SUPPORTING JUSTIFICATION
Risk Reduction Program
RIIN 2130-AC11; OMB No. 2130-NEW

Summary

- This is a new collection of information solely associated with FRA's Notice of Proposed Rulemaking (NPRM) titled Risk Reduction Program (49 CFR Part 271), which is statutorily mandated by the Rail Safety Improvement Act of 2008.

- FRA is publishing this NPRM in the **Federal Register** on February 27, 2015. See 80 FR 10950. As always with every FRA proposed rulemaking, FRA plans to respond to any comments received in response to the NPRM both in the final rule and its associated information collection submission.

- The total number of burden hours **requested for t**his submission is **72,746 hours.**

- The total number of **responses requested** for this submission is **6,450**.

- By definition, this entire submission is a **program change**.

** The answer to question **number 12** itemizes the hourly burden associated with each requirement of this rule (See pp. 21-63). Cost to respondents is **$158,958** per year.

1. Circumstances that make collection of the information necessary.

Section 103 of the Railroad Safety Improvement Act of 2008 (RSIA) directs the Secretary of Transportation (Secretary) to issue a regulation requiring Class I railroads, railroad carriers that provide intercity rail passenger or commuter rail passenger transportation (passenger railroads), and railroads with inadequate safety performance to develop, submit to the Secretary for review and approval, and implement a railroad safety risk reduction program (RRP). See 49 U.S.C. 20156. The Secretary has delegated the responsibility to carry out his responsibilities under both Sections 103 and 109 of the RSIA, as well as the general responsibility to conduct rail safety rulemakings, codified at 49 U.S.C. 20103, to the Administrator of the Federal Railroad Administration (FRA). See 49 CFR 1.89(m) and (oo).

The proposed rule would implement this railroad safety risk reduction mandate for Class I freight railroads and railroads with inadequate safety performance. See 49 U.S.C. 20156(a)(1). Generally, these railroads would be required to assess and manage risk and develop proactive risk mitigation strategies to promote safety improvement. The proposed rule would also implement the Congressional mandate permitting a railroad not

required to develop and implement an RRP to voluntarily submit an RRP plan meeting the requirements of any final RRP rule to FRA for review and approval. See 49 U.S.C. 20156(a)(4). As proposed, a railroad voluntarily submitting an RRP plan for FRA approval would be required to implement the plan in accordance with FRA's requirements and could be subject to civil penalties for noncompliance. The proposed rule would also implement other specific safety risk reduction program requirements found in Section 103, such as the requirement that a railroad consult with, employ good faith and use its best efforts to reach agreement with all of its directly affected employees (including any non-profit employee labor organization representing a class or craft of directly affected employees) on the contents of the railroad's RRP plan.

The primary component of an RRP would be an ongoing risk-based hazard management program (risk-based HMP), supported by a risk-based hazard analysis. A properly implemented risk-based HMP would identify hazards and the associated risks on the railroad's system, compare and prioritize the identified risks for mitigation purposes, and develop mitigation strategies to address the risks. An RRP would also be required to contain the following additional components: a safety performance evaluation; a safety outreach component; and a technology analysis and technology implementation plan (which would consider various technologies that may mitigate or eliminate identified hazards and the associated risks). A railroad would also be required to provide RRP training to employees who have significant responsibility for implementing and supporting the railroad's RRP.

Implementation of an RRP would be supported by a written risk reduction program plan (RRP plan) describing the railroad's processes and procedures for implementing the requirements for an RRP. An RRP plan would also be required to contain certain elements that support the development of an RRP, such as a policy statement, a statement of the railroad's RRP goals, a description of the railroad's system, and an RRP implementation plan. A railroad would be required to conduct an annual internal assessment of its RRP, and a railroad's RRP processes and procedures would be externally audited by FRA.

Risk reduction is a comprehensive, system-oriented approach to improving safety by which an organization formally identifies and analyzes applicable hazards and takes action to mitigate, if not eliminate, the risks associated with those hazards. It provides a railroad with a set of decision making processes and procedures that can help it plan, organize, direct, and control its business activities in a way that enhances safety and promotes compliance with regulatory standards. As such, risk reduction is a form of safety management system, which is a term generally referring to a comprehensive, process-oriented approach to managing safety throughout an organization.

