

**SUPPORTING JUSTIFICATION
REPORTING REQUIREMENTS
STATE SAFETY PARTICIPATION REGULATIONS
AND REMEDIAL ACTIONS (49 CFR 209 and
49 CFR 212); OMB No. 2130-0509**

Summary

- This submission is a request for a revision to the last approval granted by OMB on **February 12, 2010**, and which expires **February 28, 2013**.
- FRA published the required 60-day **Federal Register** Notice on September 24, 2012. See 77 FR 58907.
- The total burden previously approved for this information collection amounted to **10,748 hours**.
- The total burden requested for this information collection submission is **9,058 hours**.
- **Adjustments** decreased the burden by **1,690 hours**.
- Total number of responses previously approved for this information collection amounted to **21,970**.
- Total number of responses requested for this submission is **22,445**.
- **Adjustments** increased the number of responses by **475**.
- ****The answer to question number 12** itemizes the hourly burden associated with each requirement of this rule (See pp. 10-18). *****The answer to question number 15** fully itemizes all adjustments (See pp. 19-20).

1. Circumstances that make collection of the information necessary.

Background

On October 16, 1970, Congress enacted the Federal Railroad Safety Act of 1970 (45 U.S.C. 421 et seq). This Act gave the Secretary of Transportation the authority to prescribe, as necessary, appropriate rules, regulations, orders, and standards for all areas of railroad safety.

In order to establish nationally uniform railroad regulations, the statute envisioned that the Federal Government would be responsible for the establishment and primary

enforcement of railroad safety regulations. To assist in achieving this goal, conflicting state rules were pre-empted. In lieu of their prior role, states were given the opportunity to participate with the Federal Government in carrying out a portion of the investigative and surveillance activities relating to any safety rules issued under this statute.

FRA implemented this statutory concept with the adoption of the State Participation Regulation in 1975 (49 CFR Part 212), which provided the necessary administrative and legal framework for enforcement and funding purposes. The regulation established qualification requirements for state inspectors, and permitted enforcement of two safety regulations (track and freight car) that had been issued under the authority of the Safety Act.

FRA was hindered in implementing the concept of a fully effective state program by a legal technicality that limited state inspectors to enforcing only those regulations based on the Safety Act. Since FRA had six additional statutes that provide the legal authority for many of its safety regulations, this technicality severely limited the scope of the state program. This legal problem was eliminated by the passage of Section 4 of the Federal Railroad Safety Authorization Act of 1980 (Public Law 96-423, 94 Stat. 1812). Section 4 specifically authorized FRA to permit state inspectors to enforce all FRA safety regulations.

On June 25, 1981, FRA published a NPRM ([see](#) 49 FR 32888) to revise the State Participation Program regulation. The specific objectives of the proposed revision included expansion of the inspection and surveillance authority of State inspectors; clarification of the policy framework; redefinition of inspector qualification requirements; and appropriate editorial changes to the rules. The final rule, as contained in the 1982 modifications in the FRA State Participation Regulations (49 CFR 212), implemented the authorization for expansion contained in the 1980 statute. State inspectors were now authorized to work in all inspection disciplines, except hazardous materials. States could inspect track, freight cars, locomotives, brake systems, operating practices, safety glazing, safety appliances, and signal systems.

The State Safety Participation Regulations (49 CFR Part 212) were revised in the Federal Register on June 24, 1992, to permit states to perform rail hazardous materials (hazmat) inspections, per the authorization contained in Section 28 of the Hazardous Materials Transportation Uniform Safety Act of 1990. On September 30, 1994, State Safety Participation Regulations were revised to permit states to perform highway-rail grade crossing inspections as authorized by Section 4 of the Federal Railroad Safety Authorization Act of 1980 (Public Law 96-423, 94 Stat. 1812).

The State Safety Participation Regulations (49 CFR Part 212) were revised again in the Federal Register on May 24, 1996, to reduce the administrative cost to government and industry, reduce government printing costs, and provide a more concise and useful Title 49, Code of Federal Regulations. The revision removed Subpart D, Grants-in-Aid, of 49

CFR Part 212, and corresponding appendices. This revision was authorized by a March 4, 1995, memorandum issued by the President directing the heads of federal departments and agencies to conduct a page-by-page review of all agency regulations in force and eliminate or revise those that are outdated or otherwise in need of reform.

The-Grants-in Aid program was intended to provide a transition to a uniform pattern of rail safety regulation and provide a continuing state role in rail safety regulation. As originally conceived, participating states were reimbursed up to 50 percent of their operating costs, Congressional appropriations permitting.

