrent effect and helps prevent similar violations from occurring, thereby improving overall rail workplace safety for roadway workers and other rail employees who perform their various jobs each and every day in a very dangerous and fast paced work environment.

In summary, the net result of not collecting this information or collecting it less frequently would be to permit a more dangerous rail environment for roadway workers, as well as a more costly operational environment for rail employers because of lost

productivity due to roadway workers injured or killed on the job. Moreover, FRA would be denied another important tool to promote and indeed enhance national rail safety. This information collection then is essential, and assists FRA in carrying out and accomplishing its core agency mission and the core mission of DOT as well.

7. Special circumstances.

All information collection requirements contained in this rule are in compliance with this section.

8. Compliance with 5 CFR 1320.8.

FRA is publishing a Notice of Proposed Rulemaking (NPRM) titled Railroad Workplace Safety; Roadway Worker Protection Miscellaneous Revisions in the **Federal Register** on August20, 2012 (*See* 77 FR 50324), in order to solicit comments from the public, the railroad industry, and interested parties on the proposed rule and its associated information collection requirements and burden estimates. FRA will respond to comments on the proposed rule and associated information collection of information in its final rule.

Background

In March 1996, FRA established the RSAC, which provides a forum for developing consensus recommendations to FRA's Administrator on rulemakings and other safety program issues. The Committee includes representation from all of the agency's major stakeholder groups, including railroads, labor organizations, suppliers and manufacturers, and other interested parties. A list of member groups includes the following:

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 (LRIW)*
National Association of Railroad Passengers (NARP)
National Association of Railway Business Women (NARBW)*

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 Communicaciones y Transportes*
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)*
United Transportation Union
* 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 the task is 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. A working group may establish one or more task forces to develop facts and options on a particular aspect of a given task. The individual task force then provides that information to the working group for consideration. If a working group comes to unanimous consensus on recommendations for action, the package is presented to the full RSAC for a vote. If the proposal is accepted by a simple majority of the RSAC, the proposal is formally recommended to FRA. FRA then determines what action to take on the recommendation. Because FRA staff take an active role at the working group level in discussing the issues and options and in drafting the language of the consensus proposal, FRA is often favorably inclined towards 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 goal, is soundly supported, and is in accordance with 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 a recommendation for action, FRA moves ahead to resolve the issue through traditional rulemaking proceedings.

On January 26, 2005, the RSAC formed the RWP Working Group ("Working Group") to consider specific actions to advance the on-track safety of employees of covered railroads and their contractors engaged in maintenance-of-way activities throughout the general system of railroad transportation, including clarification of existing requirements. The assigned task was to review the existing rule, technical bulletins, and a safety advisory dealing with on-track safety. The Working Group was to consider the implications and, as appropriate, consider enhancements to the existing rule. The Working Group would report to the RSAC any specific actions identified as appropriate, and would report planned activity to the full Committee at each scheduled Committee meeting, including milestones for completion of projects and progress toward completion.

The Working Group is comprised of members from the following organizations:

American Public Transportation Association (APTA)
The American Short Line and Regional Railroad Association (ASLRRA)
American Train Dispatchers Association (ATDA)
Association of American Railroads (AAR) [including members from BNSF Railway Company (BNSF), Canadian National Railway Company (CN), Canadian Pacific Railway, Ltd. (CP), Consolidated Rail Corporation (Conrail), CSX Transportation, Inc. (CSXT), Kansas City Southern (KCS), Norfolk Southern Corporation (NS), and Union Pacific Railroad Company (UP)]
Belt Railroad of Chicago
Brotherhood of Locomotive Engineers and Trainmen (BLET)
Brotherhood of Maintenance of Way Employees Division (BMWED)
Brotherhood of Railroad Signalmen (BRS)
Federal Railroad Administration (FRA)
Indiana Harbor Belt Railroad (IHB)
Long Island Railroad (LIRR)
Metro-North Commuter Railroad (Metro-North)
Montana Rail Link
National Railroad Construction and Maintenance Association (NRC)
Northeast Illinois Regional Railroad Corporation (Metra)
Rail America, Inc.
Southeastern Pennsylvania Transportation Authority (SEPTA)

Union Pacific Railroad Company (UP)
United Transportation Union (UTU)
Western New York and Pennsylvania Railroad (WNY&P)

The Working Group held 12 multi-day meetings. The group worked diligently, and was able to reach consensus on 32 separate items. The Working Group attained consensus to recommend that part 214[3] be amended to: add two new definitions; revise an existing definition; and, incorporate three other existing definitions from 49 CFR part 236. The Working Group also came to consensus to add or amend various provisions in the following sections in subpart C of part 214:

- § 214.309 - revision to address on-track safety manual for lone workers and changes to the manual.

- § 214.315 - requirement that information concerning adjacent tracks be included in on-track safety job briefings; accessibility of the roadway worker in charge.

- § 214.317 - new paragraph to formalize procedures for roadway workers to walk across tracks; new paragraph for on-track weed spray and snow blowing operations on non-controlled track.

- § 214.321 - new paragraph to address the use of work crew numbers.

- § 214.323 - clarification of foul time provision whereby roadway worker in charge or train dispatcher may not permit movements into such working limits.

- § 214.324 - new section called "verbal protection" for abbreviated working limits within manual interlocking and controlled points.

- § 214.327 – three new paragraphs to formalize the following instruments to make non-controlled track inaccessible: occupied locomotive as a point of inaccessibility; block register territory; and, the use of track bulletins to make track inaccessible within yard limits.

- § 214.335 - complete revision of paragraph (c) concerning on-track safety for tracks adjacent to occupied tracks. Key elements are the elimination of "large-scale" and the addition of a new requirement for on-track safety for tracks adjacent to occupied tracks for specific work activities (addressed in separate rulemaking proceeding as discussed further below).

- § 214.337 - allowance for the use of individual train detection at controlled points consisting only of signals and a new paragraph limiting equipment/materials that can only be moved by hand by a lone worker.

[3] All references to the CFR in this document reference Title 49.

- § 214.339 - complete revision of this section concerning audible warning by trains to address operational considerations.

- § 214.343 - new paragraph to ensure contractors receive requisite training/and or qualification before engaged by a railroad.

- § 214.345 - lead-in phrase requiring all training to be consistent with initial or recurrent training, as specified in § 214.343(b).

- §§ 214.347, .349, .351, .353, and .355 - consistent requirements for various roadway worker qualifications and a maximum 24-month time period between qualifications.

On June 26, 2007, the full RSAC voted to accept the above recommendations presented by the Working Group. In addition to the above, the Working Group worked on a proposal for use of electronic display of authorities as a provision under exclusive track occupancy. The Working Group developed lead-in regulatory text and agreed to some conceptual items. When circulated back to the Working Group prior to the full RSAC vote, however, technical issues were raised that could not be resolved in the time available. Accordingly, in this NPRM, FRA is addressing the electronic display issue, and certain of the other issues that the Working Group was unable to reach consensus on. The other items that the Working Group was unable to reach consensus on were:

- § 214.7 – new term and definition for a “remotely controlled hump yard facility.”

- § 214.7 – revision to the definition for the term “roadway worker.”

- § 214.317 – use of tunnel clearing bays.

- § 214.321 – track occupancy after passage of a train.

- § 214.329 – removal of objects from the track under train approach warning.

- § 214.336 – passenger station platform snow removal and cleaning.

- § 214.337 – consideration of allowance for the use of individual train detection at certain types of manual interlockings or controlled points.

- § 214.353 – qualification of employees other than roadway workers who directly provide for the on-track safety of a roadway work group.

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 rulemaking.

10. Assurance of confidentiality.

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

11. Justification for any questions of a sensitive nature.

No sensitive information is requested.

12. Estimate of burden hours for information collected.

Note: Based on the latest FRA data, respondent universe affected by this proposed rule is estimated at 754 railroads. The total number of roadway workers is estimated to be approximately 50,000. This includes employees of railroads and contractors to railroads.

The burden hour estimates for the information collection requirements listed below have been updated, where appropriate and necessary, based on the proposed new requirements and the latest information available to FRA.

Form FRA F 6180. 119 - Part 214 Railroad Workplace Safety Violation Report Form

As part of their responsibilities, FRA Federal and State inspectors enforce compliance with Part 214. In order to do this, they obtain information from the railroads and railroad workers. Violations of workplace safety are reported on the above form. FRA estimates that approximately 150 of these forms will be completed each year by FRA inspectors. It is estimated that it will take approximately four (4) hours to complete each violation report form. Total annual burden for this requirement is 600 hours.

Respondents Universe:	350 Safety Inspectors
Burden time per response:	4 hours
Frequency of Response:	On occasion
Annual Number of responses:	150 report forms
First Year Burden:	600 hours

Calculation: 150 report forms x 4 hours = 600 hours

SUBPART C

Purpose and Scope (214.301)

(c) This subpart prescribes safety standards related to the movement of roadway maintenance machines where such movements affect the safety of roadway workers. Movements of roadway maintenance machines between work locations or to or from work locations that are conducted under the authority of a train dispatcher or a control operator are not required to be made in accordance with the on-track safety procedures described in §§ 214.319 through 214.338 of this subpart. Movements of roadway maintenance machines between work locations or to or from work locations on non-controlled track must comply with the on-track safety procedures described in §§ 214.319 through 214.327 of this subpart, unless: (**New requirement**)

(1) all train and locomotive movements on such non-controlled track are required to be made at speeds not exceeding restricted speed, or

(2) the railroad's operating rules protect the movements of roadway maintenance machines in a manner equivalent to that provided for by limiting all train and locomotive movements to restricted speed, and such equivalent level of protection is first approved in writing by FRA's Associate Administrator for Railroad Safety/Chief Safety Officer.

FRA estimates that approximately 60 railroad operating rules providing the equivalent level of protection for roadway maintenance machines on non-controlled track will be submitted to FRA under the above requirement. It is estimated that it will take approximately eight (8) hours to complete each violation report form. Total annual burden for this requirement is 480 hours.

Respondents Universe:	60 Railroads
Burden time per response:	8 hours
Frequency of Response:	On occasion
Annual Number of responses:	60 railroad operating rule documents
First Year Burden:	480 hours

Calculation: 60 RR operating rule documents x 8 hours = 480 hours

A. RAILROAD ON-TRACK SAFETY PROGRAMS

(1) **Railroad on-track Safety Programs** (214.303)

Each railroad to which this Part applies must adopt and implement a program that will afford on-track safety to all roadway workers whose duties are performed on that

railroad. Each such program must provide for the levels of protection specified in this Subpart.

Each on-track safety program adopted to comply with this Part must include procedures to be used by each railroad for monitoring effectiveness of and compliance with the program.

(2) **Roadway Maintenance Machines** (214.341)

a. Each employer must include in its on-track safety program specific provisions for the safety of roadway workers who operate or work near roadway maintenance machines. Those provisions must address:

- Training and qualification of operators of roadway maintenance machines.
- Establishment and issuance of safety procedures both for general application and for specific types of machines.
- Communication between machine operators and roadway workers assigned to work near or on roadway maintenance machines.
- Spacing between machines to prevent collisions.
- Space between machines and roadway workers to prevent personal injury.
- Maximum working and travel speeds for machines dependent upon weather, visibility, and stopping capabilities.

b. Instructions for the safe operation of each roadway machine shall be provided and maintained with each machine large enough to carry the instruction document.

- No roadway worker shall operate a roadway maintenance machine without having been trained in accordance with § 214.355.
- No roadway worker shall operate a roadway maintenance machine without having complete knowledge of the safety instructions applicable to that machine.
- No employer shall assign roadway workers to work near roadway machines unless the roadway worker has been informed of the safety procedures applicable to persons working near the roadway machines and has acknowledged full understanding.

c. Components of roadway maintenance machines must be kept clear of trains passing on adjacent tracks. Where operating conditions permit roadway maintenance machines to be

less than four feet from the rail of an adjacent track, the on-track safety program of the railroad must include the procedural instructions necessary to provide adequate clearance between the machine and passing trains.

(3) **Review of Individual On-track Safety Programs by FRA** (214.307)

(a) *Program.* Each railroad subject to this part shall maintain and have in effect an on-track safety program which complies with the requirements of this subpart. The on-track safety program shall be retained at a railroad's system headquarters and division headquarters, and shall be made available to representatives of the FRA for inspection and copying during normal business hours. Each railroad to which this part applies is authorized to retain its program by electronic recordkeeping in accordance with §§ 217.9(g) and 217.11(c) of this chapter. (**Revised requirement**)

(b) *Approval process*. Upon review of a railroad's on-track safety program, the FRA Associate Administrator for Railroad Safety/Chief Safety Officer may, for cause stated, disapprove the program. Notification of such disapproval shall be made in writing and specify the basis for the disapproval decision. If the Associate Administrator for Railroad Safety/Chief Safety Officer disapproves the program,

(1) The railroad has 35 days from the date of the written notification of such disapproval to:

(i) Amend its program and submit it to the Associate Administrator for Railroad Safety/Chief Safety Officer for approval; or

(ii) Provide a written response in support of its program to the Associate Administrator for Railroad Safety/Chief Safety Officer.

(2) FRA's Associate Administrator for Railroad Safety/Chief Safety Officer will subsequently issue a written decision either approving or disapproving the railroad's program.

(3) Failure to submit to FRA an amended program or provide a written response in accordance with this paragraph will be considered a failure to implement an on-track safety program under this subpart.

(4) **On-Track Safety Manual** (214.309)

(a) The applicable on track safety manual (as defined by § 214.7) shall be readily available to all roadway workers. Each roadway worker responsible for the on-track safety of others, and each lone worker, shall be provided with and shall maintain a copy of the on-track safety manual. (**Current requirement**)

Railroads are already doing this. It is a usual and customary procedure for them. Consequently, there is no burden associated with this requirement.