The principles and processes of risk reduction are based on those of safety management systems developed to assure high safety performance in various industries, including

aviation, passenger railroads, the nuclear industry, and other industries with the potential for catastrophic accidents. Safety management systems have evolved through experience to include a multitude of equally important elements without which the organization's safety does not reliably improve. For ease of understanding, these elements are typically grouped into larger descriptive categories. For safety management systems, these descriptive categories include: (1) an organization-wide safety policy; (2) formal methods for identifying hazards, and for prioritizing and mitigating risks associated with those hazards; (3) data collection, data analysis, and evaluation processes to determine the effectiveness of mitigation strategies and to identify emerging hazards; and (4) outreach, education, and promotion of an improved safety culture within the organization.

The requirements of the proposed RRP rule provide a framework for reducing safety risk. While each railroad subject to the proposed rule would be required to develop all required components, the scope and complexity of those components would vary from one railroad to the next, because of the railroads' differing safety needs, capabilities, and available resources. Because risk reduction is inherently scalable, the burdens imposed by the proposed rule would depend upon the size of a railroad, the type of operations the railroad provides, and the strategies for mitigating risk that the railroad decides to use.

The proposed rule would implement the Congressional mandate for Class I freight railroads and railroads with inadequate safety performance. A separate System Safety Program (SSP) rulemaking would implement the Section 103 and Section 109 RSIA mandates for passenger railroads. See 49 U.S.C. 20156(a). On September 7, 2012, FRA published an NPRM proposing an SSP rule in the Federal Register. See 77 FR 55372. Establishing separate safety risk reduction rules for passenger railroads and the Class I freight railroads[1] would allow these rules to account for significant differences between passenger and freight operations. For example, freight railroads may generate risks uniquely associated with the transportation of hazardous materials. The proposed RRP rule can be specifically tailored to these types of risks, which are not independently generated by passenger railroads.

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

This is a new collection of information. The information collected under this proposed rule will be used by railroads and FRA to improve safety through structured, proactive processes to systematically evaluate railroad safety hazards on their systems and manage the risks associated with those hazards to reduce the number and rates of railroad

[1] There is only one Class I railroad that also qualifies as a passenger railroad: Amtrak. Amtrak would be required to comply with the proposed requirements of the SSP rule. So long as Amtrak remains in compliance with the requirements of an SSP rule, Amtrak would be deemed to be in compliance with an RRP rule. This same approach will be taken for any passenger railroad that also becomes designated as a Class I railroad.

accidents/incidents, injuries, and fatalities. FRA will externally audit each railroad's Risk Reduction Program (RRP) processes and procedures to ensure that they comply with the requirements of this rulemaking. Class I railroads and railroads determined by FRA to have inadequate safety performance will be required to develop and implement an RRP. Railroads that FRA analysis determines to have inadequate safety performance would have to comply with the requirements of new Part 271 for at least five years.

Class I railroads and ISP railroads will use the required RRPs to address hazards that could result in damage or loss to any system related to the railroad's operations, and not merely safety systems. Each RRP must be an ongoing program that supports continuous safety improvement. Necessary components that an RRP must contain include the following: (1) a risk-based hazard management program (HMP); (2) a safety performance evaluation component; (3) a safety outreach component; (4) a technology analysis and technology implementation plan; and (5) RRP implementation and support training. Each RRP must be supported and will be implemented by a Risk Reduction Program (RRP) Plan. FRA will review and approve railroads RRP Plans.

Class I railroads and ISP railroads will use the HMP to proactively identify hazards and mitigate the risks associated with those hazards. Each risk-based HMP would be integrated, system-wide, and ongoing. The scope of a risk-based HMP would be scalable, based upon the size and extent of the railroad's system. As part of its HMP, each railroad would have to conduct a risk-based hazard analysis. A risk-based hazard analysis would need to address the following components of a railroad's system: infrastructure; equipment; employee levels and work schedules; operating rules and practices; management structure; employee training; and other areas impacting railroad safety that are not covered by railroad safety laws or regulations or other Federal laws or regulations. A risk-based hazard analysis must identify hazards by analyzing the following: (1) various aspects of the railroad's system (including any operational changes, system extensions, or system modifications); and (2) accidents/incidents, injuries, fatalities, and other known indicators of hazards (such as data compiled from a close call reporting system). A railroad must then calculate risk by determining and analyzing the likelihood and severity of potential events associated with identified hazards. These risks must be compared and prioritized for the purpose of mitigation.