Once the goal of uniform rail safety regulation was achieved, Congress elected to eliminate funding. States have continued to participate in this rail safety program even though FRA's funding share, per Congressional appropriations, has declined from the maximum of 50 percent through FY 1985 to 39 percent in FY 1986, 24 percent in FY 1987, 16 percent in FY 1988, and zero percent in FY 1989 and subsequent years. FRA continues to assist the states in (1) certifying their inspectors and providing on-the-job and classroom training, and (2) coordinating and consolidating state inspection plans with FRA's National Inspection Plan to reflect current safety issues and to establish the priority of national inspection efforts.

Despite the lack of federal funding, the State Participation Program has actually grown. In 1989, there were 110 participating state inspectors and currently there are 169 state inspectors.

Currently, the specific sections of 49 CFR 212 describing reporting requirements are found in:

212.105	Agreements
212.107	Certification
212.109	Joint Planning of Inspections

Remedial Actions Reporting

Currently, state and federal inspectors use one form to report their inspections for the five inspection disciplines.

FRA has included, as part of this new inspection form, a section for the reporting of remedial actions taken by the railroads when they have been notified both that assessment of a civil penalty will be recommended against the railroad for its failure to comply with a provision of the Federal railroad safety laws and that a remedial actions report must be submitted to FRA stating what actions were taken to correct the safety problem. The requirement for remedial actions reporting is contained in Section 3 of the Rail Safety Enforcement and Review Act (PL 102-365, 106 Stat. 972) dated September 3, 1992.

Note: FRA issued an NPRM on June 18, 1993 (49 FR 33595) concerning remedial actions reporting. Under the NPRM, FRA had created a separate form, "Remedial Actions Report," (FRA F 6180.93), to be used by the railroads in reporting what remedial actions were taken to FRA. This form was approved by OMB under OMB No. approval number 2130-0536. Since remedial actions reports are now reported to FRA on the new consolidated inspection report and that form has been cleared by OMB under the State Participation regulations, FRA cancelled: (1) the paperwork package concerning Remedial Actions Reporting under OMB approval number 2130-0536; and (2) the separate Remedial Actions Report form (FRA F 6180.93).

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

State Participation

This information is collected in order to comply with Federal railroad safety laws and regulations concerning the State Participation Program. Inspection information received from state agencies on their railroad safety investigative and surveillance activities is used by FRA to ascertain compliance with safety standards and focus inspection resources on areas of railroad operations that pose safety risks. A portion of the information is needed to establish the legal authority for processing administrative or litigation responses in non-compliance situations.

The final portion of the information is needed for the overall administration and management of the program. These data are used in monitoring the effectiveness of the program and in preparing various annual safety reports, including mandated reports to the Congress. Furthermore, FRA uses this information to determine whether State Participation Programs are productive and properly managed.

Remedial Actions Reporting

FRA Office of Safety personnel review remedial action reports to ensure that railroads take necessary corrective actions to remedy a failure discovered by an FRA or State Safety Inspector during a safety inspection. Specifically, after notification by FRA, railroads must provide information on the inspection report form by selecting the appropriate remedy code that most accurately reflects the action or actions it took to remedy the failure, such as repair or replacement of a defective component without movement, movement of a locomotive or car for repair (where permitted) and its subsequent repair, completion of a required test or inspection, removal of a non-complying item from service but not for repair (where permitted), reduction of operating speed (where sufficient to achieve compliance), or any combination of actions appropriate to remedy the non-compliance cited. Additionally, railroads selecting the remedial action code "other remedial actions" must also furnish FRA with a brief narrative description of the action or actions taken. Remedial action reports are also reviewed by FRA Safety staff to determine whether railroads, concluding that the alleged

violation may not have occurred, have provided a satisfactory written explanation and whether it is appropriate to refer the matter to the Office of Chief Counsel in order to impose a civil penalty relating to the failure.

FRA's Office of Safety correlates the data representing the different types of remedial actions that entities affected by the reporting requirement have undertaken. This computerized data will assist FRA in systematically targeting inspections by integrating available accident and injury data with inspection and compliance data, so as to better determine if affected entities are minimizing and correcting safety problems. The information is also used by FRA's Office of Chief Counsel during the penalty assessment and negotiation process of the safety violation for which the remedial action report was issued.

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

FRA and state inspectors report inspection findings on automated inspection reports using notebook computers and software developed by the agency. Currently, all 172 state inspectors are equipped with notebook computers. The improved information technology system in the reporting area has not resulted in any significant reduction in burden hours for report preparation, but it has enabled FRA to obtain accurate rail safety data quicker and with a significant reduction in data assimilation time.

Except for regulatory requirements that state participation inspection reports must be recorded on standardized forms, there does not appear to be any other major legal obstacle to the use of a different reporting medium.

