

SUPPORTING JUSTIFICATION
Railroad Safety Appliance Standards
OMB No. 2130-0594

Summary of Submission

- This submission is a request for a revision of the last approval granted by OMB on **August 4, 2011**, which expires **August 31, 2014**.
- FRA published the required 60-day **Federal Register** Notice on March 4, 2014. See 79 FR 12263.
- The total number of burden **hours requested** for this submission is **30,487 hours**.
- The total burden **previously approved** for this information collection amounted to **4,390 hours**.
- The increase in burden from the last approved submission amounts to **26,097 hours**.
- Total **adjustments** amount to **26,097 hours**.
- There are no program changes
- Total number of **responses requested** for this submission is **4,655**.
- Total number of **responses previously approved** for this submission is **1,233**.
- ****The answer to question number 12 itemizes the hourly burden associated with each requirement of this rule (See pp. 15-25).**
- ****The answer to question number 15 itemizes all adjustments (See pp. 27-28).**

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

Background

The Association of American Railroads (AAR) submitted a petition to amend 49 CFR Part 231 on March 28, 2006. The AAR petition requested that FRA adopt new Federal railroad safety appliance standards to incorporate changes in railcar design that have occurred since the safety appliance regulations were promulgated in their current form. FRA is acting on AAR's request by amending 49 CFR Part 231 to add sections 231.33 and 231.35 to the existing regulations. These new sections establish a special approval process similar to what is found in Parts 232 and 238. The special approval process

enables the railroad industry to submit new rail equipment designs to FRA for approval with respect to the placement and securement of safety appliances on the designs. FRA anticipates that the special approval process will have multiple benefits, including allowing for greater flexibility within the railroad industry and increasing rail safety by incorporating modern ergonomic design standards and technological advancements in construction.

The Railroad Safety Appliance Standards set forth in 49 CFR Part 231 arose out of an extended legislative and regulatory effort, beginning in the 19th century, to improve the safety of railroad employees and the public. As railroads began to rapidly grow and develop following the Civil War, it became increasingly apparent that new measures were needed to protect railroad employees who were directly involved in the movement of trains. Most vehicles did not have adequate safety mechanisms and many of the practices and procedures used by train service employees were not safe. For example, employees regularly controlled the speed of (and sometimes) stopped trains by using the handbrakes. In many cases, this required employees to perch themselves on top of freight cars while the cars were moving at high rates of speed over rough track. Additionally, use of the “link and pin” coupler, which was the standard method for coupling railcars, required employees to go between the ends of railcars to operate or adjust the coupler. These practices and others of like type led to excessive numbers of deaths and injuries among train service employees during the expansion of the railroad system following the Civil War. Indeed, during the eight years prior to the passage of the first Safety Appliance Act in 1893, the number of employees killed or injured was equal to the total number of people employed by the railroad in a single year.

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

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

The Federal railroad safety appliance standards encompassed in Part 231 serve the purpose of increasing railroad safety by identifying the applicable safety appliance requirements for various individual car types. (See e.g. 49 CFR § 231.1, box and other house cars built or placed into service before October 1, 1966.) While these regulations continue to serve their purpose, FRA recognizes the railroad industry has evolved over time. The industry has created and continues to create new railcar types to satisfy the demands for transporting freight as well as passengers on the present-day railroad. Many of the modern railcar types that are presently being built to handle railroad traffic do not fit neatly within any of the specific car body types identified in the existing regulations and ambiguities sometimes arise regarding the placement of safety appliances on these car types.

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

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

This results in ambiguity regarding what is the appropriate location for certain safety appliances, such as handholds and sill steps.

Moreover, the requirements in Part 231 sometimes allow for spatial relationships between safety appliances that can result in the placement of appliances in less than optimal locations to ensure the safety of a person working in and around the railcar. For example, in § 231.21, Tank Cars Without Underframes, the center of the tread of the sill step can be up to 18 inches from the end of the car while the outside edge of the horizontal side handhold over the sill step can be up to 12 inches from the end of the car. Consequently, a car built using these requirements may be compliant with the regulation even though the sill step and horizontal handhold are not aligned in a manner that maximizes the safety of a person working in and around the car.

Together these factors can make compliance with the Federal railroad safety appliance standards difficult and inefficient when dealing with modern railcar designs. In addition, the current regulations do not contemplate advancements in the design of such vehicles. This means that the current regulations can operate to preclude the application of technological innovations and modern ergonomic design principles that would increase the safety of persons who work on and around rail equipment and use safety appliances on a regular basis.

The AAR Safety Appliance Task Force (Task Force) consists of representatives from the Class I railroads, labor unions, car builders, and government (FRA and Transport Canada participate as a non-voting members), as well ergonomics experts. The Task Force was created by AAR's Equipment Engineering Committee to develop new industry standards for safety appliance arrangements that could be used to reduce the differences of opinion that can arise in the interpretation of the Federal safety appliance standards in Part 231. The Task Force has drafted a base safety appliance standard as well as industry safety appliance standards for modern boxcars, covered hopper cars, and bulkhead flat cars. These industry safety appliance standards have been adopted by AAR's Equipment Engineering Committee, and FRA expects them to serve as the core safety appliance criteria that can be used to guide the safety appliance arrangements on railcars that are more specialized in design. The industry safety appliance standards developed by the Task Force incorporate ergonomic design principles that increase the safety and comfort for persons working on and around safety appliance apparatuses. For example, the Task Force standards establish minimum foot clearance guidelines for end platforms that allow for wider and stiffer sill steps to support a person's weight.