(b) When it is impracticable for a lone worker to carry the on-track safety manual, the employer shall establish provisions for such worker to have alternative access to the information in the manual. (**New requirement**)

FRA estimates that approximately 754 provisions for alternative access to the information in the on track safety manual will be established by railroads under the above requirement. This will usually take the form of a special instruction or special order to the on-track safety manual. It is estimated that it will take approximately 60 minutes to establish/develop each provision. Total annual burden for this requirement is 754 hours.

Respondents Universe:	754 Railroads
Burden time per response:	60 minutes
Frequency of Response:	On occasion
Annual Number of responses:	754 provisions
First Year Burden:	754 hours
Calculation:	754 provisions x 60 min. = 754 hours

(c) Changes to the on-track safety manual may be temporarily published in bulletins or notices. Such publications shall be carried along with the on-track safety manual until fully incorporated into the manual. (**New requirement**)

FRA estimates that approximately 100 bulletins or notices relaying changes to the on track safety manual will be published under the above requirement. It is estimated that it will take approximately 60 minutes to complete each bulletin/notice and provide it to affected roadway workers. Total annual burden for this requirement is 100 hours.

Respondents Universe:	60 Railroads
Burden time per response:	60 minutes/hours
Frequency of Response:	On occasion
Annual Number of responses:	100 bulletins/notices
First Year Burden:	100 hours
Calculation:	100 bulletins/notices x 60 min. = 100 hours

Total annual burden for this entire requirement is 854 hours (754 + 100).

(5) **Written Procedure for Resolution of Challenges Made to On-Track Safety Procedures** (214.311)

Each employer must have in place a written procedure to achieve prompt and equitable resolution of challenges made in accordance with §§ 214.311(b) and 214.313(d)). These procedures will be written and become part of the on-track safety program.
Any burden associated with the above information collection requirements has been included in the earlier one-time burden associated with the development of the roadway worker safety program, or is included in the burden below which accounts for new railroads that come into operation.

FRA estimates that it 15 new railroads will come into operation each year and thus 15 new on-track safety programs will be developed by railroads under the above requirements. These railroads will no longer be required to submit their plans to FRA, but only show them upon request of a FRA representative. Also, these new railroads will – in all probability – be short line railroads, and will use the generic plan developed by the American Short Line and Regional Railroad Association (ASLRRA) and modify it accordingly. It is estimated that it will take each new railroad approximately 30 minutes to modify the generic plan. Total annual burden for this requirement is eight (8) hours.

Respondents Universe:	15 New Railroads
Burden time per response:	30 minutes
Frequency of Response:	Annually
Annual Number of responses:	15 on-track safety programs
First Year Burden:	8 hours

Calculation: 15 on-track safety programs x 30 min. = 8 hours

B. Responsibility of Individual Roadway Workers (214.313)

Each roadway worker may refuse any directive to violate an on-track safety rule, and must inform the employer in accordance with § 214.311 whenever the roadway worker makes a good faith determination that on-track safety provisions to be applied at the job location do not comply with the rules of the operating railroad.

It is estimated that written records will be kept of these challenges approximately 80 times each year. It is estimated that approximately 20 railroads will be challenged four (4) times a year under this requirement. Based on the complexity of each individual challenge, the burden could vary from 15 minutes to 16 hours per occurrence. FRA estimates that an overall industry average for this information collection requirement

would be approximately eight (8) hours for each challenge. Total annual burden for this requirement is 640 hours.

Respondents Universe:	20 Railroads
Burden time per response	8 hours per challenge
Frequency of Response:	On occasion
Annual Number of responses:	80 challenges
Annual Burden:	640 hours

Calculation: 80 challenges x 8 hrs. per challenge = 640 hours

C. Supervision and Communication (214.315; 214.335)

(a) When an employer assigns a duty to a roadway worker that calls for that employee to foul a track, the employer must provide the employee with an on-track safety job briefing that, at a minimum, includes the following:

(1) Information on the means by which on-track safety is to be provided for each track identified to be fouled;

(2) Instruction on each on-track safety procedure to be followed;

(3) Information about any adjacent tracks, on-track safety for such tracks, if required by this subpart or deemed necessary by the roadway worker in charge, and identification of any roadway maintenance machines that will foul such tracks;

(4) A discussion of the nature of the work to be performed and the characteristics of the work location to ensure compliance with this Subpart; and

(5) Information on the accessibility of the roadway worker in charge and alternative procedures in the event the roadway worker in charge is no longer accessible to the members of the roadway work group. (**New Requirement**)

(b) A job briefing for on-track safety shall be deemed complete only after the roadway worker(s) has acknowledged understanding of the on-track safety procedures and instructions presented.

(c) Every roadway work group whose duties include fouling a track shall have one roadway worker designated by the employer to provide on-track safety for all members of the group. The designated person must be qualified under the rules of the railroad that conducts train operations on those tracks to provide the protection necessary for on-track safety of each individual in the group. The responsible person may be designated generally, or specifically for a particular work situation.

(d) Before any member of a roadway work group fouls a track, the roadway worker in charge designated under paragraph (c) of this section shall inform each roadway worker of the on-track safety procedures to be used and followed during the performance of the work at that time and location. Each roadway worker must again be so informed at any time the on-track safety procedures change during the work period. Such information must be given to all roadway workers affected before the change is effective, except in cases of emergency. Any roadway workers who, because of an emergency, cannot be notified in advance must be immediately warned to leave the fouling space and must not return to the fouling space until on-track safety is re-established.

(e) Each lone worker shall communicate at the beginning of each duty period with a supervisor or another designated employee to receive an on-track safety job briefing and to advise of his or her planned itinerary and the procedures that he or she intends to use for on-track safety. When communication channels are disabled, the job briefing must be conducted as soon as possible after the beginning of the work period when communications are restored.

As noted above, there are approximately 50,000 roadway workers industry-wide, including employees of railroads and contractors for railroads. Job briefings are a usual and customary procedure on most railroads today. From the survey data, FRA has determined that roadway workers have on average 327 job briefings each per year. For 50,000 employees, a total then of 16,350,000 briefings would occur annually.

The data provided in the responses from the AAR Survey show that the average job briefing is 12.3 minutes. It also shows that the average additional minutes that will be required by the rule will be 4.75 minutes. FRA believes this average is too high. This is common practice. FRA has determined that a more accurate estimate would be an additional two (2) minutes per job briefing.

Approximately 30 percent of the 50,000 roadway workers will not be impacted by adjacent track standards for various reasons. For example, such workers may work on territories with only single track or areas of with only non-controlled track, typically much smaller regional railroads. Of the 35,000 roadway workers then who may work on adjacent track, approximately 30 percent will generally not be impacted by the adjacent track final rule revisions. Such workers would include signalmen, lone workers, and others who may be assigned to gangs, but generally do not work around on-track roadway maintenance machines or coupled equipment. Thus, FRA estimates that approximately 24,500 roadway workers will be affected by the requirement in paragraph (a)(3) of this section concerning information communicated to roadway workers about adjacent track on-track safety.

Of the 24,500 roadway workers affected by the new requirement in paragraph (a)(3), the

requirement in the on-track safety procedures for adjacent tracks will cause an increase in time spent on some of the 16,350,000 annual briefings. FRA believes that many railroad operations are already including this information in their job briefings, where pertinent. Consequently, approximately 70 percent of these 8,011,500 briefings (24,500 workers x 327 daily briefings) either do not require discussion of any adjacent-track issues or any such issues are already being noted in job briefings today by very prudent and/or safety-conscious railroads. Thus, approximately 2,403,450 briefings (8,011,500 x .30) will relate to adjacent-track on-track issues, and will take an additional half-minute to complete. The burden then for this part of the above requirement is 20,029 hours. Total annual burden for the entire requirement is 565,029 hours. (*It should be noted that this is not an information collection per se but a verbal communication between supervisors and employees. There is no actual paperwork kept, information gathered/collected, or reporting required in reference to this provision.)*

Respondents Universe:	50,000 Roadway Workers
Burden time per response:	2 minutes ea. briefing + .5 min. ea. briefing
Frequency of Response:	On occasion
Annual Number of responses:	18,753,450 regular briefings
Annual Burden:	565,029 hours

Calculation: 16,350,000 regular briefings (327 x 50,000) x 2 min. = 545,000 hrs
2,403,450 adjacent track on-track safety briefings x .5 min. = 20,029 hours (Adjacent On-Track Requirement Burden)
545,000 hours + 20,029 hours = 565,029 hours

Additionally, under the proposed rule's new requirement in (a)(5) above, FRA estimates that there are approximately 300 production gang/capital improvement related briefings per day during the 22 work days per month from March through October and approximately 75 briefings per day during the 22 work days from November through February. Thus, there will be an additional 59,400 briefings resulting from the new requirement [(22 days * 8 months) * 300 briefings + (22 days * 4 months) * 75 briefings]. There are an estimated 10 employees per work gang who will receive the briefing. It is estimated that it will take approximately 20 seconds to complete each briefing. Total annual burden for this requirement is 3,300 hours. (**New/additional burden**)

Respondents Universe:	300 Roadway Work Gangs
Burden time per response	20 seconds
Frequency of Response:	On occasion
Annual Number of responses:	59,400 briefings
Annual Burden:	3,300 hours

Calculation: 59,400 briefings x 20 sec. x 10 work gang employees = 3,300 hrs.

Total annual burden for this requirement is 568,329 hours (565,029 + 3,300).

D. On-Track Safety Procedures, Generally (214.317)

(a.) Each employer subject to the provisions of this part shall provide on-track safety for roadway workers by adopting a program that contains specific rules for protecting roadway workers that comply with the provisions of §§214.319 through 214.338 of this part.

The burden for on-track safety programs is included under that of §214.303 above. Consequently, there is no additional burden associated with this requirement.

(b.) Roadway workers may walk across any track provided each roadway worker shall stop and look in all directions from which a train or other on-track equipment could approach before starting across the track to ensure that they can safely be across and clear of the track before a train or other on-track equipment would arrive at the crossing point under the following circumstances:

(1) Employers shall adopt and roadway workers shall comply with applicable railroad safety rules governing how to determine that it is safe to cross the track before starting across; (**New Requirement**) [*Note: Railroads are already doing this. It is part of their usual and customary procedure. Consequently, there is no burden associated with this requirement.*]

(2) Roadway workers shall move directly and promptly across the track;

(3) On-track safety protection is in place for all roadway workers who are actually engaged in work, including inspection, construction, maintenance or repair, and extending to carrying tools or material that restricts motion, impairs sight or hearing, or prevents an employee from detecting and moving rapidly away from an approaching train or other on-track equipment.

(c) On non-controlled track, on-track roadway maintenance machines engaged in weed spraying or snow removal may proceed under the provisions of § 214.301(c), under the following conditions: (**New Requirement**)

(1) Each railroad shall establish and comply with an operating procedure for on-track snow removal and weed spray equipment to ensure that:

(i) All on-track movements in the affected area are informed of such operations,

(ii) All on-track movements shall operate at restricted speed as defined in §214.7, except on other than yard tracks and yard switching leads, where all on-track movements shall operate prepared to stop within one-half the range of vision but not exceeding 25 mph,

(iii) A means for communication between the on-track equipment and other on-track movements is provided, and

(iv) Remotely controlled hump yard facility operations are not in effect, and kicking of cars is prohibited unless agreed to by the roadway worker in charge.

The other **new requirement** in § 214.371(c) above will affect about 20 railroads regarding an operating procedure for snow removal. Thus, FRA estimates that approximately 20 operating procedure for on-track snow removal and weed spray equipment on non-controlled track will be developed/established under the above requirement. It is estimated that it will take approximately 60 minutes to develop each operating procedure. Total annual burden for this requirement is 20 hours.

Respondents Universe:	20 Railroads
Burden time per response:	60 minutes
Frequency of Response:	On occasion
Annual Number of responses:	20 snow removal operating procedures
First Year Burden:	20 hours

Calculation: 20 snow removal operating procedures x 60 min. = 20 hours

Additionally, the **new requirement** in § 214.371(c) above will affect all 754 railroads regarding an operating procedure for weed spray equipment. Thus, FRA estimates that approximately 754 operating procedure for on-track snow removal and weed spray equipment on non-controlled track will be developed/established under the above requirement. It is estimated that it will take approximately 60 minutes to develop each operating procedure. Total annual burden for this requirement is 754 hours.

Respondents Universe:	754 Railroads
Burden time per response:	60 minutes
Frequency of Response:	On occasion
Annual Number of responses:	754 weed spray equipment operating procedures
First Year Burden:	754 hours

Calculation: 754 weed spray equipment operating procedures x 60 min. = 754 hours

Total annual burden for this entire requirement is 774 hours (20 + 754).

E. <u>On-Track Safety Procedures</u> (214.319)

All affected roadway workers must be notified before working limits are released for the operation of trains. Working limits must not be released until all affected roadway workers have either left the track or have been afforded on-track safety through train approach warning in accordance with § 214.329 of this subpart.

This requirement corresponds with current practice in the railroad industry, and is not considered an additional requirement of this regulation. The notification will be given verbally in nearly all cases. Since this a usual and customary procedure, there is no additional burden associated with this provision.

F. <u>Exclusive Track Occupancy - Working Limits</u> (214.321)

An authority for exclusive track occupancy given to the roadway worker in charge of the working limits must be transmitted on a written or printed document directly, by relay through a designated employee, in a data transmission, or by oral communication, to the roadway worker in charge by the train dispatcher or control operator in charge of the track.