4. **Efforts to identify duplication.**

State Participation

FRA's review of state recordkeeping has determined that the states do not otherwise have this information available. To FRA's knowledge, it is not duplicated anywhere else.

No other existing source provides information concerning state qualification and state activity indicators, and no other source provides a basis for Federal reimbursement of funds, when grants are awarded, to the states.

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

State Participation

The collection of state participation information does not involve small businesses or organizations.

Remedial Actions Reporting

The collection of remedial actions information does not involve small businesses other than railroads and railroad contractors. FRA does not propose to eliminate small railroads from the reporting requirements since rail safety is at stake.

6. Impact of less frequent collection of information.

State Participation

If this safety data were not collected, FRA would neither be able to fulfill its mandate from Congress to reduce rail-related accidents and casualties nor would it be able to effectively manage this cooperative FRA/State program. The entire FRA safety program would be significantly hampered without the safety information received from the 30 participating states and their 172 railroad safety inspectors.

State participation regulations, in general, are very flexible regarding the frequency of submission of grant program administrative reports, per Department of Transportation (49 CFR Part 1) requirements. Participating states are required to submit their reports on investigative and surveillance activities either on a monthly or a more frequent basis to ensure swift corrective actions if safety is either deteriorating or is questioned. To be effective, a safety program requires timely information, and collecting this information less frequently would impair FRA's safety program.

Remedial Actions Reporting

Without this part of the information collection, rail safety throughout the United States might be seriously jeopardized. Specifically, the number of accidents/incidents and the severity of injuries might increase without the data supplied by inspectors regarding all aspects/disciplines of rail safety. Federal and State inspectors monitor the day-to-day rail environment to ensure compliance with Federal safety laws and regulations and to highlight violations so that they can be quickly corrected. Without the remedial action reports, FRA would have no way of knowing whether railroads actually took the appropriate action(s) to correct a failure detected by a Federal or State inspector, or provided a satisfactory explanation that no violation occurred. The inability to follow-up after an inspection to confirm that corrective action was taken might lead to unsafe operating conditions that could result in increased numbers of derailments or collisions with corresponding injuries, property damage, and, perhaps, fatalities as well.

7. **Special circumstances.**

State Participation

Rail safety is FRA's highest priority. To have an effective rail safety program, inspection information from both Federal and State rail safety inspectors is required on a monthly basis. Therefore, States are required to take exception to the guidelines in 5 CFR 1320, particularly the requirement that directs that information should not be reported to the agency more frequently than quarterly.

Remedial Actions Reporting

The Rail Safety Enforcement and Review Act requires that remedial actions reports be made within 30 days after the end of the month in which each such notification is received. FRA is constrained by this law from extending the collection period or reducing the frequency of collection.

All other information collection requirements are in compliance with this section.

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

In accordance with the Paperwork Reduction Act of 1995, FRA published a Notice in the Federal Register on September 24, 2012, soliciting comment on this particular information collection. *See 77 FR 58907.* FRA received no comments in response to this notice.

Background

State Participation

The present reporting system has evolved through the years. Initially it was adopted as part of the 1975 revision of the State Participation regulations. Arthur Young Management Consultants served as internal/external liaison to the States in developing the necessary systems, procedural mechanisms, and recordkeeping requirements for the management of the program. It provided development assistance, direction, and guidance to the process. Past revisions provided for submission of additional materials and improved the format of program management forms used for semi-annual financial and progress reports. Earlier revisions dealt with the Federal/State Inspection Plan process already in effect and simplified the initial application by a State and the annual program renewal process. Earlier revisions addressed the submission of the State Railroad Safety Technical Training Funding Agreement.

On June 25, 1981, FRA published an NPRM in the Federal Register (see 46 FR 32888) to revise the State Safety Participation Program regulation. The specific objectives of the

proposed revision included: expansion of the inspection and surveillance authority of state inspectors; clarification of the policy framework; redefinition of inspector qualification requirements; and implementation of appropriate editorial changes to the rules.

At a public hearing on the proposed revision on June 30, 1981, FRA listened to testimony from state agencies, the National Association of Regulatory Utility Commissioners (NARUC), the Association of American Railroads (AAR), and the Railway Labor Executives Association (RLEA). In addition, written comments were submitted by a number of State agencies. All comments and testimony were reviewed and considered during the formulation of the final rule. Significant comments received, and changes made were included in Docket No. RSSP-3. The final rule, as contained in the 1982 modification in the FRA State Participation Regulations (49 CFR 212), incorporated these changes.

Arthur Young Management Consultants completed its task of evaluating the reports in 1976. The proposed changes in information collection were then discussed without any opposition in a series of Federal-State task force meetings with organizations representing the States (NARUC and National Conference on State Railroad Officials, a standing committee of the American Association of State Highway and Transportation Officials). In 1984 and 1985, the FRA program office met individually with most of the then 32 participating States to review existing reporting requirements and to ascertain the need for any changes. At those meetings, it was determined that reporting requirements were satisfactory.