Class I railroads and ISP railroads will use the required safety performance evaluation to determine whether the RRP is effectively reducing risk. The safety performance evaluation will also be used by railroads to monitor emerging or new risks. The safety performance evaluation would require railroads to develop and maintain ongoing processes and systems for evaluating the safety performance of a railroad's system. Each railroad would need to develop and maintain processes and systems for measuring its safety culture. Overall, a safety performance evaluation would consist of both a safety monitoring and a safety assessment component. The safety performance evaluation would be developed by establishing processes and systems for acquiring data and

information from the following sources: (1) continuous monitoring of operational processes and systems; (2) periodic monitoring of the operational environment to detect changes that may generate new hazards; (3) investigations of accidents/incidents, injuries, fatalities, and other known indicators of hazards; (4) investigations of reports regarding potential non-compliance with Federal railroad safety laws or regulations, railroad operating rules and practices, or mitigation strategies established by the railroad; and (5) a reporting system through which employees can report safety concerns (including, but not limited to, hazards, issues, occurrences, and incidents) and propose safety solutions and improvements. A railroad would have substantial flexibility to design a reporting system best suited to its own organization (or, if a railroad already has some sort of reporting system, to modify it to meet the needs of the railroad's RRP). A railroad could decide whether or not it wanted its reporting system to be confidential or non-punitive. Or, in the alternative, the reporting system could be something as simple as a suggestion box made available to employees.

Class I railroads and ISP railroads will use the safety outreach component of an RRP to communicate RRP safety information to employees who work in the implementation and support of the RRP and to other railroad personnel (contractors) as that information is relevant to their positions. Specifically, in their safety outreach programs, railroads will convey safety-critical information to employees; will explain why RRP-related safety actions are taken; and will explain why safety procedures are introduced or changed. Essentially, railroads will use the safety outreach component of an RRP to communicate the effect the RRP is having on the railroad's overall safety performance to those employees most responsible for implementing and supporting the railroad's RRP.

Under the proposed rule, Class I railroads will be required to conduct a technology analysis and to develop and adopt a technology implementation plan no later than three years after the publication date of the final rule. A railroad with inadequate safety performance must conduct a technology analysis and develop and adopt a technology implementation plan no later than three years after receiving final written notification from FRA that it shall comply with this Part, or no later than three years after the publication date of the final rule, whichever is later. A railroad that the Surface Transportation Board (STB) reclassifies or newly classifies as a Class I railroad must conduct a technology analysis and develop or adopt a technology implementation plan no later than three years following the effective date of the classification or reclassification or no later than three years after the effective date of the final rule, whichever is later. A voluntarily compliant railroad must conduct a technology analysis and develop and adopt a technology implementation plan no later than three years after FRA approves the railroad's RRP Plan.

The technology analysis will be used by railroad to evaluate current, new, or novel technologies that may mitigate or eliminate hazards and the resulting risks identified through the risk-based hazard management program (HMP). Railroads will analyze the

safety impact, feasibility, and costs and benefits of implementing such technologies. The technology analysis, at a minimum, will consider different technologies including processor-based technologies, positive train control (PTC) systems, electronically-controlled pneumatic brakes, rail integrity inspection systems, rail integrity warning systems, switch position monitors and indicators, trespasser prevention technology, and highway-rail grade crossing warning and protection technology.

Under the proposed rule, railroads are required to develop and periodically update as necessary a technology implementation plan. Technology implementation plans will be used by railroads to set out a prioritized implementation schedule for development, adoption, implementation, maintenance, and use of current, new, or novel technologies on its system over a 10-year period to reduce safety risks identified in the railroad's risk-based HMP. A railroad would not be required to include a certain number or type of technology in its plan, as this will depend upon the identified hazards. As proposed, the phrase "periodically update as necessary" means that a railroad's plan must be ongoing and continuous, rather than a one-time exercise. When a railroad updates its plan, it would be required to do so in a way that extended the plan 10 years from the date of the update.