- Where authority for exclusive track occupancy is transmitted orally, the authority must be written as received by the roadway worker in charge and repeated to the issuing employee for verification.

- The roadway worker in charge of the working limits must maintain possession of the written or printed authority for exclusive track occupancy while the authority for the working limits is in effect. A data transmission of an authority displayed on an electronic screen may be used as a substitute for a written or printed document required under this paragraph. Electronic displays of authority shall comply with the requirements of § 214.322. (**Revised Requirement**)

- The train dispatcher or control operator in charge of the track must make a written or electronic record of all authorities issued to establish exclusive track occupancy.

- An authority shall specify a unique roadway work group number, an employee name, or a unique identifier. A railroad shall adopt procedures that require precise communication between trains and other on-track equipment and the roadway worker in charge or lone worker controlling the working limits in

accordance with § 214.319. The procedures may permit communications to be made directly between a train or other on-track equipment and a roadway worker in charge or lone worker, or through a train dispatcher or control operator. (**Revised Requirement**)

- The extent of working limits established through exclusive track occupancy shall be defined by one of the following physical features clearly identifiable to a locomotive engineer or other person operating a train or railroad equipment:

  * A flagman with instructions and capability to hold all trains and equipment clear of the working limits;

  * A fixed signal that displays an aspect indicating "Stop";

  * A station shown in the time-table, and identified by name with a sign, beyond which train movement is prohibited by train movement authority or the provisions of a direct train control system.

  * A clearly identifiable milepost sign beyond which train movement is prohibited by train movement authority or the provisions of a direct train control system; or

  * A clearly identifiable physical location prescribed by the operating rules of the railroad that trains may not pass without proper authority.

- Movements of trains and roadway maintenance machines within working limits established through exclusive track occupancy shall be made only under the direction of the roadway worker in charge of the working limits. Such movements shall be restricted speed unless a higher authorized speed has been specifically authorized by the roadway worker in charge of the working limits.

- Working limits established by exclusive track occupancy authority may occur behind designated trains moving through the same limits in accordance with the following provisions: (**New Requirements**)

  * The authority establishing working limits will only be considered to be in effect after it is confirmed by the roadway worker in charge or lone worker that the affected train(s) have passed the point to be occupied or fouled by:

    ** Visually identifying the affected trains(s), or

    ** Direct radio contact with a crew member of the affected train(s), or

    ** Receiving information about the affected train from the train dispatcher or control operator.

* When utilizing the provisions of paragraph (e)(1)(i) of this section, a railroad's operating rules shall include procedures to prohibit the affected train(s) from making a reverse movement into the limits being fouled or occupied.

* After the roadway worker in charge or lone worker has confirmed that the affected trains(s) have passed the point to be occupied or fouled, the roadway worker in charge shall record on the authority the time of passage and engine number(s) of the affected trains(s). If the confirmation is by direct communication with the train(s), or through confirmation by the train dispatcher or control operator, the roadway worker in charge shall record the time of such confirmation and the engine number(s) of the affected trains on the authority.

* Roadway workers afforded on-track safety by the roadway worker in charge and located between the rear end of affected trains(s) and the roadway worker in charge, or ahead of the rear end of any affected train, shall:

** Occupy or foul the track only after receiving permission from the roadway worker in charge to occupy the working limits after the roadway worker charge has fulfilled the provisions of paragraph (e)(1) of this section, and

** Be accompanied by an employee qualified to the level of a roadway worker in charge who shall also have a copy of the authority and who shall independently execute the required communication requirements of paragraphs (e)(1) and (e)(3) of this section.

* Each lone worker subject to this paragraph shall have a copy of the authority shall comply with the communication requirements of paragraphs (e)(1) and (e)(3) of this section.

* Any subsequent train or on-track equipment movements within working limits after the passage of the affected train(s) shall be governed by paragraph (d) of this section.

According to FRA's roadway worker program specialist, railroads are already doing all this. It is part of their usual and customary procedure. Consequently, there is no burden associated with this requirement.

G. **<u>Exclusive Track Occupancy, Electronic Display</u>** (214.322)

(a) While it is in effect, all the contents of an authority electronically displayed shall be readily viewable by the roadway worker in charge that is using the authority to provide on-track safety for a roadway work group. (**New Requirements**)

(1) If the electronic display device malfunctions, fails, or cannot display an authority while it is in effect, the roadway worker in charge shall instruct all roadway workers to stop work and occupy a place of safety until either a written or printed copy of the authority can be obtained in accordance with § 214.321(b)(1), or another form of on-track safety can be established.

FRA estimates that this will happen approximately 100 times a year. It is estimated that it will take approximately 10 minutes to receive either a written or printed copy of the authority. Total annual burden for this requirement is 17 hours.

Respondents Universe:	754 Railroads
Burden time per response:	10 minutes
Frequency of Response:	On occasion
Annual Number of responses:	100 written authorities/printed authority copy
First Year Burden:	17 hours

Calculation: 100 written authorities/printed authority copy x 10 min. = 17 hours

(2) In the event that a written or printed copy of the authority cannot be obtained, or another form of on-track safety cannot be established after failure of an electronic display device, the roadway worker in charge shall conduct an on-track safety job briefing to determine the safe course of action with the roadway work group.

FRA estimates that approximately 100 briefings will take place under the above requirement. It is estimated that it will take approximately two (2) minutes to complete each briefing. Total annual burden for this requirement is three (3) hours.

Respondents Universe:	754 Railroads
Burden time per response	2 minutes
Frequency of Response:	On occasion
Annual Number of responses:	100 briefings
Annual Burden:	3 hours

Calculation: 100 briefings x 2 min. = 3 hours

(b) All authorized users of an electronic display system shall be uniquely identified to support individual accountability. A user may be a person, a process, or some other system that accesses or attempts to access an electronic display system to perform tasks or process an authority.

(c) All authorized users of an electronic display system must be authenticated prior to being granted access to such system. The system shall ensure the confidentiality and integrity of all internally stored authentication data and protect it from access by unauthorized users. The authentication scheme shall utilize algorithms approved by the National Institute of Standards and Technology (NIST), or any similarly recognized and FRA approved standards body.

Railroads are already doing (b) and (c) above. It is part of their usual and customary procedure. Consequently, there is no burden associated with this requirement.

(d) The integrity of all data must be ensured during transmission/reception, processing, and storage. All new electronic display systems implemented after [**EFFECTIVE DATE OF THE FINAL RULE**] shall utilize a Message Authentication Code (MAC) to ensure that all data is error free. The MAC shall utilize algorithms approved by NIST, or any similarly recognized and FRA approved standards body. Systems implemented prior to [**EFFECTIVE DATE OF THE FINAL RULE**] may utilize a Cyclical Redundancy Code (CRC) to ensure that all data is error free provided:

(1) The collision rate for the CRC check utilized shall be less than or equal to 1 in 2^{32}. Systems implemented prior to [**EFFECTIVE DATE OF THE FINAL RULE**] that do not utilize a CRC with a collision rate less than or equal to 1 in 2^{32} must be retired or updated to utilize a MAC no later than [**A DATE ONE YEAR FROM PUBLICATION OF THE FINAL RULE IN THE FEDERAL REGISTER**].

(2) MAC and CRC checks shall only be used to verify the accuracy of an electronic authority data message and shall not be used in an error correction reconstruction of the data. An authority must fail if the MAC or CRC checks do not match.

(e) Authorities transmitted to each electronic display device shall be retained in the device's non-volatile memory for not less than 72 hours.

(f) If any electronic display device used to obtain an authority is involved in an accident/incident that is required to be reported to FRA under part 225 of this chapter, the railroad or employer that was using the device at the time of the accident shall, to the extent possible, and to the extent consistent with the safety of life and property, preserve the data recorded by each such device for analysis by FRA. This preservation requirement permits the railroad or employer to extract and analyze such data, provided the original downloaded data file, or an unanalyzed exact copy of it, shall be retained in secure custody and shall not be utilized for analysis or any other purpose except by direction of FRA or the National Transportation Safety Board. This preservation requirement shall expire one (1) year after the date of the accident unless FRA or the

National Transportation Safety Board notifies the railroad in writing that the data are desired for analysis.

FRA estimates that this requirement will affect approximately 25 railroads. FRA estimates that approximately 380 data files records will be retained under the above requirement. It is estimated that it will take approximately two (2) hours to extract, analyze, and retain the data file record. Total annual burden for this requirement is 760 hours.

Respondents Universe:	25 Railroads
Burden time per response	2 minutes
Frequency of Response:	On occasion
Annual Number of responses:	380 data files records
Annual Burden:	760 hours

Calculation: 380 data files records x 2 hrs. = 760 hours

Total annual burden for this requirement is 780 hours (17 + 3 + 760).

H. Foul Time Working Limit Procedures (214.323)

Working limits established on controlled track through the use of foul time procedures must comply with the following requirements:

(a) Foul time may be given orally or in writing by the train dispatcher or control operator only after that employee has withheld the authority of all trains or other on-track equipment to move into the working limits during the foul time period.

(b) Each roadway worker to whom foul time is transmitted orally must repeat the track number, track limits and time limits of the foul time to the issuing employee for verification before the foul time becomes effective.

(c) The train dispatcher or control operator must not permit the movement of trains or other on-track equipment onto the working limits protected by foul time until the roadway worker who obtained the foul time has reported clear of the track.

(d) The roadway worker in charge shall not permit the movement of trains or other on-track equipment into or within working limits protected by foul time.

This requirement corresponds with current practice in the railroad industry, and is not considered an additional requirement of this regulation. The notification will be given verbally in nearly all cases. Since this is the usual and customary procedure, there is no additional burden associated with this provision.

I. **Verbal Protection** (214.324)

Working limits established through verbal protection may only occur within manual interlockings or within controlled points and shall comply with the following requirements: (**New Requirements**)

(a) Verbal protection shall be communicated to the roadway worker in charge by the train dispatcher or control operator only after that employee has withheld the authority of all trains or other on-track equipment to move into or within the limits to be protected.
(b) Each roadway worker in charge to whom verbal protection is transmitted shall repeat the track number, track limits and time limits of the verbal protection to the issuing employee for verification before the verbal protection becomes effective.

(c) No train or on-track equipment may move into working limits protected by verbal protection until permission has been received from the roadway worker in charge and authority has been given by the train dispatcher or control operator.

FRA estimates that only about 20 percent of railroads will utilize "verbal protection", and these railroads will now be allowed to permit trains into their working limits. FRA estimates that approximately 4,950 roadway workers will complete (on average) two verbal protection communications per day during their five day work week. They work, on average, approximately 265 days per year. Thus, approximately 2,623,500 verbal protection communications will take place each year under the above requirements. It is estimated that it will take approximately five (5) minutes to complete each verbal protection communications. Total annual burden for this requirement is 218,625 hours.

Respondents Universe:	150 Railroads
Burden time per response	5 minutes
Frequency of Response:	On occasion
Annual Number of responses:	2,623,500 verbal protection communications
Annual Burden:	218,625 hours

Calculation: 2,623,500 verbal protection communications x 5 min. = 218,625 hours

J. **Train Coordination** (214.325)

Working limits established by a roadway worker in charge through the use of train coordination must comply with the following requirements:

(a) Working limits established by train coordination must be within the segments of track or tracks upon which only one train holds exclusive track authority to move.

(b) The roadway worker who establishes working limits by train coordination must communicate with a member of the crew of the train holding the exclusive authority to move, and must determine that:

(1) The train is visible to the roadway worker who is establishing the working limits;

(2) The train is stopped;

(3) Further movements of the train will be made only as permitted by the roadway worker in charge of the working limits while the working limits remain in effect; and

(4) The crew of the train will not give up its exclusive authority until the working limits have been released to the train crew by the roadway worker in charge of the working limits.

FRA estimates that approximately 100 communications per day (36,500 annually) involving train coordination will be made by roadway workers under this requirement. It is estimated that it will take approximately 15 seconds to make each communication. Total annual burden for this requirement is 152 hours.

Respondents:	50,000 Roadway Workers
Burden time per response:	15 seconds
Frequency of Response:	On occasion
Annual Number of responses:	36,500 communications
Annual Burden:	152 hours

Calculation: 36,500 communications x 15 sec. = 152 hours

K. Inaccessible Track (214.327)

Working limits on non-controlled track shall be established by rendering the track within working limits physically inaccessible to trains at each possible point of entry by one of the following features:

- (1) A flagman with instructions and capability to hold all trains and equipment clear of the working limits;

- (2) A switch or derail aligned to prevent access to the working limits and secured with an effective securing device by the roadway worker in charge of the working limits;

- (3) A discontinuity in the rail that precludes passage of trains or engines into the working limits;

- (4) Working limits on controlled track that connects directly with the inaccessible track, established by the roadway worker in charge of the working limits on the inaccessible track; or

- (5) A remotely controlled switch aligned to prevent access to the working limits and secured by the control operator of such remotely controlled switch by application of a locking or blocking device to the control of that switch, when: (i) The control operator has secured the remotely controlled switch by applying a locking or blocking device to the control of the switch, and (ii) The control operator has notified the roadway worker who has established the working limits that the requested protection has been provided, and (iii) The control operator is not permitted to remove the locking or blocking device from the control of the switch until receiving permission to do so from the roadway worker who established the working limits.

- (6) A locomotive with or without cars placed to prevent access to the working limits at one or more points of entry to the working limits, provided the following conditions are met: (**New Requirement**)

- (i) The roadway worker in charge who is responsible for establishing working limits communicates with a member of the crew assigned to the locomotive and determines that:

- (A) The locomotive is visible to the roadway worker in charge that is establishing the working limits, and

- (B) The locomotive is stopped.