In FY 1989 and thereafter, the States were advised that no Federal funds were available for this program and that program reporting requirements had been revised accordingly. As no grants were awarded in FY 1989 nor expected in the foreseeable future, the yearly program application was significantly reduced by eliminating all budget/funding sections and the need for financial reports was likewise eliminated without the States objections. Furthermore, States were given the opportunity to request additional reporting requirements reductions for the following items for FRA's consideration: (1) Semi-Annual Progress Report, (2) Annual Work Plan and Annual Report, (3) Monthly Work Schedule, and (4) Monthly Activity Reports.

In 1989, FRA established a Federal/State Rail Safety Participation Working Group to improve the State Participation Program. This Working Group was comprised of members from the National Association of Regulatory Utility Commissioners (NARUC), the American Association of State Highway and Transportation Officials (AASHTO), and senior FRA personnel.

Starting in 1994, the State Participation Application has been updated and simplified to change the annual application to an indefinite time period. This change was accomplished with the concurrence of participating States. All financial reporting

requirements were eliminated by the May 24, 1996, removal of Subpart D of 49 CFR Part 212, Grants-in-Aid, and corresponding appendices. The Semi-Annual Progress Report, Annual Report and Monthly Work Schedule were replaced by summary activity reports that can be generated from FRA data bases.

FRA regularly participates in annual meetings of AASHTO, and NARUC. All participating State agencies belong to one of these two organizations. In addition, when budgeted funds are available, FRA sponsors an annual meeting of State program coordinators to ensure that States are aware of reporting requirements and to solicit input on needed changes.

Remedial Actions Reporting

A public hearing was held in Washington, D. C., on October 19, 1993. The following six organizations were represented at the hearing: the Association of American Railroads (AAR); The American Short Line and Regional Railroad Association (ASLRRA); Consolidated Rail Corporation (Amtrak); Union Pacific Railroad Company (UP); and Brotherhood Railway Carmen Division (BRC) of the Transportation Communications International Union (TCIU).

The AAR, ASLRRA, and UP thought that the time FRA had estimated for the completion of the Remedial Actions Report (FRA F 6180.93) was underestimated at 15 minutes. They believed a more accurate estimate would be 90 minutes. This estimate was based on the fact that it would take considerable time to review the narrative required on the form by management personnel. However, they also commented that they thought the recommended 90 minutes could be reduced substantially, if FRA did away with the individual Remedial Action Report and instead included a remedial actions section on FRA inspection forms.

FRA agreed with the commenters and designed a new consolidated inspection report and included a remedial actions report section on the form. The new consolidated inspection report, now known as the "Inspection Report," was assigned agency FRA form number FRA F 6180.96. FRA also concluded that the 15 minutes to respond to the remedial actions section remained a valid time because this time would include any time to just check off a code as well as the time to prepare a narrative, if the railroad so chooses.

9. Payments or gifts to respondents.

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

10. Assurance of confidentiality.

The information contained in the various inspector/investigation reports is a matter of public record and, therefore, confidentiality is not promised to any respondent.

11. Justification for any questions of a sensitive nature.

These requirements have nothing to do with sensitive matters such as sexual behavior and attitudes, religious beliefs, and other matters commonly considered private.

12. Estimate of burden hours for information collected.

Note: The potential respondent universe is 49 States. At present, there are 30 States participating in the program. Burden estimates noted below are based on the number of reports received from the States in 2011.

Application for Participation

The FRA State Participation Program requires that each State become a party to a multi-year agreement with periodic supplements to update relevant information. The application contains the following parts:

State Participation Agreement (Form FRA F 6180.144) - This multi-year agreement sets out the general obligations of both FRA and participating States with respect to investigative and enforcement activities concerning Federal rail safety laws and regulations.

Exhibit 1 - Opinion of Counsel - The Federal Regulations governing the State Participation Program require a statement that the participating agency has jurisdiction over safety practices regarding railroads, and authority and capability to conduct investigative activity in this area.

Exhibit 2 - Schedule of Current Participation - This exhibit to the formal agreement provides information relevant to the conduct of this program.

Exhibit 2A - Revised Schedule of Current Participation - This exhibit allows the State agency to update the information listed above when levels of areas of participation change.

Exhibit 3 - State Railroad Safety Technical Training and Funding Agreement - This exhibit is the agreement between FRA and the State agency regarding reimbursement and other costs associated with inspector training. This form must be submitted on a Federal Fiscal Year basis, preferably prior to October 1, the start of the fiscal year.