Under the proposed rule, Class I railroads and ISP railroads will be required to provide RRP training to each employee who has significant responsibility for implementing and supporting the railroad's RRP. This proposed training requirement would apply to any employee with such responsibility, including an employee of a person identified by a railroad's RRP plan under proposed § 271.205(a)(3) as utilizing or performing significant safety-related services on the railroad's behalf. FRA will audit railroads RRPs to ensure that employees who hold positions of safety leadership (e.g., corporate safety and operations officers); and employees whose job duties primarily relate to developing and implementing an RRP (e.g., employees tasked with conducting the mandatory risk-based hazard analysis or implementing mitigation measures) receive proper training so that they are familiar with the elements of the railroad's program and have the necessary knowledge and skills needed to fulfill their responsibilities. In FRA's view, railroad operating employees whose jobs are only tangentially related to the RRP, such as locomotive engineers or dispatchers, would not be expected to have RRP training.

Under Subpart C of the proposed rule, Class I and ISP railroads that are required to establish an RRP must "consult with, employ good faith and use its best efforts to reach agreement with all of its directly affected employees, including any non-profit employee labor organization representing a class or craft of directly affected employees of the railroad carrier, on the contents of the safety risk reduction program." Good faith and best efforts consultation with employees then will be used by railroads to educate the directly affected employees on risk reduction and how it may affect them. It will also be used by railroads to obtain the support and input of their employees who have the most direct and intimate knowledge of the railroad's daily operations and who will be tasked

with implementing each railroad's RRP. Good faith and best efforts consultation will be used by employees to directly and proactively provide their knowledge and insight into making the railroad's RRP as effective as possible. For railroads and directly affected employees who cannot reach consensus on the proposed content of the RRP/RRP Plan, these employees may file as statement with the Secretary of Transportation (with FRA as the Secretary's delegate) explaining their views on the plan and why consensus was not reached. FRA will review these directly employees statements in its review and approval of the railroad's RRP/RRP plan. Based on the nature and content of the directly affected employees' statements, FRA may require modifications to the railroad's RRP/RRP Plan.

Section 272.303 addresses the process a railroad must follow whenever it amends its FRA-approved RRP Plan (regardless of whether the amendments are substantive or non-substantive). Along with the amended RRP plan, the railroad must also file a cover letter outlining the proposed change(s) to the original, approved RRP plan. The cover letter should provide enough information so that FRA knows what is being added or removed from the original approved RRP. These requirements would not apply if the proposed amendment is limited to adding or changing a name, title, address, or telephone number of a person, although the railroad would still be required to file the amended RRP plan with FRA's Associate Administrator for Railroad Safety/Chief Safety Officer. Such amendments would be implemented by the railroad upon filing with FRA. FRA will review the amended RRP Plan within 45 days of receipt to determine whether it is deficient in any of the specific points the railroad is amending. If it is, railroads will have 60 days to either submit a corrected copy of the amendment that addresses all deficiencies noted by FRA or a notice that it is retracting the amendment. It should be noted that FRA may, for cause stated, reopen consideration of an RRP Plan or amendment. FRA will use the reopened review to ensure that railroads fully comply with their RRP Plans/amendments and, in some cases, to scrutinize information that has been made available that was not available when FRA originally approved the plan or amendment. The determination of whether to reopen consideration would be solely within FRA's discretion and made on a case-by-case basis.

Under Subpart E of the proposed rule (Section 271.403), Class I and ISP railroads are required to conduct annual internal assessments. If desired, railroads can audit their programs more than once a year. These assessments will be used by those railroads to help ensure that their RRPs are properly implemented and effective. Since this evaluation is an internal assessment, railroads most likely will tailor the processes to their specific operations. Specifically, the internal assessment will be used to determine the extent to which the railroad has accomplished the following: (1) achieved the implementation milestones described in its RRP plan pursuant to proposed § 271.223(b); (2) complied with the elements of its approved RRP plan that have already been implemented; (3) achieved the goals described in its RRP plan pursuant to proposed § 271.203(c); (4) implemented previous internal assessment improvement plans pursuant to proposed § 271.403; and (5) implemented previous external audit improvement plans

pursuant to § 271.503. A properly executed internal assessment would provide the railroad with detailed knowledge of the status of its program implementation and the degree to which the program is effectively reducing risk. Railroads will be required to ensure that the results of the assessment of these various elements are internally reported to the railroad's senior management. FRA will work with the railroad to determine the best method to internally measure the implementation and effectiveness of the railroad's RRP.