- (ii) Further movements of the locomotive shall be made only as permitted by the roadway worker in charge controlling the working limits;

- (iii) The crew of the locomotive shall not leave the locomotive unattended or go off-duty unless communication occurs with the roadway worker in charge and an alternate means of on-track safety protection has been established by the roadway worker in charge; and

- (iv) Cars coupled to the locomotive on the same end and on the same track as the roadway workers shall be connected to the train line air brake and such system shall be charged with compressed air to initiate an emergency brake application in case of unintended uncoupling. Cars coupled to the locomotive on the same track

on the opposite end of the roadway workers shall have sufficient braking capability to control movement.

This new requirement will affect approximately 10 railroads. FRA estimates that approximately 25 communications per day or 9,125 communications per year will occur under the above requirement. It is estimated that each communication will take approximately 10 minutes to complete. Total annual burden for this requirement is 1,521 hours.

Respondents:	10 Railroads
Burden time per response:	10 minutes
Frequency of Response:	On occasion
Annual Number of responses:	9,125 communications
Annual Burden:	1,521 hours

Calculation: 9,125 communications x 10 min. = 1,521 hours

(7) A railroad's procedure governing block register territory that prevents trains and other on-track equipment from occupying the track when the territory is under the control of a lone worker or roadway worker in charge. The roadway worker in charge or lone worker shall have the absolute right to render such block register territory inaccessible under the provisions of paragraphs (a)(1) through (a)(6) of this section. (**New Requirement**)

Railroads already have such a procedure under their operating rules. It is a usual and customary practice for them. Consequently, there is no burden associated with the above requirement.

(8) Railroad operating rules that prohibit train or engine movements on a main track within yard limits or restricted limits until the train or engine receives notification of any working limits in effect and prohibit the train or engine from entering working limits until permission is received by the roadway worker in charge. Such working limits shall be delineated with stop signs (flags), and where speeds are in excess of restricted speed and physical characteristics permit, advance signs (flags). (**New Requirement**)

This new requirement will also affect approximately 10 railroads. FRA estimates that approximately 1,750 notifications per year will occur under the above requirement. It is estimated that each notification will take approximately 10 minutes to complete. Total annual burden for this requirement is 292 hours.

Respondents:	10 Railroads
Burden time per response:	10 minutes
Frequency of Response:	On occasion
Annual Number of responses:	1,750 notifications
Annual Burden:	292 hours

Calculation: 1,750 notifications x 10 min. = 292 hours

(b) Trains and roadway maintenance machines within working limits established by means of inaccessible track shall move only under the direction of the roadway worker in charge of the working limits, and shall move at restricted speed.

(c) No operable locomotives or other items of on-track equipment, except those present or moving under the direction of the roadway worker in charge of the working limits, shall be located within working limits established by means of inaccessible track.

FRA estimates that this will occur approximately 50,000 times annually. It is estimated that it will take approximately 10 minutes per occurrence. Total annual burden for this requirement is 8,333 hours.

Respondent Universe:	754 Railroads
Burden time per responses:	10 minutes
Frequency of Response:	On occasion
Annual Number of responses:	50,000 occurrences
Annual Burden:	8,333 hours

Calculation: 50,000 occurrences x 10 min. = 8,333 hours

Total annual burden for this entire requirement is 10,146 hours (1,521 + 292 + 8,333).

L. Train Approach Warning Provided by Watchmen/Lookouts (214.329)

Roadway workers in a roadway work group who foul any track outside of working limits shall be given warning of approaching trains by one or more watchmen/lookouts in accordance with the following provisions:

(a) Expect as provided for in § 214.338(a)(2)(iii), train approach warning shall be given in sufficient time to enable each roadway worker to move to and occupy a previously arranged place of safety not less than 15 seconds before a train moving at the maximum speed authorized on that track can pass the location of the roadway worker. The place of safety to be occupied upon the approach of a train may not be on a track, unless working limits are established on that track.

(b) Watchmen/lookouts assigned to provide train approach warning shall devote full attention to detecting the approach of trains and communicating a warning thereof, and shall not be assigned any other duties while functioning as watchmen/lookouts.

(c) The means used by a watchman/lookout to communicate a train approach warning shall be distinctive and shall clearly signify to all recipients of the warning that a train or other on-track equipment is approaching.

(d) Every roadway worker who depends upon train approach warning for on-track safety shall maintain a position that will enable him or her to receive a train approach warning communicated by a watchman/lookout at any time while on-track safety is provided by train approach warning.

(e) Watchmen/lookouts shall communicate train approach warnings by a means that does not require a warned employee to be looking in any particular direction at the time of the warning, and that can be detected by the warned employee regardless of noise or distraction of work.

FRA estimates that the communications described above will take place approximately 3,000 times per day for each of the 265 days each year that the nation's estimated 50,000 roadway workers are out on tracks. Thus, approximately 795,000 communications will occur. It is estimated that each communication will take approximately 30 seconds to complete. Total annual burden for this requirement is 6,625 hours.

Respondents:	754 Railroads
Burden time per response:	30 seconds
Frequency of Response:	On occasion
Annual Number of responses:	795,000 communications
Annual Burden:	6,625 hours

Calculation: 795,000 communications x 30 sec. = 6,625 hours

(f) Every roadway worker who is assigned the duties of a watchman/lookout shall first be trained, qualified and designated in writing by the employer to do so in accordance with the provisions of §214.349.

FRA estimates that approximately 26,250 written designations will be made under the above requirement. It is estimated that each written designations will take approximately 30 seconds to complete. Total annual burden for this requirement is 219 hours.

Respondents:	754 Railroads
Burden time per response:	30 seconds
Frequency of Response:	On occasion
Annual Number of responses:	26,250 written designations
Annual Burden:	219 hours

Calculation: 26,250 written designations x 30 sec. = 219 hours

Total annual burden for this requirement is 6,844 hours (6,625 + 219).

M. <u>Definite Train Location Information</u> (214.331)

A roadway worker may establish on-track safety by using definite train location information only where permitted by and in accordance with the provisions stipulated in paragraphs (a), (b), and (c) of this section and with the provisions listed in this section.

(d) Definite train location information must only be used to establish on-track safety according to the following provisions: (1) Definite train location information shall be issued only by the one train dispatcher who is designated to authorize train movements over the track for which the information is provided. (2) A definite train location list must indicate all trains to be operated on the track for which the list is provided during the time for which the list is effective. (3) Trains not shown on the definite train location list must not be operated on the track for which the list is provided, during the time for which the list is effective, until each roadway worker to whom the list has been issued has been notified of the train movement, has acknowledged the notification to the train dispatcher, and has canceled the list. A list thus canceled will then be invalid for on-track safety. (4) Definite train location must not be used to establish on-track safety within the limits of a manual interlocking, or on track over which train movements are governed by a Traffic Control System or by a Manual Block System. (5) Roadway workers using definite train location for on-track safety must not foul a track within 10 minutes before the earliest time that a train is due to depart the last station at which time is shown in approach to the roadway worker's location nor until that train has passed the location of the roadway worker. (6) A railroad must not permit a train to depart a location designated in a definite train location list before the time shown therein. (7) Each roadway worker who uses definite train location to establish on-track safety must be qualified on the relevant physical characteristics of the territory for which the train location information is provided.

(e) Each on track safety program that provides for the use of definite train location shall discontinue such use by [**DATE ONE YEAR FROM THE DATE OF PUBLICATION OF THE FINAL RULE IN THE FEDERAL REGISTER**]. (**New Provision/Requirement**)

Previously, the only determinable burden from this section of the rule was for the establishment of a schedule for phase-out. This affected only two or three Class I railroads and the task can reasonably be performed in four to five hours per railroad. This burden was accounted for in the previous burden of developing on track safety programs. The proposed rule stipulates that definite train location must be discontinued one year after this revised final rule is published in the Federal Register. With this new requirement, there will no longer be any burden for any of the railroads.

N. **Informational Line-Ups of Trains** (214.333)

(a) A railroad is permitted to include informational line-ups of trains in its on-track safety program for use only on subdivisions of that railroad upon which such procedure was in effect on March 14, 1996.

(b) Each procedure for the use of informational line-ups of trains found in an on-track safety program shall include all provisions necessary to protect roadway workers using the procedure against being struck by trains or other on-track equipment.

(c) Each on track safety program that provides for the use of informational line-ups shall discontinue such use by [**DATE 1 YEAR FROM THE DATE OF PUBLICATION OF THE FINAL RULE IN THE FEDERAL REGISTER**]. (**Revised Language w/Date**)

The burden for on-track safety programs is included above under that of § 214.305. There is no additional burden associated with this requirement.

L. On-Track Safety Procedures for Roadway Work Groups (214.335)

No roadway worker who is a member of a roadway work group shall foul a track without having been informed by the roadway worker in charge of the roadway work group that on-track safety is provided.

The burden for this requirement is addressed in § 214.315, Supervision and Communication. Consequently, there is no additional burden associated with this requirement.

O. **On-Track Safety Procedures for Certain Roadway Work Groups and Adjacent Tracks** (214.336)

(a) Procedures; general. (1) Except as provided in paragraph (e) of this section, on-track safety is required for each adjacent controlled track when a roadway work group with at least one of the roadway workers on the ground is engaged in a common task with on-track, self propelled equipment or coupled equipment on an occupied track. The required on-track safety must be established through § 214.319 (Working limits, generally) or § 214.329 (Train approach warning provided by watchmen/lookouts) and as more specifically described in this section.

(2) Special circumstances arising in territories with at least three tracks, if an occupied track is between two adjacent tracks, at least one of which is an adjacent controlled track. If an occupied track has two adjacent controlled tracks, and one of these adjacent controlled tracks has one or more train or other on-track equipment movements

authorized or permitted at a speed of 25 mph or less, and the other adjacent controlled track has one or more concurrent train or other on-track equipment movements authorized or permitted at a speed over 25 mph, the more restrictive procedures in paragraph (b) of this section apply. (ii) If an occupied track has an adjacent controlled track on one side (Side X), and a non-controlled track whose track center is spaced 19 feet or less from the track center of the occupied track on the other side (Side Y), the affected roadway workers must treat the non-controlled track on Side Y as an adjacent controlled track for purposes of this section. (3) As used in this section, "adjacent controlled track" means a controlled track whose track center is spaced 19 feet or less from the track center of the occupied track. Note, however, that under the special circumstances specified in paragraph (a)(2)(ii) of this section, a non-controlled track whose track center is spaced 19 feet or less from the track center of the occupied track must be treated as an adjacent controlled track for purposes of this section. "Adjacent track" means a controlled or non-controlled track whose track center means is spaced less than 25 feet from the track center of the occupied track. "Inter-track barrier means a continuous barrier of a permanent or semi-permanent nature that spans the entire work area, that is at least four feet in height, and that is of sufficient strength to prevent a roadway worker from fouling the adjacent track.
Minor correction means one or more repairs of a minor nature, including, but not limited to, spiking, anchoring, hand tamping, and joint bolt replacement that is accomplished with hand tools or handheld pneumatic tools only. The term does not include welding, machine spiking, machine tamping, or any similarly distracting repair. Occupied track" means a track on which on-track, self-propelled equipment or coupled equipment is authorized or permitted to be located while engaged in a common task with a roadway work group with a least one of the roadway workers on the ground.

Any burden associated with § 214.319, and § 214.329 are included in those sections, respectively. Consequently, there is no additional burden under the above provision.

(b) Procedures for adjacent-controlled-track movements over 25 mph. If a train or other on-track equipment is authorized to move on an adjacent controlled track at a speed greater than 25 mph, each roadway worker in the roadway work group that is affected by such movement must comply with the following procedures:

(1) Ceasing work and occupying a predetermined place of safety. Except for the work activities as described in paragraph (e) of this section, each affected roadway worker must, as described in Table 1 of this section, cease all on-ground work and equipment movement that is being performed on or between the rails of the occupied track or on one or both sides of the occupied track, and occupy a predetermined place of safety upon receiving either a watchman/lookout warning, or alternatively, a notification that the roadway worker in charge intends to permit one or more train or other on-track equipment movements through the working limits on the adjacent controlled track.

(2) Resuming work. (i) An affected roadway worker may resume on-ground work and equipment movement (on or between the rails of the occupied track on one or both sides of the occupied track as described in Table 1 of this section) only after the trailing-end of all trains or other on-track equipment moving on the adjacent controlled track (for which a warning or notification has been received in accordance with paragraph (b)(1) of this section) has passed and remains ahead of that roadway worker.

FRA estimates that approximately 10,000 notifications or watchmen lookout warnings will be made under the above requirement. It is estimated that it will take approximately 15 seconds to make each notification/watchman lookout warning. Total annual burden for this requirement is 42 hours.

Respondents Universe:	100 Railroads
Burden time per response:	15 seconds
Frequency of Response:	On occasion
Annual Number of responses:	10,000 notifications or watchmen lookout warnings
First Year Burden:	42 hours

Calculation: 10,000 notifications or watchmen lookout warnings x 15 sec. = 42 hours

(ii) If the train or other on-track equipment stops before its trailing-end has passed all of the affected roadway workers in the roadway work group, the work to be performed (on or between the rails of the occupied track or on one or both sides of the occupied track as described in Table 1 of this section) ahead of the trailing-end of the train or other on-track equipment on the adjacent controlled track may resume only – (A) If on-track safety through train approach warning (§ 214.329) has been established on the adjacent controlled track; or (B) After the roadway worker in charge has communicated with a member of the train crew or the on-track equipment operator and established that further movements of such train or other on-track equipment shall be made only as permitted by the roadway worker in charge.