The AAR petition to amend Part 231 requested that FRA adopt these new industry standards and amend its regulations to recognize changes in railcar design since the safety appliance regulations were promulgated in their current form. Because the standards submitted by AAR in connection with its petition require some modification before they can be approved and adopted by FRA, FRA is not proposing to incorporate the standards into Part 231 at this time. FRA prefers to utilize the process established in

this final rule to fully evaluate and assess the industry safety appliance standards developed by AAR through the Task Force to ensure that they are complete and enforceable. Thus, FRA is acting on AAR's petition for rulemaking by establishing a special approval process similar to that currently contained in 49 CFR Parts 232 and 238.

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

The final rule closely follows the processes set forth in §§ 232.17, 238.21, and 238.20. The special approval process being proposed for Part 231 establishes a process for submitting, reviewing, and approving the use of safety appliance standards once they have been developed by the industry. The process will also allow for an industry representative to submit modifications of industry-approved safety appliance standards for FRA's review and approval. Once an existing industry safety appliance standard or modification to an existing industry safety appliance standard is approved by FRA, it will become applicable to the industry for the purposes of new railcar construction. FRA expects that this amendment to Part 231 will benefit railroad safety by: (1) allowing FRA to take into account technological advancements and ergonomic design standards for new car construction, (2) ensuring that modern railcar designs comply with applicable statutory and safety-critical regulatory requirements related to safety appliances, and (3) providing flexibility to efficiently address safety appliance requirements on new railcar and locomotive designs in the future.

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

The information collected is used by FRA to enhance rail safety by establishing clear industry standards to allow the safe placement and securement of safety appliances on modern rail equipment. The information collected is used by FRA to better serve the goal of adapting to changes in modern rail car design while also facilitating statutory and regulatory compliance.

Railroad industry representatives are permitted to submit requests for the approval of existing industry standards regarding rail equipment. FRA reviews such petitions for special approval of an existing industry standard for new car construction to determine

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

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

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

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

3. Extent of automated information collection.

For many years now, FRA has strongly encouraged and highly endorsed the use of advanced information technology to reduce burden on respondents (wherever possible). In particular, FRA has been a very strong proponent of the use of electronic recordkeeping by railroads and other members of the rail industry. Unless specified otherwise in its rulemakings, respondents may provide required information to FRA electronically, if they so choose. Sections 231.33(e) and 231.35(d) of this rule provide that electronic submission of comments to FRA may be made via the Internet at <http://www.regulations.gov>. Any comments or information sent directly to FRA are immediately provided to the DOT FeP for inclusion in the public docket related to the petition.

Thus, 100% of the information required by this final rule may be provided and are actually electronically provided to FRA by railroads. Railroads also send hard copies of the required documents *as a courtesy* so that FRA can more readily review drawings and other such documents. Other members of the rail industry and rail labor representatives and members of the public also send documents electronically to FRA.

4. Efforts to identify duplication.

The information collection requirements are entirely associated with this rulemaking; are new; and, to our knowledge, are not duplicated anywhere.

Similar data are not available from any other source.

5. Efforts to minimize the burden on small businesses.

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

There are approximately 700 railroads that could be affected by this regulation. Consequently, this regulation could affect a substantial number of small entities. However, FRA does not anticipate that this regulation, which established a permissive process that allows for FRA approval of industry standards, would impose a significant economic impact on a substantial number of small entities.

The rule also applies to governmental jurisdictions or transit authorities that provide commuter rail service – none of which is small for purposes of the SBA (i.e., no entity serves a locality with a population less than 50,000). These entities also receive Federal transportation funds. Intercity rail service providers Amtrak and the Alaska Railroad Corporation are also subject to this rule, but they are not small entities and likewise receive Federal transportation funds.

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

Furthermore, FRA does not believe there are any significant costs to implementing any approved industry standard as any such standard will likely be a repositioning of existing safety appliances and will only be applicable to newly manufactured units. FRA believes

that these construction costs, if any, will be negligible. Moreover, few small entities purchase newly manufactured equipment; generally, these operators acquire used equipment from larger railroads. Accordingly, FRA does not consider this impact of this rule to be significant for small entities, and has prepared and placed in the docket a Certification Statement that assesses the small entity impact of this rule, and certifies that this rule is not expected to have a significant economic impact on a substantial number of small entities.

6. Impact of less frequent collection of information.

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

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

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

7. Special circumstances.

All information collection requirements are in compliance with this section.

8. Compliance with 5 CFR 1320.8.

As required by the Paperwork Reduction Act of 1995 and 5 CFR 1320, FRA published a notice in the Federal Register on March 23, 2014, soliciting comment on these information collection requirements from the public, railroads, and other interested

parties. See 79 FR 12263. FRA received no comments in response to this notice.