Under § 271.403, within 30 days of completing their internal assessments, Class I and ISP railroads are required to develop an improvement plan addressing the results of their internal assessments. The improvement plan must describe the recommended improvements that address the findings of the internal assessment for fully implementing the railroad's RRP, complying with the elements of the RRP that are already implemented, or achieving the goals identified in the RRP plan pursuant to § 271.203(c). These improvements would include any necessary revisions or updates to the RRP plan, which would have to be made pursuant to the amendment process in proposed § 271.303. The improvement plan must identify by position title the individual who is responsible for carrying out the recommended improvements, and the improvement plan must set forth a timeline that establishes when specific and measurable milestones for implementing the recommended improvements would be achieved. Further, the improvement plan must specify the process for monitoring and evaluating the effectiveness of the recommended improvements. The improvement plan then will be used by railroads to effectively identify any areas in which the RRP is either improperly implemented or ineffective at reducing risk, thereby allowing railroads to adequately remedy those deficiencies.

Under § 271.405, Class I and ISP railroads are required to submit a copy of the internal assessment report to the FRA Associate Administrator for Railroad Safety/Chief Safety Officer. These reports must be submitted to FRA within 60 days of completing the internal assessment. The report must be signed by the railroad's chief official responsible for safety who bears primary managerial authority for implementing that railroad's safety policy. FRA will review these reports to ensure that they are actually being done and to evaluate and verify that they contain the following four elements: First, the report must describe the railroad's internal assessment, including a description of how the railroad satisfied the requirements set forth in proposed § 271.401(b)(1) –(b)(3). Second, the report must describe the findings of the internal assessment. Third, the report must specifically describe the recommended improvements set forth in the railroad's improvement plan pursuant to proposed § 271.403. Fourth, the report must describe the status of the recommended improvements that were set forth in the railroad's recent internal assessment improvement plan and any outstanding recommended improvements from previous internal assessment improvement plans.

Under Subpart F of the proposed rule (Section 271.501), FRA will conduct external audits of the railroad's RRP and establish requirements regarding the actions a railroad must take in response to FRA's audits. FRA's audits will focus on reviewing the railroad's RRP process and ensuring that the railroad is following the processes and procedures described in its FRA-approved RRP plan. This will be an interactive process. FRA will communicate with the railroad during the audit and attempt to resolve any issues before its completion. Once the audit is completed, FRA will provide the railroad with written notification of the audit results so that railroads would be clearly informed of any areas where the railroad was not properly complying with its RRP plan, any areas that needed to be addressed by the railroad's RRP but were not, or any other areas in which FRA found that the railroad and its program were not in compliance with this Part.

Section 271.503 establishes requirements for railroad improvement plans responding to the results of FRA's external audit. If the results of the audit require the railroad to take any corrective action, railroads would have 60 days to submit for FRA approval an improvement plan addressing any such instances of deficiency or non-compliance. At a minimum, the improvement plan must do the following: (1) describe the improvements the railroad would implement to address the audit findings; (2) identify by position title the individual who would be responsible for carrying out the improvements necessary to address the audit findings; and (3) contain a timeline describing when specific and measurable milestones for implementing the recommended improvements would be achieved. Specification of milestones is essential because it would allow the railroad to determine the appropriate progress of the improvements, while also enabling FRA to gauge the railroad's compliance with its improvement plan. If FRA does not approve a railroad's improvement plan, FRA will notify the railroad of the plan's specific deficiencies. The railroad will then have no more than 30 days to amend the improvement plan to correct the deficiencies identified by FRA and provide FRA a copy of the amended improvement plan. FRA will review the amended improvement plan to determine that it is adequate and meets requirements.

Finally, there is the waiver process. Waiver petitions will be reviewed by FRA to determine whether it is safe and in the public interest to grant exemptions from the rule's requirements. FRA will conduct an investigation to evaluate each railroad's waiver request to ascertain whether a deviation from the general regulatory criteria is in order and can be made without compromising or diminishing railroad safety. In certain circumstances, conditions may be imposed on the grant of a waiver if FRA concludes that the conditions are necessary to assure safety, or if they are in the public interest, or both. For railroads determined to have inadequate safety performance (ISP) after FRA review that includes the quantitative analysis and qualitative assessment described in proposed § 271.13, they may petition FRA after the required minimum compliance period of five years for approval to discontinue compliance with this Part. Voluntarily compliant railroads may also petition FRA after a minimum period of five years (from the date on which FRA approves the RRP plan pursuant to Subpart D of this Part). Such petitions