FRA estimates that approximately 3,000 communications will take place under the above scenario. It is estimated that each communication will take approximately one (1) minute to make complete. Total annual burden for this requirement is 50 hours.

Respondents Universe:	100 Railroads
Burden time per response:	1 minute
Frequency of Response:	On occasion
Annual Number of responses:	3,000 communications
First Year Burden:	50 hours

Calculation: 3,000 communications x 1 min. = 50 hours

(c) Procedures for adjacent-controlled-track movements 25 mph or less. If a train or other on-track equipment is authorized or permitted to move on an adjacent controlled track at a speed of 25 mph or less, each roadway worker in the roadway work group that is affected by such movement must comply with the procedures listed in paragraph (b) of this section, except that equipment movement on the rails of the occupied track and on-ground work performed exclusively between the rails (i.e., not breaking the plane of the rails) of the occupied track may continue, provided that no on-ground work is performed within the areas 25 feet in front or 25 feet behind any on-track, self-propelled equipment or coupled equipment permitted to move on the occupied track.

In keeping with the requirements listed in paragraph (b) of this section, FRA estimates that approximately 3,000 notifications or watchmen lookout warnings will be made under the above requirement. It is estimated that it will take approximately 15 seconds to make each notification/watchman lookout warning. Total annual burden for this requirement is 13 hours.

Respondents Universe:	100 Railroads
Burden time per response:	15 seconds
Frequency of Response:	On occasion
Annual Number of responses:	3,000 notifications or watchmen lookout warnings
First Year Burden:	13 hours

Calculation: 3,000 notifications/watchmen lookout warnings x 15 sec. = 13 hrs.

In keeping with the requirements listed in paragraph (b) of this section, FRA estimates that approximately 1,500 communications will take place under the above scenario. It is estimated that each communication will take approximately one (1) minute to make complete. Total annual burden for this requirement is 25 hours.

Respondents Universe:	100 Railroads
Burden time per response:	1 minute
Frequency of Response:	On occasion
Annual Number of responses:	1,500 communications
First Year Burden:	25 hours

Calculation: 1,500 communications x 1 min. = 25 hours

(e) Exceptions to the requirements in paragraphs (a), (b), and (c) for adjacent-controlled-track on-track safety. No on-track safety (other than that required by paragraph (f) (Procedures for components of roadway maintenance machines fouling an adjacent controlled track) or provided under paragraph (d) (Discretion of roadway worker in

charge) of this section) is required by this section for an adjacent controlled track during the times that the roadway work group is exclusively performing one or more of the following work activities:

(1) On-ground work performed on a side of the occupied track meeting specified condition(s). A roadway work group with all of its on-ground roadway workers (other than those performing work in accordance with another exception in paragraph (e) of this section) performing work while exclusively positioned on a side of the occupied track as follows and as further specified in Table 1 of this section: (i) The side with no adjacent track**;** (ii) The side with one or more adjacent tracks, the closest of which has working limits on it and no movements permitted within such working limits by the roadway worker in charge; or (iii) The side with one or more adjacent tracks, provided that that it has an inter-track barrier between the occupied track and the closest adjacent track on that side.

(2) Maintenance or repairs performed alongside machines or equipment on the occupied track. One or more roadway workers performing maintenance or repairs alongside a roadway maintenance machine or coupled equipment, provided that such machine or equipment would effectively prevent the worker from fouling the adjacent controlled track on the other side of such equipment, and that such maintenance or repairs are performed while positioned on a side of the occupied track as described in paragraph (e)(1)(i), (e)(1)(ii), or (e)(1)(iii) and Table 1 of this section.

(3) Work activities involving certain equipment and purposes. One or more on-ground roadway workers engaged in a common task on an occupied track with on-track, self-propelled equipment or coupled equipment consisting exclusively of one or more of the types of equipment described in paragraphs (e)(3)(i) through (e)(3)(iii) of this section. If such a roadway work group ("excepted group") is authorized or permitted to operate on the same occupied track and within the working limits of a separate roadway work group performing work that is subject to the requirements of this section ("non-excepted group") or vice versa (i.e., a non-excepted group is authorized or permitted to operate on the same occupied track and within the working limits of an excepted group), the groups must conduct an on-track safety job briefing to determine if adjacent-controlled-track on-track safety is necessary for the excepted group. Such determination shall be made by the roadway worker in charge of the working limits; however, if the groups are in such proximity where the ability of the roadway workers in the excepted group to hear or see approaching trains and other on-track equipment is impaired by background noise, lights, sight obstructions or any other physical conditions caused by the equipment, then this exception does not apply, and adjacent-controlled-track on-track safety must be provided to both groups. This exception otherwise applies to work activities involving one or more of the following types of equipment:

(i) A hi-rail vehicle (other than a catenary maintenance tower vehicle) being used for inspection or minor correction purposes, provided that such hi-rail vehicle is not coupled to one or more railroad cars. In accordance with § 214.315(a), where multiple hi-rail vehicles being used for inspection or minor correction are engaged in a common task, the on-track safety job briefing shall include discussion of the nature of the work to be performed to determine if adjacent-controlled-track on-track safety is necessary.

(ii) An automated inspection car being used for inspection or minor correction purposes.

(iii) A catenary maintenance tower car or vehicle, provided that all of the on-ground workers engaged in the common task (other than those performing work in accordance with another exception in paragraph (e) of this section) are positioned within the gage of the occupied track for the sole purpose of applying or removing grounds.

There are approximately 24,500 roadway workers and 10,500 signalmen/lone workers who will be affected by this new requirement. Each affected worker will undergo 327 daily briefings per year as noted in 214.15. However, FRA believes that there will be 30 percent less annual daily briefings pertaining to this requirement. Thus, there will be approximately 98.1 briefings per affected worker under this requirement (327 x .30). Further, FRA believes that many railroad operations – approximately 70% -- are already including this information in their job briefings, where pertinent. Consequently, approximately 29.43 briefings per affected worker will take place each year (98.1 x .30). As a result, FRA estimated that approximately 1,030,050 on-track safety job briefings will occur under this new requirement (35,000 affected workers x 29.43). FRA estimates that it will take approximately 15 seconds to complete each briefing. Total annual burden for this requirement is 4,292 hours.

Respondents Universe:	100 Railroads
Burden time per response:	.25 minute
Frequency of Response:	On occasion
Annual Number of responses:	1,030,050 on-track safety job briefings
First Year Burden:	4,292 hours

Calculation: 1,030,050 on-track safety job briefings x .25 min. = 4,292 hours

Total annual burden for this entire requirement is 4,422 hours (42 + 50 + 13 + 25 + 4,292).

P. On-track Safety Procedures for Lone Workers (214.337)

(a) A lone worker who fouls a track while performing routine inspection or minor correction may use individual train detection to establish on-track safety only where permitted by this section and the on-track safety program of the railroad.

(b) A lone worker retains an absolute right to use on-track safety procedures other than individual train detection if he or she deems it necessary, and to occupy a place of safety until such other form of on-track safety can be established.

The burden for on-track safety programs/procedures is included above under that of § 214.305. There is no additional burden associated with this requirement.

(c) Individual train detection may be used to establish on-track safety only:

(1) By a lone worker who has been trained, qualified, and designated to do so by the employer in accordance with § 214.347 of this subpart;

(2) While performing routine inspection and minor correction work;

(3) On track outside the limits of a manual interlocking, a controlled point (except those consisting of signals only), or a remotely controlled hump yard facility. (**Revised requirement/language**)

(4) Where the lone worker is able to visually detect the approach of a train moving at the maximum speed authorized on that track, and move to a previously determined place of safety, not less than 15 seconds before the train would arrive at the location of the lone worker;

(5) Where no power-operated tools or roadway maintenance machines are in use within the hearing of the lone worker; and

(6) Where the ability of the lone worker to hear and see approaching trains and other on-track equipment is not impaired by background noise, lights, precipitation, fog, passing trains, or any other physical conditions.

(d) The place of safety to be occupied by a lone worker upon the approach of a train may not be on a track, unless working limits are established on that track.

(e) A lone worker using individual train detection for on-track safety while fouling a track may not occupy a position or engage in any activity that would interfere with that worker's ability to maintain a vigilant lookout for, and detect the approach of, a train moving in either direction as prescribed in this section.

(f) A lone worker who uses individual train detection to establish on-track safety shall first complete a written Statement of On-track Safety. The Statement shall designate the limits of the track for which it is prepared and the date and time for which it is valid. The statement shall show the maximum authorized speed of trains within the limits for which it is prepared, and the sight distance that provides the required warning of approaching

trains. The lone worker using individual train detection to establish on-track safety shall produce the Statement of On-track Safety when requested by a representative of the Federal Railroad Administrator.

A lone worker who uses individual train detection to establish on-track safety must first complete a written Statement of On-Track Safety. The Statement must designate the limits of the track for which it is prepared and the date and time for which it is valid. The statement must show the maximum authorized speed of trains within the limits for which it is prepared, and the sight distance that provides the required warning of approaching trains. The lone worker using individual train detection to establish on-track safety must produce the Statement of On-Track Safety when requested by a representative of the Federal Railroad Administrator.

This statement will only be prepared by lone workers who are not under protection by train approach warning or working limits. According to the requirements of this rule, this will primarily occur when a lone worker will be working outside a manual interlocking or remote hump yard facility, and not within hearing distance of any power tools. Results from an earlier BRS Survey determined that this is only 2.33 percent of the time. This figure has not changed. FRA estimates that, at any one time, only one-fifth or approximately 10,000 roadway workers will be working as lone workers. It is estimated that each of these workers, on average, will write a Statement of On-Track safety about four times a week. This amounts to a total of 2,080,000 statements (10,000 workers x 4 statements p/wk x 52 weeks) for the industry per year. It is estimated that it will take approximately 30 seconds to prepare this statement. Some railroads will provide lone workers with an additional chart that has the necessary distance, in accordance with the new adjacent track requirements, to clear the track for the different speed limits. It is expected that most railroads will also develop a one-page form that will make this task less burdensome. Total annual burden for this requirement is 17,333 hours.

Respondent Universe:	754 Railroads
Burden time per response:	30 seconds
Frequency of Response:	On occasion
Annual Number of responses:	2,080,000 statements
Annual Burden:	17,333 hours

Calculation: 2,080,000 statements x 30 sec. = 17,333 hours

Additionally, under the **revised** requirement under (c)(3) above, FRA estimates that an additional 200 Statement of On-Track safety will be completed each year. It is estimated that it will take approximately 30 seconds to complete each Statement of On-Track safety. Total annual burden for this requirement is two (2) hours. (**New/additional burden**)

Respondent Universe:	754 Railroads

Burden time per response:	30 seconds
Frequency of Response:	On occasion
Annual Number of responses:	200 statements
Annual Burden:	2 hours

Calculation: 200 statements x 30 sec. = 2 hours

Total annual burden for this requirement is 17,335 hours (17,333 + 2).

Q. Passenger Station Platform Snow Removal and Cleaning (214.338) (**New Requirements**)

(a) A roadway worker or roadway work group assigned to perform snow removal or cleaning on a passenger station platform, whose duties would require a roadway worker to foul a track with a hand-held, non-powered tool, may conduct such activities without establishing working limits, provided the following conditions are met:

(1) The railroad has designated a station platform work coordinator who is responsible for directing the on-track safety of the roadway worker or roadway work group performing the snow removal or cleaning.

This requirement will affect approximately 15 railroads. FRA estimates that approximately 1,115 designations of a station platform work coordinator will be made by railroads under the above requirement. It is estimated that it will take approximately one (1) minute to complete designation. Total annual burden for this requirement is 19 hours.

Respondents Universe:	15 Railroads
Burden time per response:	1 minute
Frequency of Response:	On occasion
Annual Number of responses:	1,115 work coordinator designations
First Year Burden:	19 hours

Calculation: 1,115 work coordinator designations x 1 min. = 19 hours

(2) The fouling area in which only hand-held, non-powered tools may be used has been clearly delineated and is no less than four feet from the field side of the near rail of the track. For purposes of this section, delineation may consist of permanent markings (e.g., tactile strips or signs), a temporary marking system (e.g., safety cones), or a printed diagram showing measurements from the edge of the platform that has been provided to the affected roadway workers.

Railroads, as a usual and customary procedure/practice, routinely delineate fouling areas by issuing technical bulletins. Consequently, there is no burden associated with this requirement.

(3) The station platform work coordinator has ready access to a landline or wireless communication device that would permit immediate access to the designated roadway worker in charge and, in case of an emergency, the train dispatcher or control operator controlling on-track movements. The contact information and instructions for reaching both the designated roadway worker in charge and the train dispatcher or control operator shall also be provided to the station platform work coordinator prior to the commencement of any work pursuant to this section.

FRA estimates that approximately 223 communications of contact information/ instructions will be completed providing the station platform work coordinator with the required information. It is estimated that it will take approximately five (5) minutes to provide the necessary communication. Total annual burden for this requirement is 19 hours.

Respondents Universe:	15 Railroads
Burden time per response:	5 minutes
Frequency of Response:	On occasion
Annual Number of responses:	223 communications
First Year Burden:	19 hours

Calculation: 223 communications x 5 min. = 19 hours

(4) The station platform work coordinator must be present at the station platform at all times work is being performed pursuant to this section and take the following actions:

(i) Inform the designated roadway worker in charge of the work to be performed;

FRA estimates that approximately 223 communications will be completed by the station platform work informing the designated roadway worker in charge of the work to be performed. It is estimated that it will take approximately five (5) minutes to complete each communication. Total annual burden for this requirement is 19 hours.