Background

In response to its Notice of Proposed Rulemaking (NPRM) published on July 2, 2010, FRA received a total of four (4) comments representing seven (7) different organizations, including one government entity. These comments seemed to indicate general support among various sectors of the railroad industry for FRA to update the Federal railroad safety standards in Part 231.

The Association of American Railroads (AAR) commented that it is “pleased that FRA has made this proposal” and notes that modernization of the safety appliance standards is long overdue. Trinity Rail (Trinity), a railcar manufacturer, commented that it very much favored the amendments that FRA has proposed to Part 231. Additionally, the Brotherhood of Locomotive Engineers and Trainmen (BLET), the Transportation Communications Union, the Transport Workers Union (TWU), and the United Transportation Union (UTU) (which filed comments jointly and are collectively referred to as Labor) also agreed with the concept of adding a special approval process to Part 231 to address the placement and securement of safety appliances on new rail car designs.

There were no comments pertaining to estimated burden hours and burden costs in response to those published in the NPRM. However, there were comments pertaining to information collection requirements included in the proposed rule. In response to proposed § 231.33, FRA received a number of comments related to paragraph (b). In paragraph (b)(2), FRA set forth the minimum requirements for a petition for special approval of an existing industry safety appliance standard. FRA envisioned that this paragraph would include each of the elements that would be necessary to allow it to make an informed decision on a petition for special approval. As a result, it requested comment regarding whether the information required in this paragraph was necessary and sufficient to allow FRA to make an informed decision. In response, FRA received comments from Trinity Rail (a rail car manufacturer), Labor (comments filed jointly by the BLET, TCU, TWU, and the UTU) and AAR. Trinity and Labor found that the minimum requirements were both necessary and sufficient, with Labor specifically noting its agreement with the requirement to demonstrate “the ergonomic suitability of the proposed arrangements in normal use.”

AAR did not provide comment about the specific minimum requirements; however, it did raise an issue with the wording of the paragraph. Specifically, AAR noted that the proposed paragraph would require the standard to contain supporting data and analysis. AAR contended that such information should be included in the supporting analysis, but that it would be unusual for the actual industry standard to contain the supporting analysis.

FRA agrees with AAR's point and has reordered paragraph (b) to clarify that the supporting data or analysis may be submitted in the petition, but separate from the actual industry safety appliance standard. As a result, paragraph (b)(2) has been split into multiple paragraphs. The new paragraph (b)(2) provides that the petition must contain an industry-wide standard that identifies the type of the equipment to which the standard is applicable; ensures as nearly as possible that the standard requires the same complement of safety appliances as the nearest approximate car type(s); complies with all of the statutory requirements in 49 U.S.C. 20301 and 20302; and addresses the specific number, dimension, location, and manner of attachment for each safety appliance in the industry standard. Proposed paragraphs (b)(2)(v)-(vii) have been renumbered as paragraphs (b)(3)-(5). Paragraph (b)(3) requires the petition for special approval to contain appropriate data or analysis, or both, that will allow FRA to determine if the industry safety appliance standard will provide at least an equivalent level of safety. Paragraph (b)(4) requires that the petition include visual aids, such as drawings or sketches, that provide detailed information about the design, location, placement, and attachment of safety appliances under the industry standard. Finally, paragraph (b)(5) requires a demonstration that the safety appliance arrangements are ergonomically suitable. Revising proposed paragraph (b)(2) in this manner ensures that the FRA is provided with the information that it deems necessary, while allowing the industry safety appliance standards to remain uncluttered with information that is not traditionally found in the Federal railroad safety appliance standards.

Labor supported the requirement in paragraph (b)(6) – which was formerly proposed paragraph (b)(3) – that the petitioner serve the petition upon the designated representatives of the employees affected. It stated that serving a copy of the petition on the President of each Union representing the affected employees would be a satisfactory application of this requirement. FRA considers the person named as the designated labor representative to be an internal decision for each union. Once the final rule becomes effective, each union may designate the individual that it deems appropriate.

AAR suggested that paragraph (b)(6) be deleted. It argued that FRA does not normally require service on labor unions. It contended that the only instance where FRA has required service upon labor unions concerned the rulemaking requiring certification of conductors. AAR argued that, unlike with conductor certification, this rulemaking will not directly affect employees and that there will be numerous labor organizations upon which AAR would potentially have to serve notice. Instead of requiring service upon the labor unions responsible for the equipment's operation, inspection, testing, and maintenance under Part 231, AAR contended that FRA can rely merely on the standard practice of notifying interested parties through the publication of notices in the Federal Register. AAR further suggested that FRA could set up a special approval docket through www.regulations.gov, which would enable interested parties to sign up and be notified of any actions with respect to the specific docket.