As noted above, the application for State participation became a multi-year agreement. It is assumed that approximately half of the participating states (15) will be required to update their applications each year and file Exhibit 2A - Revised Schedule of Current Participation. However, all participating states (30) will be required to submit Exhibit 3 (training funding agreement) each year. FRA estimates that the average burden time for supervisors to prepare the revised schedule, not including Exhibit 3, will be approximately 2.5 hours per application. Thus, the total annual respondent burden will be 38 hours (15 states x 2.5 hours per state). FRA estimates that the average burden time for Exhibit 3 will be approximately one (1) hour per agreement, for a total of 30 hours annually. FRA estimates that approximately 300 annual training classes will require state preparation of travel vouchers (300 vouchers) and that it will take approximately one (1) hour to prepare each voucher. Total annual respondent burden for this entire requirement is 368 hours (38 + 30 + 300).

Schedule of Current Participation

Respondent Universe:	15 States
Burden time per response:	2.5 hours
Frequency of Response:	On occasion
Annual number of Responses:	15 updates
Annual Burden:	38 hours

Calculation: 15 updates x 2.5 hrs. = 38 hours

State Railroad Safety Technical Training and Funding Agreement

Respondent Universe:	30 States
Burden time per response:	1 hour
Frequency of Response:	Annually
Annual number of Responses:	30 agreements
Annual Burden:	30 hours

Calculation: 30 agreements x 1 hr. = 30 hours

State Inspector Travel Planning and Reimbursement

Respondent Universe:	30 States
Burden time per response:	1 hour
Frequency of Response:	On occasion
Annual number of Responses:	300 vouchers
Annual Burden:	300 hours

Calculation: 300 vouchers x 1 hr. = 300 hours

Annual Work Plan (212.109)

FRA regions coordinate with each participating state to develop coordination agreements with state participation programs. This coordination agreement defines inspection planning protocols and may identify inspection territories and methods of cooperating on accidents and complaints. The agreement is not constrained by time limits and may be amended to accommodate exigent circumstances. The base document is a written work plan.

FRA estimates that 30 States will participate, and each State will spend an average of five hours per year to refine existing coordination work plans. Total annual burden for this requirement is 150 hours.

Respondent Universe:	30 States
Burden time per response:	5 hours
Frequency of Response:	Annually
Annual number of Responses:	30 reports
Annual Burden:	150 hours

Calculation: 30 reports x 5 hrs. = 150 hours

Inspection Form (FRA F 6180.96)

FRA uses one inspection form for all safety disciplines: (1) Signal and Train Control Inspection Report; (2) Track Inspection Report; (3) Motive Power and Equipment Inspection Report; and (4) Operating Practices/Hazardous Materials Inspection Report; and (5) Hazardous Materials. The form is contained on a notebook computer; reports are generated and filed electronically.

The electronic inspection form is used by State personnel engaged in the enforcement of the Federal Track Safety Standards (49 CFR 213); Railroad Workplace Safety (49 CFR Part 214); Locomotive Safety Standards (49 CFR 229); Safety Glazing Standards (49 CFR 223); Safety Appliance Standards (49 CFR 231); Power Brake Standards (49 CFR 232); Railroad Freight Car Safety Standards (49 CFR 215); Railroad Operating Practices Regulations (49 CFR 217, 218, 219, 220, 221, 225, and 228); Hours of Service Act; Signal and Train Control regulations (49 CFR 233, 235, and 236) and Hazardous Materials Transportation Act and implementing regulations (49 CFR 171 through 174, and 179). The inspection form documents rail safety inspections, defects, and railroad compliance with the regulations.

FRA estimates that it will receive approximately 16,000 inspection forms annually from State inspectors. It is estimated that it will take each inspector an average of 15 minutes

to complete each inspection report. Total annual burden for this requirement is 4,000 hours.

Respondent Universe:	30 States
Burden time per response:	15 minutes
Frequency of Response:	On occasion
Annual number of Responses:	16,000 reports
Annual Burden:	4,000 hours

Calculation: 16,000 reports x 15 min. = 4,000 hours

Violation Reports

Motive Power and Equipment Violation Report (FRA F 6180.109)

This report consolidated and replaced the following five (5) forms previously used by the Motive, Power, and Equipment discipline: (1) Form FRA F 6180.10; (2) Form FRA F 6180.29; (3) Form FRA F 6180.29A; (4) Form FRA F 6180.68; and (5) Form FRA F 6180.69. This form is used by State personnel to document violations of the Motive Power and Equipment Regulations (49 CFR Parts 209, 210, 215, 223, 229, 230, 231, 232, 238; 40 CFR Part 201; and 49 U.S.C. Subtitle V Chapters 203 and 209). The data are used by FRA attorneys during claims collection proceedings against violating railroads.