must be filed according to the procedures for waivers contained in Part 211 of this Chapter. Upon receiving a petition, FRA will reevaluate the railroad's safety performance for the purpose of determining whether the railroad's RRP has resulted in significant and sustained safety improvements, and whether these measured improvements are likely sustainable in the long term. FRA's evaluation will include a quantitative analysis as described in § 271.13 (b). FRA will also examine qualitative factors and review information from FRA RRP audits and other relevant sources. After completing its evaluation, FRA will notify the railroad in writing whether or not it shall be required to continue compliance with this Part.

In sum, this collection of information is an essential and invaluable tool that assists FRA in its primary mission, namely promoting and ensuring railroad safety throughout the United States.

3. Extent of automated information collection.

For many years, FRA has highly endorsed and strongly encouraged the use of the latest information technology, wherever feasible, to reduce burden on the railroad industry. FRA has particularly encouraged the use of electronic records by railroads and other respondents. In keeping with its longstanding practice and with the requirements of the Government Paperwork Elimination Act (GPEA) and the Paperwork Reduction Act (PRA) of 1995, all documents required to be submitted to FRA under this Part may be submitted electronically pursuant to the procedures provided in Appendix C to this Part. The electronic option then will make it easier, more convenient, and less expensive for railroads to file their documents (e.g., RRP Plans and consultation statements) with FRA.

It should be noted that, for short line railroads with fewer resources, there is the option to deliver the required documents to FRA in a CD, DVD, or other electronic format. FRA finds this an entirely acceptable method of submission as long as it has the capability to read the type of electronic storage format sent. Once the final rule goes into effect and railroads begin to comply, FRA believes that approximately 80-85% of responses will be completed electronically.

4. Efforts to identify duplication.

In addition to the proposed consultation and information protection sections, some overlap would exist between various other Risk Reduction Program (RRP) and System Safety Program (SSP) provisions (e .g., certain definitions, the process for amending plans, etc.). The requirements in this proposed NPRM generally follow those in the SSP NPRM, and do not reflect any comments FRA has received in response to the SSP NPRM. FRA recognizes that drafting proposals on related topics simultaneously can give the appearance of overlapping or duplicative requirements. As these rulemakings progress, we will work to minimize any overlapping or duplicative requirements.

FRA is not aware of any other relevant rules that may duplicate, overlap, or conflict with the proposed rule.

Similar data are not available from any other source.

5. Efforts to minimize the burden on small businesses.

A "small entity" is defined in 5 U.S.C. 601(3) as having the same meaning as "small business concern" under section 3 of the Small Business Act. This includes any small business concern that is independently owned and operated, and is not dominant in its field of operation. Title 49 U.S.C. 601(4) likewise includes within the definition of small entities non-profit enterprises that are independently owned and operated, and are not dominant in their field of operation.

The U.S. Small Business Administration (SBA) stipulates in its size standards that the largest a "for-profit" railroad business firm 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." Additionally, 5 U.S.C. 601(5) defines as small entities governments of cities, counties, towns, townships, villages, school districts, or special districts with populations less than 50,000.

Federal agencies may adopt their own size standards for small entities in consultation with SBA and in conjunction with public comment. Pursuant to that authority, FRA has published a final Statement of Agency Policy that formally establishes small entities or small businesses as being railroads, contractors, and hazardous materials shippers that meet the revenue requirements of a Class III railroad as set forth in 49 CFR 1201.1-1, which is $20 million or less in inflation-adjusted annual revenues, and commuter railroads or small governmental jurisdictions that serve populations of 50,000 or less. See 68 FR 24891 (May 9, 2003) (codified as appendix C to 49 CFR part 209). The $20 million limit is based on the Surface Transportation Board's revenue threshold for a Class III railroad. Railroad revenue is adjusted for inflation by applying a revenue deflator formula in accordance with 49 CFR 1201.1-1. This definition is what FRA is proposing to use for the rulemaking.