FRA disagrees with AAR's contention that paragraph (b)(6) should be deleted. First, providing service of the petition upon the designated labor representative and other interested parties ensures that those persons and/or organizations that have an interest in the petition will have an adequate opportunity to review and comment on the petition prior to FRA issuing its decision. Second, in contradistinction from AAR's argument, it is FRA's view that the overriding purpose of establishing this special approval process is to enhance the safety of those employees who use safety appliances on regular basis in the performance of their duties. As a result, FRA considers notification to the applicable labor representatives particularly important to achieving a special approval process that considers all relevant comments. Third, FRA would note that there were only four labor unions that provided comments to the subject NPRM, three of which, the UTU, BLET, and TWU, actively participate in the Task Force. In light of this, FRA does not expect that there will be a substantial number of labor organizations or other interested parties that will require notification for each petition. Finally, FRA would note that the special approval processes established in Parts 232 and 238 similarly require that a petitioner serve a copy of the petition on the designated representative of the employees. See 49 CFR 232.17(d)(2)(i) and 238.21(b)(4) and (c)(3). To FRA's knowledge, these provisions have not created a significant hardship for railroads in pursuing special approval of alternative standards for braking systems or passenger equipment. Given these factors, FRA has decided not to remove paragraph (b)(6) in this final rule.

For the same reasons as identified above, AAR argued that paragraph (c)(2) should be deleted. Additionally, with respect to proposed paragraph (c)(2)(iii), AAR stated that "FRA does not maintain service lists" and questioned the means by which a petitioner will know if an individual has filed a statement of interest. FRA notes that this requirement is no different than that which is found in § 232.17(d), which was promulgated in 2001, after going through the Rail Safety Advisory Committee Process. See 66 Fed. Reg. 4104, 4198 (January 17, 2001). To FRA's knowledge this requirement has not presented any difficulties with respect to the special approval process in § 232.17, and FRA does not expect that the requirement will present a significant hardship with respect to the special approval process being established in Part 231.

Labor expressed concern that FRA allows for a petition to be returned to the petitioner for amendment in paragraph (f)(3)(iii). It believes that such a petition should be denied with the reasons for the denial identified. Labor contended that allowing for amendment will complicate the approval process. Moreover, Labor suggested that returning the petition effectively results in negotiating with the petitioner rather than restarting the process which appears to be counterproductive and potentially confusing. Labor stated that "this third option for approval also appears to require all of the same elements as re-filing an amended petition and appears to offer no significant advantage over a restart of the petition process."

In FRA's view, returning the petition for further consideration, as provided for in paragraph (f)(3)(iii), may in some cases be more efficient than denying a petition

outright. In FRA's experience with other filings, many times a filing party will substantially comply with the requirements, yet be deficient in some minimal way. It is FRA's belief that in such circumstances, it is better to work with the filing party to resolve the inadequacies without denying the petition outright and requiring a party to re-submit a new petition. Moreover, given that petitions will be able to be identified by their docket number, FRA does not believe that returning petitions for further consideration will foster confusion.

In paragraph (f)(5), FRA proposed that, if a petition is granted, it shall go into effect on January 1st, not less than one year from the date of approval and not more than two years from the date of approval. FRA received numerous comments on this provision. Taking into account these comments, it has decided to amend paragraph (f)(5) to allow FRA to tailor the effective date based on the information before it at the time that it decides to grant a petition.

AAR provided that it "opposes a general prohibition on compliance with new standards immediately upon FRA approval." It believes that, under most circumstances, manufacturers will be able to immediately transition to an FRA-approved industry safety appliance standard without adversely affecting safety. As a result, it requests that "[e]quipment may be built to the new standard immediately upon FRA's written notice granting the petition, unless FRA provides otherwise in its written notice."

Labor similarly suggested that FRA-approved industry safety appliance standards should become effective immediately, or at least as soon as reasonably possible, because it felt that the safety appliance arrangements provided for in granted petitions will be superior to the current arrangements provided for in part 231. Labor additionally argued that the effective date should be flexible. This would allow it to be adjusted where it is determined that a new design offers safety improvements.

Trinity contended that it is necessary for a manufacturer to have some lead time before an FRA-approved industry safety appliance standard becomes effective, but suggested revising paragraph (f)(5) to provide greater flexibility. It stated that lead time is necessary for design activity, production planning and the procurement of material. Additionally, Trinity argued that scheduling could be affected by many factors that are beyond the control of the car builder. As a result, it remarked that there may be times where it is almost impossible to make a change-over precisely on January 1st of any given year. Trinity also contended that car builders may not have any control over delayed material shipments, weather conditions, equipment break downs and customer requested schedule changes. To allow for these variables, Trinity suggested that the proposed rule be modified to allow for a three month window prior to the January 1st mandatory incorporation date of an approved petition where the change-over can take place. Trinity stated that, because the built date is always stenciled on the car, the determination as to whether a car is in compliance with an approved petition can easily

be ascertained. Trinity contended that its proposal would result in earlier compliance with an approved petition and give car builders some flexibility.