Respondents Universe:	15 Railroads
Burden time per response:	5 minutes
Frequency of Response:	On occasion
Annual Number of responses:	223 communications
First Year Burden:	19 hours

Calculation: 223 communications x 5 min. = 19 hours

(ii) Conduct an initial on-track safety briefing with the roadway worker or roadway work group pursuant to § 214.315 of this part; and

FRA estimates that approximately 1,115 briefings will be completed by the station platform work coordinator with the roadway worker or roadway work group under the above requirement. It is estimated that it will take approximately two (2) minutes to complete each briefing. Total annual burden for this requirement is 37 hours.

Respondents Universe:	15 Railroads
Burden time per response:	2 minutes
Frequency of Response:	On occasion
Annual Number of responses:	1,115 briefings
First Year Burden:	37 hours

Calculation: 1,115 briefings x 2 min. = 37 hours

(iii) Establish train approach warning that requires a watchman/lookout to warn of the approach of any train or on-track equipment and requires roadway worker(s) to withdraw hand-held, non-powered tools from the delineated fouling area upon receiving such warning. Such warning may be based on available sight distance and may give less timely notice than that prescribed by § 214.329(a) of this part.

This requirement will affect approximately 15 railroads and their approximately 300 station platform work coordinators. FRA estimates that approximately seven (7) railroads with an average of 125 platforms each and an additional eight (8) smaller railroads with 30 platforms each, or a total of 1,115 platforms will need to be cleaned approximately 15 times per year. Thus, 16,725 platforms will need to be cleaned each year. The station platform work coordinator will conduct a briefing to establish train approach warning at each platform (16,725 briefings per year). It is estimated that it will take approximately 30 seconds to complete each briefing. Total annual burden for this requirement is 139 hours.

Respondents Universe:	15 Railroads
Burden time per response:	30 seconds
Frequency of Response:	On occasion
Annual Number of responses:	16,725 briefings
First Year Burden:	139 hours

Calculation: 16,725 briefings x 30 sec. = 139 hours

Total annual burden for this entire requirement is 233 hours (19 + 19 + 19 + 37 + 139).

R. **Audible Warning from Trains** (214.339) (**Revised Requirement**)

(a) Each railroad shall have in effect and comply with written procedures that prescribe effective requirements for audible warning by horn and/or bell for trains and locomotives approaching any roadway workers or roadway maintenance machines that are either on the track on which the movement is occurring, or about the track if the roadway workers or roadway maintenance machines are at risk of fouling the track. At a minimum, such written procedures shall address:

(1) Initial horn warning,

(2) Subsequent warning(s), and

(3) Alternative warnings in areas where sounding the horn adversely affects roadway workers (e.g., in tunnels and terminals).

(b) Such audible warning shall not substitute for on-track safety procedures prescribed in this part.

This requirement will affect approximately 25 railroads. Thus, FRA estimates that approximately 25 written procedures that prescribe effective requirements for audible warning by horn and/or bell for trains and locomotives approaching any roadway workers or roadway maintenance machines will be completed under the above requirement. It is estimated that it will take the seven (7) Class I railroads approximately 12 hours to complete each written procedure and the other 18 smaller railroads approximately two (2) to complete each written procedure. Total annual burden for this requirement is 120 hours.

Respondents Universe:	25 Railroads
Burden time per response:	12 hours + 2 hours
Frequency of Response:	On occasion
Annual Number of responses:	25 written procedures
First Year Burden:	120 hours

Calculation: 7 written procedures x 12 hrs. + 18 written procedures x 2 hrs. = 120 hours

S. **TRAINING REQUIREMENTS**

(1) **Training and Qualification** (214.343; 214.345)

- No employer shall assign an employee to perform the duties of a roadway worker, and no employee shall accept such assignment, unless that employee has received training in the

on-track safety program procedures associated with the assignment to be performed, and that employee has demonstrated the ability to fulfill the responsibilities for on-track safety that are required of an individual roadway worker performing that assignment.

- Each employer must provide to all roadway workers in its employ initial or recurrent training once every calendar year on the on-track safety rules and procedures that they are required to follow.

- (c) Except as provided for in § 214.353, railroad employees other than roadway workers, who are associated with on-track safety procedures, and whose primary duties are concerned with the movement and protection of trains, shall be trained to perform their functions related to on-track safety through the training and qualification procedures prescribed by the operating railroad for the primary position of the employee, including maintenance of records and frequency of training.

- Each employer of roadway workers must maintain written or electronic records of each roadway worker's qualifications in effect. Each record must include the name of the employee, the type of qualification made, and the most recent date of qualification. These records must be kept available for inspection and photocopying by the Federal Railroad Administration during regular business hours.

* Consistent with § 214.343(b), the training for all roadway workers must include, as a minimum, the following:

*Recognition of railroad tracks and understanding of the space around them within which on-track safety is required;

*The functions and responsibilities of various persons involved with on-track safety procedures;

*Proper compliance with on-track safety instructions given by persons performing or responsible for on-track safety functions;

*Signals given by watchmen/lookouts, and the proper procedures upon receiving a train approach warning from a lookout;

*The hazards associated with working on or near railroad tracks, including review of on-track safety rules and procedures.

(2) <u>Training and Qualification for Lone Workers</u> (214.347)

Each lone worker must be trained and qualified by the employer to establish on-track safety in accordance with the requirements of this section, and must be authorized to do so by the railroad that conducts train operations on those tracks.

The training and qualification for lone works must include, as a minimum, consideration of the following factors:

- Detection of approaching trains and prompt movement to a place of safety upon their approach;

- Determination of the distance along the track at which trains must be visible in order to provide the prescribed warning time;

- Rules and procedures prescribed by the railroad for individual train detection, establishment of working limits, and definite train location; and

- On-track safety procedures to be used in the territory on which the employee is to be qualified and permitted to work alone.

- Alternative means to access to the information in a railroad's on-track safety manual when a lone worker's duties make it impracticable to carry the manual. (**New/additional requirement**)

(3) **Training and Qualification of Watchmen/Lookouts** (214.349)

The training and qualification for roadway workers assigned the duties of watchmen/lookouts must include, as a minimum, consideration of the following factors:

- Detection and recognition of approaching trains;

- Effective warning of roadway workers of the approach of trains;

- Determination of the distance along the track at which trains must be visible in order to provide the prescribed warning time; and

- Rules and procedures of the railroad to be used for train approach warning.

(4) **Training and Qualification of Flagman** (214.351)

The training and qualification for roadway workers assigned the duties of flagmen must include, as a minimum, the content and application of the operating rules of the railroad pertaining to giving proper stop signals to trains and holding trains clear of working limits.

(5) **<u>Training and Qualification of Station Platform Work Coordinator</u>** (214.352) (**New Requirement**)

(a) The training and qualification of each station platform work coordinator shall include, as a minimum:

(1) All the on-track safety training and qualification required of the roadway workers to be supervised and protected.

(2) The content of the operating rules of the railroad pertaining to the establishment of working limits.

(3) The content and application of the rules of the railroad pertaining to the establishment of train approach warning.

(4) The procedures required to ensure that the station platform work coordinator has immediate access to contact the roadway worker in charge, and in case of an emergency, the procedures to contact the train dispatcher or control operator.

(b) Initial and periodic qualification of a station platform work coordinator shall be evidenced by a recorded examination.

(6) **<u>Training and Qualification of Roadway Workers Who Provide On-track Safety For Roadway Work Groups</u>** (214.353)

The training and qualification of each roadway worker in charge, or any other employee acting as a roadway worker in charge (e.g., a conductor or a brakeman), who provides for the on-track safety of roadway workers through establishment of working limits or the assignment and supervision of watchmen/lookouts or flagmen shall include, at a minimum: (**Revised/Expanded Requirement**)

- All the on-track safety training and qualification required of the roadway workers to be supervised and protected;

- The content and application of the operating rules of the railroad pertaining to the establishment of working limits;

- The content and application of the rules of the railroad pertaining to the establishment or train approach warning; and

- The relevant physical characteristics of the territory of the railroad upon which the roadway worker is qualified.

- The procedures required to ensure that the roadway worker in charge of the on-track safety a group(s) of roadway workers remains immediately accessible and available to all roadway workers being protected under the working limits or other provisions of on-track safety established by the roadway worker in charge. (**New Requirement**)

(7) <u>Training and Qualification For Operators of Roadway Maintenance Machines</u> (214.355)

The training and qualification of roadway workers who operate roadway maintenance machines must include, as a minimum:

- Procedures to prevent a person from being struck by the machine when the machine is in motion or operation;

- Procedures to prevent any part of the machine from being struck by a train or other equipment on another track;

- Procedures to provide for stopping the machine short of other machines or obstructions on the track; and

- Methods to determine safe operating procedures for each machine that the operator is expected to operate.

FRA estimates that approximately 50,000 roadway workers will be trained annually. It is estimated that it will take approximately 4.5 hours to train each employee every year under the above requirements. Total annual burden for this requirement is 225,000 hours.

Respondents:	50,000 Roadway Workers
Burden time per response:	4.5 hours
Frequency of Response:	On occasion
Annual Number of responses:	50,000 trained employees
Annual Burden:	225,000 hours

<u>Calculation</u>: 50,000 trained roadway workers x 4.5 hrs. = 225,000 hours

Additionally, FRA estimates that the new and revised requirements of the proposed rule will necessitate additional training for the approximately 50,000 roadway workers at their annual training sessions. It is estimated that it will take approximately 30 minutes to train each employee every year under the new/revised requirements. Total annual burden for

this requirement is 25,000 hours. (**New/additional burden**)

Respondents:	50,000 Roadway Workers
Burden time per response:	.5 hour
Frequency of Response:	On occasion
Annual Number of responses:	50,000 trained employees
Annual Burden:	25,000 hours

Calculation: 50,000 trained roadway workers x .5 hr. = 25,000 hours

Moreover, FRA estimates that the new and revised requirements of the proposed rule will necessitate additional training for approximately 19,000 trainmen (conductors/brakemen) who could act as the roadway worker in charge in certain situations and 3,150 employees who would act as station platform work coordinator. It is estimated that it will take approximately five (5) minutes of extra training (besides their normal training) for the 19,000 trainmen and approximately 10 minutes of extra training for the 3,150 employees who will serve as station platform work coordinators to meet the new/revised requirements. Total annual burden for this requirement is 25,000 hours. (**New/additional burden from expanded requirement under number (6) above**)

Respondents:	22,150 Railroad Employees
Burden time per response:	5 minutes + 10 minutes
Frequency of Response:	On occasion
Annual Number of responses:	22,150 trained employees
Annual Burden:	2,108 hours

Calculation: 19,000 trained conductors/brakemen workers x 5 min. + 3,150 other employees/station platform work coordinators x 10 min = 2,108 hours

Further, FRA estimates that approximately 35,000 roadway workers will be trained to follow the appropriate practices and procedures related to adjacent-track safety. It is estimated that this additional training will take approximately five (5) minutes per employee to complete. Total annual burden for this requirement is 2,917 hours.

Respondents:	35,000 Roadway Workers
Burden time per response:	5 minutes
Frequency of Response:	Annually
Annual Number of responses:	35,000 adjacent-track trained roadway workers

Annual Burden: 2,917 hours

Calculation: 35,000 roadway workers x 5 min. = 2,917 hours

Finally, FRA estimates that it will take approximately two (2) minutes per employee to keep a written or electronic record of their qualifications. Total annual burden for this requirement is 1,667 hours. (*Note: The above requirement regarding recordkeeping is not new*.)

Respondents:	50,000 Roadway Workers
Burden time per response:	2 minutes
Frequency of Response:	On occasion
Annual Number of responses:	50,000 records
Annual Burden:	1,667 hours

Calculation: 50,000 roadway workers x 2 min. = 1,667 hours

Total burden for this entire requirement is 256,692 hours (225,000 + 25,000 + 2,108 + 2,917 + 1,667).

The total burden for Subpart C is 1,086,434 hours (480 + 754 + 100 + 8 + 640 + 565,029 + 3,300 + 20 + 754 + 17 + 3 + 760 + 218,625 + 152 + 1,521 + 292 + 8,333 + 6,625 + 219 + 42 + 50 + 13 + 25 + 4,292 + 17,333 + 2 + 19 + 19 + 19 + 37 + 139 + 120 + 225,000 + 25,000 + 2,108 + 2,917 + 1,667).

SUBPART D

§ 214.503 Good Faith Challenges; Procedures for Notification and Resolution.

A. An employee operating an on-track roadway maintenance machine or hi-rail vehicle must inform the employer whenever the employee makes a good faith determination that the machine or vehicle does not comply with FRA regulations, or has a condition that inhibits its safe operation.

FRA estimates that approximately 125 notifications/communications will be made each year by employees to employers under this requirement. It is estimated that it will take approximately 10 minutes to make each notification/communication to the employer. Total annual burden for this requirement is 21 hours.

Respondent Universe: 50,000 Roadway

	Workers
Burden time per response:	10 minutes
Frequency of Response:	On occasion
Annual number of Responses:	125 notifications/communications
Annual Burden:	21 hours

Calculation: 125 notifications/communications x 10 min. = 21 hours

B. Each employer must have in place and follow written procedures to assure prompt and equitable resolution of challenges resulting from good faith determinations made in accordance with this section. The procedures must include specific steps to be taken by the employer to investigate each good faith challenge, as well as procedures to follow once the employer finds a challenged machine or vehicle does not comply with this subpart or is otherwise unsafe to operate. The procedures must also include the title and location of the employer's designated official.

FRA estimates that approximately 10 new railroads will commence operations each year and thus 10 resolution procedures will be developed each year under the above requirement. It is estimated that it will take approximately two (2) hours to develop each resolution procedure. Total annual burden for this requirement is 20 hours.