FRA estimates that approximately 17 States participate in the Motive, Power, and Equipment safety program, and that it will receive approximately 150 reports a year. It is estimated that it will take an average of approximately four (4) hours to complete each violation report. Total annual burden for this requirement is 600 hours.

Respondent Universe:	17 States
Burden time per response:	4 hours
Frequency of Response:	On occasion
Annual number of Responses:	150 reports
Annual Burden:	600 hours

Calculation: 150 reports x 4 hrs. = 600 hours

Violation of Operating Practices Inspection Report (FRA Form F 6180.67)

This report is used by State personnel to document violations of the Operating Practices Regulations (49 CFR 217, 218, 219, 220, 221, 225 and 228). The data are used by FRA

attorneys during claims collection proceedings against violating railroads.

FRA estimates that approximately 18 States participate in the Operating Practices safety program, and that it will receive approximately 200 reports a year. It is estimated that it will take an average of approximately four (4) hours to complete each violation report. Total annual burden for this requirement is 800 hours.

Respondent Universe:	16 States
Burden time per response:	4 hours
Frequency of Response:	On occasion
Annual number of Responses:	200 reports
Annual Burden:	800 hours

Calculation: 200 reports x 4 hr. = 800 hours

Violation of Hazardous Materials Inspection Report
(FRA F 6180.110)

This report is used by State personnel to document violations of the Hazardous Materials Regulations (49 CFR parts 171-174, and 179). The data are used by FRA attorneys during claims collection proceedings against violating parties (i.e., railroads, shippers, or manufacturers). (*Note: Inspectors previously used Form FRA F 6180.67 for this type of violation*).

FRA estimates that approximately 15 States participate in the Hazardous Materials safety program, and that it will receive approximately 150 reports a year. It is estimated that it will take an average of approximately four (4) hours to complete each report. Total annual burden for this requirement is 600 hours.

Respondent Universe:	15 states
Burden time per response:	4 hours
Frequency of Response:	On occasion
Annual number of Responses:	150 reports
Annual Burden:	600 hours

Calculation: 150 reports x 4 hrs. = 600 hours

Violation of Hours of Service Law Report
(FRA Form F 6180.33)

This report is used by both Federal and State personnel to document violations of the Hours of Service Laws (49 U.S.C. 21102; formerly 49 U.S.C 61-641). The data are used by FRA attorneys during claims collection proceedings against violating railroads. FRA estimates that approximately 18 states conduct Hours-of-Service Laws inspections

as part of the operating practices safety program, and that it will receive approximately 15 reports a year. It is estimated that it will take an average of approximately four (4) hours to complete each report. Total annual burden for this requirement is 60 hours.

Respondent Universe:	18 States
Burden time per response:	4 hours
Frequency of Response:	On occasion
Annual number of Responses:	15 reports
Annual Burden:	60 hours

Calculation: 15 reports x 4 hr. = 60 hours

Violation of Accident/Incident Reporting Rules Report
(FRA Form F 6180.61)

This report is used by State personnel to document violations of the Accidents Reports Act (59 U.S.C. 12). The data are used by FRA attorneys during claims collection proceedings against violating railroads.

FRA estimates that approximately 18 States perform accident/incident reporting rules inspections as part of the operating practices safety program, and that it will receive approximately 15 reports a year. It is estimated that it will take an average of approximately four (4) hours to complete each report. Total annual burden for this requirement is 100 hours.

Respondent Universe:	18 States
Burden time per response:	4 hours
Frequency of Response:	On occasion
Annual number of Responses:	15 reports
Annual Burden:	60 hours

Calculation: 15 reports x 4 hrs. = 60 hours

Violation of Track Safety Regulations
(FRA Form F 6180.111)

This report is used by state personnel to document violations of the Track Safety Regulations (49 CFR Parts 213 and 214). The data are used by FRA attorneys during claims collection proceedings against violating railroads.

FRA estimates that approximately 25 States perform track safety rules inspections as part of their track safety program, and that it will receive approximately 60 violation reports a

year. It is estimated that it will take an average of approximately four (4) hours to complete each report. Total annual burden for this requirement is 240 hours.

Respondent Universe:	25 States
Burden time per response:	4 hours
Frequency of Response:	On occasion
Annual number of Responses:	60 reports
Annual Burden:	240 hours

Calculation: 60 reports x 4 hrs. = 240 hours

Violation of Signal and Train Control Regulations
(FRA Form F 6180.112)

This report is used by state personnel to document violations of the Signal and Train Control Regulations (49 CFR Parts 233, 234, 235, and 236). The data are used by FRA attorneys during claims collection proceedings against violating railroads.