FRA is mindful of the fact that lead time is often necessary for design activity, production planning, and the procurement of material, as noted by Trinity. Indeed, this is why FRA initially proposed that once a petition is granted it would have an effective date of January 1st, not less than one year and not more than two years from the date of FRA's written notice granting the petition. However, there seems to be a consensus among the commenters that, in many cases, the industry safety appliance standards contained in a granted petition should be able to be implemented much more expediently. As a result, FRA is amending paragraph (f)(5) to allow FRA to establish the effective date in its written notice granting a petition. In such cases, where FRA establishes the effective date in writing, FRA's decision will be based on the materials presented in the petition and after fully considering any comments received. This will allow FRA to tailor the effective date to fit with the lead time if any is necessary for design activity, production planning, or the procurement of material. In the event that FRA does not specify an effective date, the effective date will fall back to January 1st, not less than one year and not more than two years from the date of FRA's written notice granting the petition. There were also comments pertaining to proposed § 231.35. Paragraph (b) requires that each petition for modification be served upon the designated representatives of employees responsible for the operation, inspection, testing, and maintenance of equipment that is the subject of the petition. Labor requested that FRA continue to require that any petitions for modification be shared in a formal manner with the representatives of the employees impacted by the petition. Labor suggested that all parties involved in the process should collaborate and that, when the need arises to file a petition for approval or a petition for modification, the first consideration of all of the parties involved should be to file a joint petition that includes representatives of the employees that work on the affected equipment. In its view, collaboration at the basic levels is much more productive than the traditional processes, such as filing waiver petitions without any type of prior notification to the employees or other interested parties.

FRA views collaboration between all interested parties favorably. Indeed, one of the recognized benefits of the Task Force is that it receives input from not only railroads, but also private car owners, car builders, and labor representatives. As a result, FRA welcomes petitions filed jointly by representative of the railroads and labor. However, FRA does not think that it would be appropriate to mandate collaboration or the joint filing of petitions, which could result in unnecessary stagnation and delay. Paragraph (b) ensures that designated labor representatives will be served with a copy of a petition for modification and provides 60 days to comment on any such petition. In FRA's view, this is an adequate method to ensure that labor representatives have an opportunity to provide any relevant information that they deem appropriate.

Finally, FRA received a two comments relating to § 231.35(f)(1). Paragraph (f)(1) establishes an effective date for modified industry safety appliance standards that are approved by FRA. Under this paragraph, a modified industry standard will become effective 15 days after the 60-day comment period unless a commenter or FRA objects to the petition for modification. Trinity stated that, while it may be appropriate to allow for modifications to go into effect 15 days after the 60-day comment period for simple modifications (e.g., relocating handholds), the abbreviated period prior to the effective date will not provide sufficient time to convert production for more extensive modifications because such changes may require ordering substantial new material or the fabrication of new major railcar assemblies.

FRA proposed an abbreviated transition period for an unopposed modification because it envisions, in most instances, that this provision will be used to address minor adjustments that become apparent in the course of using the subject rail equipment. In the event that a petition for modification requests major changes that would require a greater time period to transition into the modification, FRA expects that the petition for modification will make FRA aware of the potential for delays in implementation. Otherwise, upon reviewing the petition, either an interested party or FRA may object to the petition for modification based on the grounds that insufficient time exists to transition to the modified standard, then the timeline for disposition of the modification would revert back to that established by § 231.33(f)(5). FRA views these safeguards as adequate protection against a modified requirement becoming effective prior to there being the capabilities to incorporate the modification.

AAR also submitted similar comments on paragraph (f)(1). It contended that allowing a modified industry standard to go into effect 15 days after the close of the 60-day comment period ignores that a transition period may be needed before the manufacturer can build to the modified standard. It suggests that the transition period for modification be similar to that used for new industry standards approved by FRA.

FRA found this contention by AAR strange in light of its comments with respect to § 231.33(f)(5), which suggested that FRA require that newly approved industry standards become effective immediately. As noted in the previous paragraph, FRA envisions the modification process to be used for minor changes. As a result, FRA believes that some minimal transition time is necessary, but expects that most changes can easily be accomplished in the time period specified in § 231.35(f)(1).

9. Payments or gifts to respondents.

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

10. Assurance of confidentiality.

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

11. Justification for any questions of a sensitive nature.

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

12. Estimate of burden hours for information collected.

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

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

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

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

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

(2) An existing industry-wide standard that, at a minimum:

(i) Identifies the type(s) of equipment to which the standard would be applicable and the section or sections within the safety appliance regulations that the existing industry standard would operate as an alternative to for new car construction;

(ii) Ensures, as nearly as possible, based upon the design of the equipment, that the standard provides for the same complement of handholds, sill steps, ladders, hand or parking brakes, running boards, and other safety appliances as are required for a piece of equipment of the nearest approximate type(s) already identified in this part;

(iii) Complies with all statutory requirements relating to safety appliances contained at 49 U.S.C. 20301 and 20302;

(iv) Addresses the specific number, dimension, location, and manner of application of each safety appliance contained in the industry standard;

(3) Appropriate data or analysis, or both, for FRA to consider in determining whether the existing industry standard will provide at least an equivalent level of safety;

(4) Drawings, sketches, or other visual aids that provide detailed information relating to the design, location, placement, and attachment of the safety appliances; and

(5) Demonstration of the ergonomic suitability of the proposed arrangements in normal use.