Respondent Universe:	644 Railroads/200 Contractors
Burden time per response:	2 hours
Frequency of Response:	On occasion
Annual number of Responses:	10 resolution procedures
Annual Burden:	20 hours

Calculation: 10 resolution procedures x 2 hrs. = 20 hours

Total annual burden for this requirement is 41 hours (21 + 20).

§ 214.505 Required Environmental Control and Protection Systems For New On-Track Roadway Maintenance Machines with Enclosed Cabs.

A. An employer must maintain a list of new and designated existing on-track roadway maintenance machines of the types listed in paragraph (a)(1) through (a)(5) of this section, or functionally equivalent thereto. The list must be kept current and made available to the Federal Railroad Administration and other Federal and State agencies upon request.

This requirement covers both railroads and contractors. FRA estimates then that approximately 300 lists of new and designated on-track roadway maintenance machines

of the types specified in paragraph (a) of this section will be kept by railroads and an additional 200 lists will be kept by contractor sunder the above requirement. It is estimated that it will take approximately one (1) hour to develop/compile each list. Total annual burden for this requirement is 500 hours.

Respondent Universe:	644 Railroads/200 Contractors
Burden time per response:	1 hour
Frequency of Response:	On occasion
Annual number of Responses:	500 lists
Annual Burden:	500 hours

Calculation: 500 lists x 1 hr. = 500 hours

B. An existing roadway maintenance machine of the types listed in paragraphs (a)(1) through (a)(5) of this section, or functionally equivalent thereto, becomes "designated" when the employer adds the machine to the list required in paragraph(c) of this section. The designation is irrevocable, and the designated existing roadway maintenance machine remains subject to paragraph (b) of this section until it is retired or sold.

Those existing roadway maintenance machines that are not already designated will become so when they are sold by a railroad to another railroad or contractor. FRA estimates that approximately 150 machines will become designated under these circumstances. It is estimated that it will take approximately five (5) minutes to designate each roadway maintenance machine. Total annual burden for this requirement is 13 hours.

Respondent Universe:	644 Railroads/200 Contractors
Burden time per response:	5 minutes
Frequency of Response:	On occasion
Annual number of Responses:	150 designations
Annual Burden:	13 hours

Calculation: 150 lists x 5 min. = 13 hours

Total annual burden for this entire requirement is 513 hours (500 + 13).

§ 214.507 Required Safety Equipment for New On-Track Roadway Maintenance Machines.

Each new on-track roadway maintenance machine must have its as-built light weight displayed in a conspicuous location on the machine.

FRA estimates that approximately 1,000 new on-track roadway maintenance machines are built each year. It is estimated that it will take approximately five (5) minutes to display a sticker or stencil on each machine indicating its as-built light weight in a conspicuous location. Total annual burden is approximately 83 hours.

Respondent Universe:	644 Railroads/200 Contractors
Burden time per response:	5 minutes
Frequency of Response:	On occasion
Annual number of Responses:	1,000 stickers/stencils
Annual Burden:	83 hours

Calculation: 1,000 stickers/stencils x 5 min. = 83 hours

§ 214.511 Required Audible Warning Devices for New On-Track Roadway Maintenance Machines.

Each new on-track roadway maintenance machine must be equipped with: (1) A horn or audible warning device that produces a sound loud enough to be heard by roadway workers and other machine operators within the immediate work area. The triggering mechanism for the device must be clearly identifiable and within easy reach of the machine operator; and (2) An automatic change-of-direction alarm which provides an audible signal that is at least three seconds long and is distinguishable from the surrounding noise. Change of direction alarms may be interrupted by the machine operator when operating the machine in the work mode if the function of the machine would result in a constant, or almost constant, sounding of the device. In any action brought by FRA to enforce the change-of-direction alarm requirement, the employer shall have the burden of proving that use of the change-of-direction alarm in a particular work function would cause constant, or almost constant, sounding of the device.

FRA estimates that approximately 3,700 roadway maintenance machines will be affected, requiring that triggering mechanisms for these new machines be made clearly identifiable and within easy reach of the machine operator. It is estimated that it will take approximately five (5) minutes to identify each triggering mechanism. Total annual burden for this requirement is 308 hours.

Respondent Universe:	44 Railroads
Burden time per response:	5 minutes
Frequency of Response:	On occasion
Annual number of Responses:	3,700 identified mechanisms
Annual Burden:	308 hours

Calculation: 3,700 identified mechanisms x 5 min. = 308 hours

§ 214.513 Retrofitting of Existing On-Track Roadway Maintenance Machines; General.

By March 28, 2005, each existing on-track roadway maintenance machine must be equipped with a permanent or portable horn or other audible warning device that produces a sound loud enough to be heard by roadway workers and other machine operators within the immediate work area. The triggering mechanism for the device must be clearly identifiable and within easy reach of the machine operator.

FRA estimates that approximately 200 existing on-track roadway machines will have the required audible warning device and will have the triggering mechanism clearly identified and within easy reach of the machine operator. It is estimated that it will take approximately five (5) minutes to identify the triggering mechanism of each device on the on-track roadway machine. Total annual burden for this requirement is 17 hours.

Respondent Universe:	703 Railroads/200 Contractors
Burden time per response:	5 minutes
Frequency of Response:	On occasion
Annual number of Responses:	200 identified mechanisms
Annual Burden:	17 hours

Calculation: 200 identified mechanisms x 5 min. = 17 hours

§ 214.515 Overhead Covers For Existing On-Track Roadway Maintenance Machines.

For those existing on-track roadway maintenance machines that are not already equipped with overhead covers for the operator's position, the employer shall evaluate the feasibility of providing an overhead cover on such a machine if requested in writing by the operator assigned to operate that machine or by the operator's designated representative. The employer shall provide the operator a written response for each request within 60 days. When the employer finds the addition of an overhead cover is not feasible, the response must include an explanation of the reasoning used by the employer to reach that conclusion.

FRA estimates that approximately 500 written requests for an overhead cover for an existing on-track roadway machines will be made by machine operators or their designated representatives. It is estimated that each written request by operators or their representatives will take approximately 10 minutes to complete. Further, it is estimated that there will be 500 written responses by employers within the required 60 days to these

requests (including explanations when overhead covers are not feasible), and that each response will take approximately 20 minutes to complete. Total annual burden for this entire requirement is 250 hours.

Respondent Universe:	644 Railroads/200 Contractors
Burden time per response:	10 minutes + 20 minutes
Frequency of Response:	On occasion
Annual number of Responses:	500 requests + 500 responses
Annual Burden:	250 hours

Calculation: 500 requests x 10 min + 500 responses x 20 min. = 250 hours

§ 214.517 Retrofitting of Existing On-Track Roadway Maintenance Machines Manufactured On or After January 1, 1991.

In addition to meeting the requirements of §214.513, after March 28, 2005, each existing on-track roadway maintenance machine manufactured on or after January 1, 1991, must have the following: (1) A change-of-direction alarm or rearview mirror or other rearward viewing device, if either device is feasible, given the machine's design, and if either device adds operational safety value, given the machine's function. In any action brought by FRA to enforce this requirement, the employer shall have the burden of proving that neither device is feasible or adds operational safety value, or both, given the machine's design or work function; (2) An operative heater, when the machine is operated at an ambient temperature less than 50 degrees Fahrenheit and is equipped with, or has been equipped with, a heater installed by the manufacturer or the railroad; (3) The light weight of the machine stenciled, or otherwise clearly displayed, on the machine if the light weight is known; (4) Reflective material, or a reflective device, or operable brake lights; (5) Safety glass when its glass is normally replaced, except that replacement glass that is specifically intended for on-track roadway maintenance machines and is in the employer's inventory as of September 26, 2003, may be utilized until exhausted; (6) A turntable restraint device, on machines equipped with a turntable, to prevent undesired lowering, or a warning light indicating that the turntable is not in the normal travel position.

FRA estimates that approximately 500 existing on-track roadway machines will have the lightweight of the machine stenciled, or otherwise clearly displayed, if the light weight is known. It is estimated that it will take approximately five (5) minutes to stencil or clearly mark each existing on-track roadway machine. Total annual burden for this requirement is 42 hours.

Respondent Universe:	644 Railroads/200 Contractors
Burden time per response:	5 minutes

Frequency of Response:	On occasion
Annual number of Responses:	500 stencils/displays
Annual Burden:	42 hours

Calculation: 500 stencils/displays x 5 min. = 42 hours

§ 214.518 Safe and secure positions for riders.

On or after March 1, 2004, a roadway worker, other than the machine operator, is prohibited from riding on any on-track roadway maintenance machine unless a safe and secure position for each roadway worker on the machine is clearly identified by stenciling, marking, or other written notice.

FRA estimates that approximately 1,000 existing on-track roadway maintenance machines will have stenciling, marking, or other documentation (written notice) on the machine identifying the location of safe and secure positions for roadway workers to be transported on the machine. It is estimated that it will take approximately five (5) minutes to stencil/mark/document each machine with the required information. Total annual burden for this requirement is 83 hours.

Respondent Universe:	644 Railroads/200 Contractors
Burden time per response:	5 minutes
Frequency of Response:	On occasion
Annual number of Responses:	1,000 stencils/marks/notices
Annual Burden:	83 hours

Calculation: 1,000 stencils/marks/notices x 5 min. = 83 hours

§ 214.523 Hi-Rail Vehicles.

A. The hi-rail gear of all hi-rail vehicles must be inspected for safety at least annually and with no more than 14 months between inspections. Tram, wheel wear and gage must be measured and, if necessary, adjusted to allow the vehicle to be safely operated.

Each employer must keep records pertaining to compliance with paragraph (a) of this section. Records may be kept on forms provided by the employer or by electronic means. The employer must retain the record of each inspection until the next required inspection is performed. The records must be available for inspection and copying during normal business hours by representatives of FRA and States participating under Part 212 of this chapter. The records may be kept on the hi-rail vehicle or at a location designated by the employer.

FRA estimates that approximately 2,000 hi-rail vehicles will have safety critical components inspected at least annually, if not more often. It is estimated that it will take approximately 60 minutes to complete each hi-rail vehicle safety inspection and record the results, either electronically or in writing. Total annual burden for this requirement is 2,000 hours.

Respondent Universe:	644 Railroads/200 Contractors
Burden time per response:	60 minutes
Frequency of Response:	On occasion
Annual number of Responses:	2,000 inspection records
Annual Burden:	2,000 hours

Calculation: 2,000 inspection records x 60 min. = 2,000 hours

B. The operator of the hi-rail vehicle must check the vehicle for compliance with this subpart, prior to using the vehicle at the start of the operator's work shift. A non-complying condition that cannot be repaired immediately must be tagged and dated in a manner prescribed by the employer and reported to the designated official. Non-complying automatic change-of-direction alarms, back-up alarms, and 360-degree intermittent warning lights or beacons must be repaired or replaced as soon as practicable within seven calendar days.

FRA estimates that approximately 500 non-complying conditions that cannot be repaired immediately will be tagged and dated in a manner prescribed by the employer and reported to the designated official. It is estimated that it will take approximately 10 minutes to complete each tag and an additional 15 minutes to complete each report to the designated official. Total annual burden for this requirement is 208 hours.

Respondent Universe:	644 Railroads/200 Contractors
Burden time per response:	10 minutes + 15 minutes
Frequency of Response:	On occasion
Annual number of Responses:	500 tags + 500 reports
Annual Burden:	208 hours

Calculation: 500 tags x 10 min. + 500 reports x 15 min. = 208 hours

Total annual burden for this requirement is 2,208 hours (2,000 + 208).

§ 214.527 On-Track Roadway Maintenance Machines; Inspection For Compliance and Schedule For Repairs.

The operator of an on-track roadway maintenance machine must check the machine components for compliance with this subpart, prior to using the machine at the start of the operator's work shift. Any non-complying condition that cannot be repaired immediately must be tagged and dated in a manner prescribed by the employer and reported to the designated official.

FRA estimates that approximately 550 non-complying conditions relating to on-track roadway maintenance machines that cannot be repaired immediately will be tagged and dated in a manner prescribed by the employer and reported to the designated official. It is estimated that it will take the operator approximately five (5) minutes to check the machine components for compliance with this subpart and complete the tag. Further, it is estimated that it will take an additional 15 minutes to complete each report to the designated official. Total annual burden for this requirement is 184 hours.

Respondent Universe:	644 Railroads/200 Contractors
Burden time per response:	5 minutes + 15 minutes
Frequency of Response:	On occasion
Annual number of Responses:	550 tags + 550 reports
Annual Burden:	184 hours

Calculation: 550 tags x 5 min. + 550 reports x 15 min. = 184 hours

§ 214.533 Schedule of Repairs Subject to Availability of Parts.

(a) The employer must order a part necessary to repair a non-complying condition on an on-track roadway maintenance machine or a hi-rail vehicle by the end of the next business day following the report of the defect. (b) When the employer cannot repair as required by § 214.531 because of the temporary unavailability of a necessary part, the employer must repair the on-track roadway maintenance machine or hi-rail vehicle within seven calendar days after receiving the necessary part. The employer may continue to use the on-track roadway maintenance machine or hi-rail vehicle with a non-complying condition until receiving the necessary part(s) for repair, subject to the requirements of § 214.503. However, if a non-complying condition is not repaired within 30 days following the report of the defect, the employer must remove the on-track roadway maintenance machine or hi-rail vehicle from on-track service until it is brought into compliance with this subpart. (c) If the employer fails to order a part necessary to repair the reported non-complying condition, or if it fails to install an available part within the required seven calendar days, the on-track roadway maintenance machine or hi-rail vehicle must be removed from on-track service until brought into compliance with this subpart. (d) Each employer must maintain records pertaining to compliance with this section. Records may be kept on forms provided by the employer or by electronic means.