FRA estimates that approximately 14 States perform signal and train control inspections as part of their track safety program, and that it will receive approximately 20 violation reports a year. It is estimated that it will take an average of approximately four (4) hours to complete each report. Total annual burden for this requirement is 80 hours.

Respondent Universe:	14 States
Burden time per response:	4 hours
Frequency of Response:	On occasion
Annual number of Responses:	20 reports
Annual Burden:	80 hours

Calculation: 20 reports x 4 hrs. = 80 hours

Remedial Actions Report (49 CFR 209.405 and 209.407)

The reporting of remedial actions by railroads became effective on January 1, 1995.

- A. Each railroad that has received written notification on FRA's Inspection Report (FRA F 6180.96) from an FRA or State Safety Inspector both that assessment of a civil penalty will be recommended for the railroad's failure to comply with a provision of the Federal railroad safety laws and that it must submit a remedial actions report is required to report to FRA, within 30 days after the calendar month in which the notification is received, all actions taken to remedy that

failure. FRA's form FRA F 6180.96 (Inspection Report) will be used by the affected responsible railroads to report what remedial actions were taken. Each railroad must complete the remedial actions report in the manner prescribed on the report form. The railroad must select the one remedial action code on the reporting form that most accurately reflects the action or actions taken to remedy the failure, such as repair or replacement of a defective component without movement, movement of a locomotive or car for repair (where permitted) and its subsequent repair, completion of a required test or inspection, removal of a non-complying item from service but not for repair (where permitted), reduction of operating speed (where sufficient to achieve compliance), or any combination of actions appropriate to remedy the noncompliance cited. Any railroad selecting the remedial action code "other remedial actions" must also furnish FRA with a brief narrative description of the action or actions taken. The railroad must return the form by first class mail to the FRA Safety Inspector whose name and address appear on the form.

Based on 2011 performance, FRA estimates that Federal and State inspectors will cite approximately 4,200 safety defects annually that require railroads to submit a remedial actions report to FRA. It is estimated that it will take an average of approximately 15 minutes for a railroad to fill in the required information and submit the inspection report back to FRA. Total annual burden for this requirement then is 1,050 hours. *(Note: Some reports will take less time when a railroad just checks off what remedial actions were taken, while some reports will require more time to complete when a railroad also provides a narrative to the report. However, FRA has determined that the average time will be around 15 minutes. Also, respondent universe estimate was obtained from the Association of American Railroads (AAR) Website, www.aar.org.)*

Respondent Universe:	566 railroads
Burden time per response:	15 minutes
Frequency of Response:	On occasion
Annual number of Responses:	4,200 reports
Annual Burden:	1,050 hours

Calculation: 4,200 reports x .25 hr. = 1,050 hours

- B. If any railroad concludes that the violation alleged on the inspection report may not have occurred, it may submit the remedial actions report with an appropriate written explanation.

FRA estimates that, in approximately 20 percent or 840 of the violation reports filed annually where the assessment of a civil penalty is recommended, a responsible railroad will question whether a violation actually exists as stated in the violation report. It is estimated that it will take an additional hour to prepare

the written explanation required to be submitted with the Remedial Actions Report (Form FRA F 6180.96). Total annual burden for this requirement is 840 hours.

Respondent Universe:	566 railroads
Burden time per response:	1 hour
Frequency of Response:	On occasion
Annual number of Responses:	840 challenges
Annual Burden:	840 hours
Calculation:	840 challenges x 1 hour = 840 hours

Total annual burden for this entire requirement is 1,890 hours (1,050 + 840).

Delayed Reports (49 CFR 209.407)

If a railroad cannot initiate or complete remedial actions within 30 days after the end of the calendar month in which the notification is received, it must prepare, in writing, an explanation of the reasons for such delay and a good faith estimate of the date by which it will complete the remedial actions, stating the name and job title of the preparer and including either (1) a photocopy of both sides of the form FRA F 6180.96 on which the railroad received notification; or (2) the following information: (a) the inspection report number; (b) the inspection date; and (c) the item number. The person responsible for the report must then sign, date, and submit the written explanation and estimate to the FRA Safety Inspector whose name and address appear on the notification within 30 days after the end of the calendar month in which the notification is received.

FRA estimates that, in approximately 10 percent (420) of the remedial action reports issued annually, the responsible railroad will not be able to initiate and/or complete the remedial actions required, and that it will submit a report to FRA within the required 30-day time frame. It is estimated that it will take an additional 30 minutes to prepare, sign, file, and submit the written notification to the appropriate FRA inspector explaining the reasons for such delay and to provide an estimate of a date by which the remedial actions will be completed. Total annual burden for this requirement is 210 hours.