Class I freight railroads and railroads with inadequate safety performance would have to comply with all of the proposed provisions of Part 271. However, the amount of effort to comply with the proposed rule is commensurate with the size of the entity. In the universe of railroads for potential compliance under this proposed rule, there are 7 Class I railroads, 10 Class II railroads (1 of which is classified as a passenger railroad that would be excepted from the proposed rule), and 629 Class III freight railroads. Railroads with tourist operations are excluded, and these comprise approximately 90 of the total 719 Class III railroads.

To identify the non-Class I railroads that must comply with the proposed rule, FRA will annually conduct a two-phase analysis to determine which railroads have inadequate safety performance. This is accomplished by the following: (1) a statistically-based quantitative analysis of fatalities, FRA-reportable injuries/illnesses, FRA-reportable accidents/incidents, and FRA safety violations; and (2) a qualitative assessment that includes input from affected railroads and their employees. (See § 271.13 of the proposed rule for a full description of the process used to determine inadequate safety performance.)

As FRA's initial inadequate safety performance analysis would occur at least one year after an RRP final rule goes into effect, it is impossible to tell how many railroads with inadequate safety performance would be required to comply with the RRP regulation, and consequently how many of those might be small businesses. However, using a recent 3-year rolling average of safety data to test the selection analytical process, and accounting for those that might seek relief through the qualitative review process, FRA would expect between 7 and 13 Class III railroads to qualify initially for the program, or a simple average of 10; and between 3 and 7, incrementally, per annum thereafter, or a simple average of 5. FRA expects the number of inadequate safety performance railroads to grow each year by 4 or 5 to a maximum of 40 to 45 by year 9 or 10, at which point it should flatten out or actually decline. This declining involvement is due to several factors: (1) safety performance will improve; (2) after 7 years, some railroads will seek and receive relief from being in the program; (3) the size of the railroad pool being examined for inadequate safety performance would shrink as more railroads are required to comply with part 271; and (4) railroads will observe the positive behaviors and results of those railroads with RRPs and will embrace the better safety practices of those railroads as a model. FRA does not find this number of small railroads to be a substantial number of small entities when compared with the 629 small railroads that could potentially be impacted (i.e., Class III railroads) in the industry.

FRA intends to provide assistance to railroads, including small business entities, in the development of their RRPs, starting at the planning phase and continuing through the implementation phase. The proposed rule is also scalable in nature, and FRA would provide guidance to those railroads so that the scope and content of their RRPs are proportionate to their size and the nature of their operation.

As indicated above, FRA would assist a small entity in preparing its RRP program and plan. FRA anticipates that the RRP plan for such an entity would be a very concise and brief document.

Some railroads use contractors to perform many different functions on their railroads. For some of these railroads, contractors perform safety-related functions, such as operating trains. For the purpose of assessing the impact of an RRP, contractors fall into two groups: larger contractors who perform a primary operating or maintenance function

for the railroads, and smaller contractors who perform ancillary functions to the primary operations. Larger contractors are typically large private companies, such as Sperry Rail Service, or part of an international conglomerate such as Balfour Beatty. Smaller contractors may perform such duties as brush clearing, painting facilities, etc. Safety-related policies, work rules, guidelines, and regulations are imparted to the small contractors today as part of their contractual obligations and qualification to work on the Class I freight railroads, and potentially to work for railroads with inadequate safety performance. FRA sees minimal additional burden to imparting the same type of information under each railroad's RRP. A very small administrative burden may result.

Under the proposed rule, contractors (small or large) who provide significant safety-related services are not required to do anything. While the proposed rule requires the railroad to involve the persons that provide significant safety-related services in the railroad's RRP, it doesn't require the entity to do any training. Thus, any burdens imposed on contractors would be indirect or taken into account in the contract with the pertinent railroad or both. FRA requests comments on these findings and conclusions.

The requirements of the proposed RRP rule provide a framework for reducing safety risk. While each railroad subject to the proposed rule would be required to develop all required components, the scope and complexity of those components would vary from one railroad to the next, because of the railroads' differing safety needs, capabilities, and available resources. Because risk reduction is inherently scalable, the burdens imposed by the proposed rule would depend upon the size of a railroad, the type of operations the railroad provides, and the strategies for mitigating risk that the railroad decides to use.