The employer must retain each record for at least one year, and the records must be available for inspection and copying during normal business hours by representatives of FRA and States participating under Part 212 of this chapter. The records may be kept on the on-track roadway maintenance machine or hi-rail vehicle or at a location designated by the employer.

FRA estimates that approximately 250 records will be kept, either electronically or on paper, in order to comply with the requirements of this section. It is estimated that it will take approximately 15 minutes to complete each record. Total annual burden for this requirement is 63 hours.

Respondent Universe:	644 Railroads/Contractors
Burden time per response:	15 minutes
Frequency of Response:	On occasion
Annual number of Responses:	250 records
Annual Burden:	63 hours

Calculation: 250 records x 15 min. = 63 hours

Total annual burden for Subpart D is 3,792 hours (21 + 20 + 500 + 13 + 83 + 308 + 17 + 250 + 42 + 83 + 2,000 + 208 + 184 + 63).

Total annual burden for the entire information collection (Form FRA 6180.119 + Subparts C + D) is 1,090,826 hours (600 + 1,086,434 + 3,792).

13. Estimate of total annual costs to respondents.

Listed below are the costs associated with the information collection requirements of Subpart C:

$300 - Letters/documents to FRA (60 letters/documents@ $5.00 per document to cover postage, paper, and envelopes) (**Program Change**)

$750 - Printing and other related expenses for required program manuals for 15 new start-up Class III railroads (@ $50 per manual) (**Adjustment**)

$ 200,000 - Miscellaneous Costs

$201,050 - Total Cost

14. Estimate of Cost to Federal Government.

Except for some minimal training costs for FRA safety inspectors who will have to monitor silica dust exposure inside the cabs of roadway maintenance machines and hi-rail vehicles under the new Subpart D, FRA estimates no additional costs.

15. Explanation of program changes and adjustments.

The total burden for this information collection has increased by 245,596 hours from the last approved submission. The increase in burden is due to both **program changes** and to **adjustments.** Specifically, the requirements that reflect **program changes** are detailed in the following table

TABLE FOR PROGRAM CHANGES

Part 214 Section Number	Responses & Avg. Time (Previous Submission)	Responses & Avg. Time (This Submission)	Burden Hours (Previous Submission)	Burden Hours (This Submission)	Difference (plus/minus)
214.301 – Written FRA Approval of Equivalent Level of Protection in RR Operating Rules for Movement of Roadway Maintenance Machines on Non-Controlled Track	N/A	60 operating rule documents 8 hours	N/A	480 hours	+ 480 hours + 60 responses
214.303 – Provisions by RR for Lone Worker to have access to Information in On-track Safety Manual	N/A	754 provisions 1 hour	N/A	754 hours	+ 754 hours + 754 resp.
-- Publication by RR of Bulletins reflecting Changes in On-track Safety Manual	N/A	100 bulletins 1 hour	N/A	100 hours	+ 100 hours + 100 resp.
214.315/335 – Information on Accessibility of Roadway Worker in Charge (RWIC) and Alternative	N/A	59,400 work gang briefings (10 employees per work gang) 20 seconds	N/A	3,300 hours	+ 3,300 hours + 59,400 resp

Procedures in Event RWIC is No Longer Accessible to Work Gang					
214.317- On-Track Procedures for Snow Removal	N/A	20 procedures 1 hour	N/A	20 hours	+ 20 hours + 20 responses
-- On-Track Procedures for Weed Removal	N/A	754 procedures 1 hour	N/A	754 hours	+ 754 hours + 754 resp.
214.322- Exclusive Track Occupancy, Electronic Display – Written Authorities/ Printed Authority Copy if Electronic Display Fails or Malfunctions	N/A	100 written authorities 10 minutes	N/A	17 hours	+ 17 hours + 100 resp.
-- On-Track Safety Briefings in Event Written Authority/ Printed Copy cannot be Obtained	N/A	100 briefings 2 minutes	N/A	3 hours	+ 3 hours + 100 resp.
-- Data File Records Relating to Electronic Display Device in Part 225 Reportable Accident/Incident	N/A	380 data file records 2 hours	N/A	760 hours	+ 760 hours + 380 resp.
214.324 — Working Limits Established through Verbal Protection w/in Manual Interlockings/ Controlled Points	N/A	2,623,500 verbal protection messages 5 minutes	N/A	218,625 hours	+ 218,625 hrs. + 2,623,500 responses
214.327 – Inaccessible Track: Working Limits Established by Locomotive with or w/o Cars to Prevent Access – Communication by RWIC with Train Crew Member	N/A	9,125 talks 10 minutes	N/A	1,521 hours	+ 1,521 hours + 9,125 resp.
-- Notification to Train/Engine on Any	N/A	1,750 notifications 10 minutes	N/A	292 hours	+ 292 hours + 1,750 resp.

Working Limits in Effect Prohibiting Train Movement until RWIC Gives Permission to Enter Working Limits					
214.329 – Train Approach Warning Provided by Watchmen/Lookouts – Communications -- Written Designation of Watchmen/Lookouts	N/A N/A	795,000 messages 30 seconds 26,250 designation 30 seconds	N/A N/A	6,625 hours 219 hours	+ 6,625 hours + 795,000 resp + 219 hours + 26,250 resp
214.337 — Statement of On-Track Safety Using Individual Train Detection on Track Outside Manual Interlocking, a Controlled Point, or Remotely Controlled Hump Yard Facility	N/A	200 statements 30 seconds	N/A	2 hours	+ 2 hours +200 responses

214.338 – Passenger Station Platform Snow Removal and Cleaning -- Designation of a Station Work Platform Coordinator	N/A	1,115 designations 1 minute	N/A	19 hours	+ 19 hours + 1,115 resp.
- Communication of Contact Info. /Instructions to Station Platform Work Coordinator for Reaching Both RWIC and Train Dispatcher or Control Operator	N/A	223 messages 5 minutes	N/A	19 hours	+ 19 hours + 223 resp.
- Communication by Station Platform Work Coordinator to RWIC of Work to Be Performed	N/A	223 messages 5 minutes	N/A	19 hours	+ 19 hours + 223 resp.
- Station Platform Work Coordinator Conduct of an Initial On-Track Safety Briefing	N/A	1,115 briefings 2 minutes	N/A	37 hours	+ 37 hours + 1,115 resp.
- Briefing by Station Platform Work Coordinator to Establish Train Approach Warning	N/A	16,725 briefings 30 seconds	N/A	139 hours	+ 139 hours + 16,725 resp.
214.339 –Written Procedures That Prescribe Effective Requirements for Audible Warning by Horn and/or Bell for Trains	N/A	18 +7 written procedures 12 hours + 2 hours	N/A	120 hours	+ 120 hours + 25 responses
214.343/345 – Additional Training for All Roadway Workers Resulting from Proposed Rule	N/A	50,000 trained workers 30 minutes	N/A	25,000 hours	+ 25,000 hours + 50,000 resp.
-Training of Trainmen to Act as RWIC and Training of Station Platform Work Coordinator	N/A	19,000 trained trainmen + 3,150 trained station platform work coordinators	N/A	2,108 hours	+ 2,108 hours +22,150 resp.

		5 minutes + 10 minutes			

Total *increases* in burden from above **program changes** then amount to *260,933 hours*, and total increases in responses from above **program changes** amount to *3,609,069*.

TABLE FOR ADJUSTMENTS

Part 214 Sec	Responses & Avg. Time (Previous Submission)	Responses & Avg. Time (This Submission)	Burden Hours (Previous Submission)	Burden Hours (This Submission)	Difference (plus/minus)
214.311 – On-Track Safety Programs – Amended Programs	20 program amendments + 584 program amendments 20 hours + 4hours	0 amendments 0 hours	2,736 hours	0 hours	--2,736 hours -- 604 resp.
--On-Track Safety Programs --New Railroads	5 safety programs 250 hours	15 safety programs 30 minutes	1,250 hours	8 hours	-- 1,242 hours + 10 responses
214.313 – Good Faith Challenges	80 challenges 4 hours	80 challenges 8 hours	320 hours	640 hours	+ 320 hours 0 responses
214.321 – Exclusive Track Occupancy – Written Authorities	700,739written authorities 1 minute	0 authorities (usual and customary procedure)	11,679 hours	0 hours	-- 11,679 hours -- 700,739 resp

Total *decreases* in burden from above **adjustments** then amount to *15,337 hours*, and total decreases in responses from above **adjustments** amount to *701,333*

Currently, the OMB inventory for this collection of information shows a burden total of 845,230 hours, while this revised submission reflects a total burden of 1,090,826 hours. Hence, there is a total burden increase of *245,596 hours*.

The cost to respondents has decreased by $2,799,804 from the last submission (from $3,000,854 to $201,050). The change in cost is the result of two **adjustments** that FRA has made in this submission. FRA listed training costs of $2,800,000 in the last submission and also listed 225,000 burden hours for training 50,000 roadway workers. OMB requires only burden hours or burden costs – not both – be listed in a Supporting Justification for any information collection requirement. Thus, FRA double counted that

cost (in both hours and dollars). FRA has removed that dollar cost amount to correct the double counting mistake and only counts hours here. Also, FRA incorrectly counted $604 for notification letters that were not a part of this collection. FRA eliminated that cost. There was also a third **adjustment** reflecting the increase in cost for program manuals for start-up railroads (from 5 railroads to 15 railroads). The cost increased by $500 (from $250 to $750).

Finally, there is one program change reflecting the cost for 60 operating rules documents to be sent to FRA for approval pertaining to an equivalent level of protection for roadway maintenance machines on non-controlled track. This increased the cost by $ 300.

16. Publication of results of data collection.

FRA does not have any plans to publish the results of this collection of 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 main DOT strategic goal, namely transportation safety. Without this collection of information, rail safety throughout the U.S. might be seriously hindered. Specifically, if roadway workers could not challenge the fitness of on-track roadway machines and hi-rail vehicles and if employers were not required to have in place and follow written procedures to assure prompt and equitable resolution of these challenges, these workers might be forced to operate machines with safety and other defects. This could lead to greater numbers of accidents/incidents and corresponding increases in the number of roadway worker casualties.

Without the provision that the triggering mechanism of audible warning devices required on new on-track roadway maintenance machines be clearly identifiable and within easy reach of the machine operator, more railway workers might be injured or killed because they did not know where the mechanism was in a critical situation and were not able to sound it in time. Additionally, without the requirement that employers will now have to evaluate the feasibility of providing an overhead cover for existing on-track roadway maintenance machines if requested in writing by the operator assigned to a particular machine or by the operator's representative, the safety and health of railroad workers would be at increased risk. Employers will now be required to provide a written response within 60 days, and will have to include an explanation of the reasoning used if it is determined that an overhead cover is not feasible. Unless employers have a valid reason, they will not be able to deny roadway workers essential equipment. Covers or canopies provide protection from blinding sun and from inclement weather such as rain and snow. Overhead covers then could make all the difference in preventing accidents/incidents and the injuries to roadway workers which often ensue.

This information collection advances rail safety by requiring that records be kept regarding hi-rail vehicle annual safety inspections. In particular, these records allow FRA to verify that safety-critical components are checked once a year and adjusted, if necessary. Without this type of oversight, employers might not be as conscientious to check tram, wheel wear, and gage measurements. FRA would have no way to verify compliance with this new subpart. Non-complying conditions that were left uncorrected could lead to severe consequences for both railroads and their employees.

The collection of information provides that roadway workers will be well-trained and,

therefore, well-qualified for their respective crafts (whether watchmen/lookouts, flagmen, lone workers, roadway machine operators, etc.). Without this rule and corresponding information collection, roadway workers would not receive the initial and recurring training (once every year) now required. Consequently, they would not be as knowledgeable with railroad operating procedures and safety practices nor would they be as familiar with overall conditions in today's railroad environment. Also, if this collection were not conducted, there would not be the clear delineation of employers' responsibilities for providing on-track safety as well as employees' corresponding rights and responsibilities. Roadway workers might then unnecessarily or inadvertently place themselves in hazardous situations.

Furthermore, without this collection of information, there would not be the well-defined procedures for communication and protection now required of roadway workers. As a result, there would likely be greater confusion around railroad tracks and greater uncertainty regarding the correct use of railroad equipment. More roadway worker injuries and fatalities would inevitably follow. FRA data tend to support this conclusion. FRA data indicate a continuing downward trend in roadway worker injuries and fatalities. For example, there were 3,107 injuries to maintenance of equipment and stores employees in 1994, while there were 2,024 to this same class of employees in 1998. FRA's objective is to continue and facilitate this downward trend.

As a result of this collection, each employer must maintain written or electronic records of each roadway worker's current qualifications, and make these records available to FRA for inspection and copying upon request. Also, roadway workers who provide on-track safety for roadway work groups are required to take a recorded examination as part of the qualification process. These and other required records are very valuable in investigations after an injury or fatality involving a roadway worker or group of roadway workers. Furthermore, should a potential violation of roadway worker rights and responsibilities occur, FRA can consider all the available evidence by parties in the case, including written records maintained now required by this collection, in making its determination. Without this collection, FRA would not have available this valuable resource.

In summary, this collection of information enhances railroad safety by providing an another tool through which FRA can monitor a crucial area of railroad operations nationwide. It furthers DOT's goal of promoting the public health and safety by working toward the elimination of transportation-related accidents and corresponding deaths, injuries, particularly to roadway workers, and property damage.

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.