Respondent Universe:	566 railroads
Burden time per response:	30 minutes
Frequency of Response:	On occasion
Annual number of Responses:	420 reports
Annual Burden:	210 hours

Calculation: 420 reports x .5 hr. = 210 hours

Total annual burden for this entire information collection is 9,058 hours.

13. Estimate of total annual costs to respondents.

Miscellaneous expenses are estimated at \$1,000 per state or a total of \$30,000 annually.

14. Estimate of Cost to Federal Government.

On the basis of recent experience, approximately 3,141 FRA man-hours are required to process and review state reports. Of that total, approximately 80% of the processing time, or 2,513 hours are spent by the FRA regional staff and 628 hours by the FRA Headquarters staff.

It is estimated that approximately 292 FRA labor hours will be required to process and review the remedial actions reports annually. The associated hourly salary (including benefits and overhead at 40%) to the Government has been calculated, as follows:

FRA Region Labor			
1,743 hours x \$54/hour	=		\$ 94,122
FRA Headquarters labor			
638 hours x \$64/hour	=		<u>40,832</u>
Total labor			\$ 134,954
Printing			12,500
Postage			500
Miscellaneous			<u>7,500</u>
Total			\$ 155,454

15. Explanation of program changes and adjustments.

The burden has decreased by 1,690 hours. The decrease is solely the result of **adjustments**, which are listed in the table below.

TABLE FOR ADJUSTMENTS

<u>CFR Section</u>	Responses & Avg. Time (Previous Submission)	Responses & Avg. Time (This Submission)	Burden Hours (Previous Submission)	FRA Burden Hours (This Submission)	Difference (plus/minus)
212.109—Annual Work Plan	30 reports 15 hours	30 reports 5 hours	450 hours	150 hours	-- 300 hours 0 responses

Motive, Power, and Equipment Violation Report (Form FRA F 6180.109)	550 reports 4 hours	150 reports 4 hours	2,200 hours	600 hours	-- 1,600 hours -- 400 resp.
Violation of Operating Practices Inspection Report (Form FRA F 6180.67)	140 reports 4 hours	200 reports 4 hours	560 hours	800 hours	+ 240 hours + 60 responses
Violation of Hazardous Materials Inspection Report (Form FRA F 6180.110)	170 reports 4 hours	150 reports 4 hours	680 hours	600 hours	-- 80 hours -- 20 responses
Violation of Hours of Service Laws (Form FRA F 6180.33)	35 reports 4 hours	15 reports 4 hours	140 hours	60 hours	-- 80 hours -- 20 responses
Violation of Accident/Incident Reporting Rules Report (Form FRA F 6180.61)	30 reports 4 hours	15 reports 4 hours	120 hours	60 hours	-- 60 hours -- 15 responses
Violation of Traffic Safety Regulations (Form FRA F 6180.111)	100 reports 4 hours	60 reports 4 hours	400 hours	240 hours	-- 160 hours -- 40 responses
209.405 – Remedial Action Report	3,500 reports 15 minutes	4,200 reports 15 minutes	875 hours	1,050 hours	+ 175 hours + 700 resp.
--Remedial Action Report w/Written Explanation that Alleged Violation Did Not Occur	700 reports 60 minutes	840 reports 60 minutes	700 hours	840 hours	+ 140 hours + 140 resp.
209.407 – Delayed Reports	350 reports 30 minutes	420 reports 30 minutes	175 hours	210 hours	+ 35 hours + 70 responses

Total **adjustments** above decreased the burden by **1,690 hours** and increased responses by **475**.

The current OMB inventory displays a total burden of *10,748 hours*, while the present submission exhibits a burden total of *9,058 hours*. Hence, there is an decrease in burden of **1,690 hours**.

There is no change in burden costs to respondents.

16. Publication of results of data collection.

There are no plans to tabulate or publish the collected 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.

FRA plans no publication of this information.

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 United States might be seriously jeopardized. Specifically, the number of accidents/incidents and the severity of injuries might increase without the data supplied by state inspectors regarding all aspects/disciplines of rail safety. With the aid of this information, FRA – in collaboration with the railroads – is able to devise safety programs, practices, and procedures that reduce the likelihood of rail accidents/incidents, and thus the threat of injuries and fatalities to train crews and the traveling public.

The collection of information provides a valuable tool which FRA, with the aid of the states, can use to improve safety by monitoring violations of Federal safety laws and regulations. By close surveillance and early discovery of violations, FRA can take immediate steps to correct situations or practices before they undermine safety, and lead to accidents/incidents.

In summary, this collection of information enhances railroad safety by providing an additional layer of protection through the agency's close monitoring and full awareness of rail practices and situations on a statewide as well on a national basis. It furthers DOT's goal of promoting the public health and safety by working toward the elimination of transportation-related deaths, injuries, 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.