FRA estimates that approximately 100 petitions for special approval will be filed each year with FRA under the above requirement. It is estimated that it will take approximately 160 hours to complete each petition and send it to FRA. Total annual burden for this requirement is 16,000 hours.

Respondent Universe:

AAR
(Industry
Representative
)

Burden time per response:	160 hours
Frequency of Response:	On occasion
Annual number of Responses:	100 petitions
Annual Burden:	16,000 hours

Calculation: 100 petitions x 160 hrs. = 16,000 hours

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

FRA estimates that approximately 100 statements that the petitioner has served copies on the parties stipulated in 231.33(c) will be made each year under the above requirement. It is estimated that it will take approximately 30 minutes to complete each statement and send it to FRA. Total annual burden for this requirement is 50 hours.

Respondent Universe:

AAR
(Industry
Representative
)

Burden time per response:	30 minutes
Frequency of Response:	On occasion
Annual number of Responses:	100 affirmation statements
Annual Burden:	50 hours

Calculation: 100 affirmation statements x 30 min. = 50 hours

B. (c.) Service.

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

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

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

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

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

There are approximately 90 current members/affiliated members of the Association of American Railroads (AAR). Copies will be served on all these members. Copies will also be served on the five (5) rail labor unions, two (2) ergonomic groups, TTX Company (1), and an estimated 15 persons of interest. Thus, for each of the previously estimated 100 special approval petitions, FRA estimates that approximately 11.3 copies will be served on the specified parties under the above requirement (or grand total of 1,130 copies per year). It is estimated that it will take approximately 15 minutes to copy each special approval petition and serve it on the designated party. Total annual burden for this requirement is 283 hours.

Respondent Universe:

AAR
(Industry
Representative
)

Burden time per response:	15 minutes
Frequency of Response:	On occasion

Annual number of Responses: 1,130 special approval petition copies

Annual Burden: 283 hours

Calculation: 1,130 spec. approval petition copies x 15 min. = 283 hrs.

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

FRA estimates that approximately 300 statements of interest will be filed with FRA under the above requirement. It is estimated that it will take approximately eight (8) hours to complete each statement of interest and send it to FRA. Total annual burden for this requirement is 2,400 hours.

Respondent Universe:

5 RR

Labor
Unions/General Public

Burden time per response: 8 hours

Frequency of Response: On occasion

Annual number of Responses: 300 statements of interest

Annual Burden: 2,400 hours

Calculation: 300 statements of interest x 8 hrs. = 2,400 hours

C. (e.) Comment

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

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

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

petition. All comments should identify the appropriate docket number for the petition to which they are commenting.

FRA estimates that approximately 150 comments will be made under the above requirement. It is estimated that it will take approximately 10 hours to complete each comment and send it to FRA. Total annual burden for this requirement is 1,500 hours.

Respondent Universe:

728
Railroads/5
Labor Groups

/General
Public

Burden time per response:	10 hours
Frequency of Response:	On occasion
Annual number of Responses:	150 comments
Annual Burden:	1,500 hours

Calculation: 150 comments x 10 hrs. = 1,500 hours

D. (f.) Disposition of Petitions.

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

The requirements of this provision are exempted from the Paperwork Reduction Act under 5 CFR 1320.4(2) which states: “The requirements of this Part ... shall not apply to collections of information ... during the conduct of a civil action to which the United States or any official or agency thereof is a party, or during the conduct of an administrative action, investigation, or audit involving an agency against specific individuals or entities ...” Since this provision pertains to an administrative action, there is no burden associated with these requirements.

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

(3) A petition may be:

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

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

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

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

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

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

FRA estimates that approximately three (3) petitions will be returned requesting additional information and thus three (3) information documents or amended petitions will be completed under the above requirement. It is estimated that it will take approximately six (6) hours to complete the additional information document or amended petition. Total annual burden for this requirement is 18 hours.

Respondent Universe:

AAR
(Industry
Representative
)

Burden time per response:	6 hours
Frequency of Response:	On occasion
Annual number of Responses:	three (3) additional documents
Annual Burden:	3 hours

Calculation: three (3) additional document x 6 hrs. = 18 hours

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

(5) If a petition is granted, it shall go into effect on the date specified in FRA's written notice granting the petition. If no date is specified in FRA's written notice granting the petition, the effective date shall begin January 1st, not less than one (1) year and not more than two (2) years from the date of FRA's written notice granting the petition. FRA will place a copy of the approved industry safety appliance standard in the related public docket where it can be accessed by all interested parties.

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

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

Total annual burden for this entire requirement is 20,251 hours (16,000 + 50 + 22,600 + 2,400 + 1,500 + 18).

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

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

FRA estimates that approximately 24 petitions for modification of an approved industry safety appliance standard will be made each year under the above requirement. It is estimated that it will take approximately 160 hours to complete each petition for modification. Total annual burden for this requirement is 3,840 hours.

Respondent Universe:

AAR
(Industry
Representative
)

Burden time per response: 160 hours
Frequency of Response: On occasion
Annual number of Responses: 24 modification petitions
Annual Burden: 3,840 hours

Calculation: 24 modification petitions x 160 hrs. = 3,840 hours

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

FRA estimates that approximately 24 statements that the petitioner has served copies on the parties stipulated in 231.33(c) will be made under the above requirement. It is estimated that it will take approximately 30 minutes to complete each statement and send it to FRA. Total annual burden for this requirement is 12 hours.

Respondent Universe:

AAR
(Industry
Representative
)

Burden time per response: 30 minutes
Frequency of Response: On occasion
Annual number of Responses: 24 affirmation statements
Annual Burden: 12 hours

Calculation: 24 affirmation statements x 30 min. = 12 hours

B. (b.) Service.

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

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

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

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

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

There are approximately 90 current members/affiliated members of the Association of American Railroads (AAR). Copies will be served on all these members. Copies will also be served on the five (5) rail labor unions, two (2) ergonomic groups, TTX Company (1), and an estimated 15 persons of interest. Thus, for each of the previously estimated 24 special approval petitions, FRA estimates that approximately 113 copies will be served on the specified parties under the above requirement (or grand total of 2,712 copies per year). It is estimated that it will take approximately two (2) hours to copy each special approval petition and serve it on the designated party. Total annual burden for this requirement is 5,424 hours.

Respondent Universe:

AAR
(Industry
Representative
)

Burden time per response:	2 hours
Frequency of Response:	On occasion
Annual number of Responses:	2,712 special approval petition copies
Annual Burden:	5,424 hours

Calculation: 2,712 spec. approval petition copies x 2 hrs. = 5,424 hours

If filed, a statement of interest shall be filed with FRA's Associate Administrator for Safety and shall reference the specific section(s) of this part in which the person has an interest.

FRA estimates that approximately 72 statements of interest will be filed with FRA under the above requirement. It is estimated that it will take approximately eight (8) hours to

complete each statement of interest and send it to FRA. Total annual burden for this requirement is 576 hours.

Respondent Universe:

5 RR
Labor
Unions/General Public

Burden time per response: 8 hours
Frequency of Response: On occasion
Annual number of Responses: 72 statements of interest
Annual Burden: 576 hours

Calculation: 72 statement of interest x 8 hrs. = 576 hours

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

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

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

FRA estimates that approximately 36 comments concerning modification petitions will be made under the above requirement. It is estimated that it will take approximately 10 hours to complete each comment and send it to FRA. Total annual burden for this requirement is 360 hours.

Respondent Universe:

728
Railroads/5
Labor Unions/

General Public
Burden time per response: 10 hours
Frequency of Response: On occasion
Annual number of Responses: 36 comments

Annual Burden: 360 hours

Calculation: 36 comments x 10 hrs. = 360 hours

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

FRA estimates that approximately four (4) petitions will be returned requesting additional information and thus four (4) petitions information documents or amended petitions will be completed under the above requirement. It is estimated that it will take approximately six (6) hours to complete the additional information document or amended petition. Total annual burden for this requirement is 24 hours.

Respondent Universe:

AAR
(Industry
Representative
)

Burden time per response: 6 hours
Frequency of Response: On occasion
Annual number of Responses: 4 additional documents
Annual Burden: 24 hours

Calculation: 4 additional documents x 6 hrs. = 24 hours

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

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

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

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

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

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

Total annual burden for this entire requirement is 10,236 hours (3,840 + 12 + 5,424 + 576 + 360 + 24).

Total annual burden for this entire information collection is 30,487 hours (20,251 + 10,236).

13. Estimate of total annual costs to respondents.

Based on the above estimates, additional costs to respondents outside of the burden hour estimates would be as follows (*for hard copies sent to FRA by mail/paper as a courtesy*) :

- A. Envelopes and Postage \$440 -- (100) 9" x 12" envelopes for special approval petition documents to FRA @\$\$.40 ea. + \$4 ea. postage)
- B. Envelopes and Postage \$69 -- (100) 4.125" x 9.5" plain white envelopes for affirmation statements to FRA @\$\$.25 ea. + \$.44 ea. postage; rounded off)
- C. Envelopes and Postage \$4,972 -- (1,130 copies of special approval petition documents to employee representatives/other parties in 9" x 12" envelopes for @\$\$.40 ea. + \$4 ea. postage; rounded off)
- D. Envelopes and Postage \$345 -- (300) 4.125" x 9.5" plain white envelopes for statements of interest to FRA @\$\$.25 ea. + \$.90 ea. postage; rounded off)
- E. Envelopes and Postage \$103.50 -- (150) 4.125" x 9.5" plain white envelopes for comments to FRA @\$\$.25 ea. + \$.44 ea. postage; rounded off)

- F. Envelopes and Postage \$17.60 -- (Four (4) 9" x 12" envelope for special approval petition additional document to FRA @\$\$.40 ea. + \$4 ea. postage)
- G. Envelopes and Postage \$105.60 -- (24) 9" x 12" envelopes for modification petition documents to FRA @\$\$.40 ea. + \$4 ea. postage)
- H. Envelopes and Postage \$16.56 -- (24) 4.125" x 9.5" plain white envelopes for affirmation statements to FRA @\$\$.25 ea. + \$.44 ea. postage; rounded off)
- I. Envelopes and Postage \$11,932.80 -- (2,712 copies of modification petition documents to employee representatives/other parties in 9" x 12" envelopes for @\$\$.40 ea. + \$4 ea. postage)
- J. Envelopes and Postage \$90 -- (72) 4.125" x 9.5" plain white envelopes for statements of interest to FRA @\$\$.25 ea. + \$.90 ea. postage; rounded off)
- K. Envelopes and Postage \$24.84 -- (36) 4.125" x 9.5" plain white envelopes for comments to FRA @\$\$.25 ea. + \$.44 ea. postage; rounded off)
- L. Envelopes and Postage \$17.60 -- (Four (4) 9" x 12" envelope for modification petition additional document to FRA @\$\$.40 ea. + \$4 ea. postage)

TOTAL COST \$18,134.50 or \$18,135 (rounded)

14. Estimate of Cost to Federal Government.

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

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

The members of the task force are as follows:

(1) SIDT Instructor – (GS-14-5)	40 hrs. x \$100 p/hr. = \$ 4,000
(2) 1 Engineer – (GS-14-5)	40 hrs. x \$100 p/hr. = \$ 4,000
(3) 1 Attorney – (GS-14-5)	40 hrs. x \$100 p/hr. = \$ 4,000
(4) 8 Prog. Specialists (GS-13-5)	320 hrs. x \$85 p/hr. = \$27,200
TOTAL	= \$39,200

15. Explanation of program changes and adjustments.

The burden for this information collection has **increased** by **26,097 hours** from the last submission. The increase in burden is solely the result of **adjustments**, which are completely delineated in the table below.

TABLE FOR ADJUSTMENTS

Part 231 Sec./ Form Number	Responses & Avg. Time (Previous Submission)	Responses & Avg. Time (This Submission)	Burden Hours (Previous Submission)	Burden Hours (This Submission)	Difference (plus/minus)
231.33– Petitions for Special Approval	5 petitions 160 hours	100 petitions 160 hours	800 hours	16,000 hours	+15, 200 hours
- Affirmation statements that petition copy has been sent to employees' representatives	5 statements 30 minutes	100 statements 30 minutes	3 hours	50 hours	+ 95 responses + 47 hours + 95 responses
-Service/copy of each special approval petition on groups/ persons specified in section 231.33(c)	565 copies 2 hours	1,130 copies 15 minutes	1,130 hours	283 hours	-- 847 hours + 565 resp.
-Statements of Interest	15 statements 7 hours	300 statements 8 hours	105 hours	2,400 hours	+ 2,295 hours + 285 resp.
- Comments on special approval petitions	25 comments 6 hours	150 comments 10 hours	150 hours	1,500 hours	+ 1,350 hours + 125 resp.
- Disposition of petitions – Hearings	1 hearing 8 hours	<i>Exempt under PRA – Admin. Action</i>	8 hours	<i>Exempt under PRA – Admin. Action (0 hrs.)</i>	-8 hours -1 response
- Petitions returned/	1 amended	3 amended	3 hours	18 hours	+ 15 hours

Amended petitions	petition 3 hours	petitions 6 hours			+ 2 responses -
231.35 – Petition for Modification of an Approved Industry Standard	5 petitions 160 hours	24 petitions 160 hours	800 hours	3,840 hours	+ 3,040 hours + 19 responses
- Affirmation statements that petition copy has been sent to employees’ representatives	5 statements 30 minutes	24 statements 30 minutes	3 hours	12 hours	+ 9 hours + 19 responses
- Service/copy of each special approval petition on groups/ persons specified in section 231.35(b)	565 copies 2 hours	2,712 copies 2 hours	1,130 hours	5,424 hours	+ 4,294 hours + 2,147 resp.
-Statements of Interest	15 statements 7 hours	72 statements 8 hours	105 hours	576 hours	+ 471 hours + 57 responses
- Comments on modification petitions	25 comments 6 hours	36 comments 10 hours	150 hours	360 hours	+ 210 hours + 11 responses
- Petitions returned/ Amended petitions	1 amended petition 3 hours	4 amended petition 6 hours	3 hours	24 hours	+ 21 hours + 3 responses

Total **adjustments** increased the burden by *26,097 hours* and increased the number of responses by *3,422*.

The current OMB inventory for this information collection shows a total burden of 4,390 hours, while the present submission exhibits a total burden of 30,487 hours. Hence, there is a burden increase of **26,097 hours**.

Based on the revised estimates, the cost to respondents from the previous submission has increased by \$13,001 (from \$5,134 to \$18,135). The change in cost to respondents is solely due to **adjustments**.

16. Publication of results of data collection.

FRA has no plans to publish this information.

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

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

18. Exception to certification statement.

No exceptions are taken at this time.

Meeting Department of Transportation (DOT) Strategic Goals

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

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

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