Further, it should be noted that tourist, scenic, historic, or excursion railroads, whether on or off the general railroad system of transportation, are exempt from the requirements of this Part. Railroads that operate only on track inside an installation that is not part of the general railroad system of transportation (i.e., plant railroads, as defined in § 271.5) are also exempt from the requirements of this Part. Additionally, this Part does not apply to commuter or intercity passenger railroads that are subject to Federal system safety program (SSP) requirements. The proposed rule does not apply to rapid transit operations in an urban area that are not connected to the general railroad system of transportation. Also, the proposed rule does not apply to the operation of private passenger train cars, including business or office cars and circus train cars. While FRA believes that a private passenger car operation should be held to the same basic level of safety as other passenger train operations, such operations were not specifically identified in the RSIA mandate, and FRA is taking into account the potential burden that would be imposed by requiring private passenger car owners and operators to conform to the requirements of this part. FRA is also proposing to exempt private passenger train cars from the SSP rule, which would implement the RSIA mandate for passenger railroads.

6. Impact of less frequent collection of information.

If the information were not collected or collected less frequently, railroad safety throughout the United States would be significantly adversely affected. Specifically, if Class I railroads and railroads with inadequate safety performance do not develop and implement Risk Reduction Programs (RRPs), then undoubtedly there will be higher numbers of train accidents, particularly severe collisions and major derailments, as well as other railroad incidents and corresponding injuries and fatalities to workers that go with them that could have been prevented with an effective Risk Reduction Program. Without the implementation of an effective RRP, Class I and ISP railroads will not have a comprehensive, system-oriented approach to safety that not only determines daily operations level of risk by identifying and analyzing applicable hazards, but also formulates a plan to mitigate, and where possible, eliminate that risk. An effective RRP encourages – and indeed facilitates – a railroad and its employees to work together to proactively identify hazards and to jointly determine what action to take to mitigate or eliminate the risks associated with those hazards. Effective RRPs will lead to decreases in unsafe behaviors. Decreases in unsafe behaviors or hazards will create a corresponding decrease in railroad-related incidents and the casualties and property damage that go along with them.

Without effective RRPs, Class I and ISP railroads will not have an ongoing program that supports continuous safety improvement. Necessary components of the RRP – a risk-based hazard management program (HMP), a safety performance evaluation component, a safety outreach component, a technology analysis and technology implementation plan, and RRP implementation and support training – provide railroads with a comprehensive means of assessing their systems risks as well as the framework for reducing those risks.

Without an RRP risk-based hazard management program, Class I and ISP railroads would not be able to identify hazards in a proactive, integrated, system-wide, and ongoing manner. The scope of a risk-based HMP would be scalable, based upon the size and extent of the railroad's system. As part of its HMP, each railroad would have to conduct a risk-based hazard analysis. A risk-based hazard analysis would address the following components of a railroad's system: infrastructure; equipment; employee levels and work schedules; operating rules and practices; management structure; employee training; and other areas impacting railroad safety that are not covered by railroad safety laws or regulations or other Federal laws or regulations. A risk-based hazard analysis would identify hazards by analyzing the following: (1) various aspects of the railroad's system (including any operational changes, system extensions, or system modifications); and (2) accidents and incidents, injuries, fatalities, and other known indicators of hazards (such as data compiled from a close call reporting system). A railroad would then calculate risk by determining and analyzing the likelihood and severity of potential events associated with identified hazards. These risks would be compared and prioritized for the purpose of mitigation.

Without the required RRP safety performance evaluation, Class I and ISP railroads would not be able to monitor new or emerging risks. The safety performance evaluation enables railroads to develop and maintain ongoing processes and systems for evaluating the safety performance of a railroad's system. Each railroad would develop and maintain processes and systems for measuring its safety culture. Overall, a safety performance evaluation would consist of both a safety monitoring and a safety assessment component. The safety performance evaluation would be developed by establishing processes and systems for acquiring data and information from the following sources: (i) continuous monitoring of operational processes and systems; (ii) periodic monitoring of the operational environment to detect changes that may generate new hazards; (iii) investigations of accidents/incidents, injuries, fatalities, and other known indicators of hazards; (iv) investigations of reports regarding potential non-compliance with Federal railroad safety laws or regulations, railroad operating rules and practices, or mitigation strategies established by the railroad; and (v) a reporting system through which employees can report safety concerns (including, but not limited to, hazards, issues, occurrences, and incidents) and propose safety solutions and improvements. A railroad would have substantial flexibility to design a reporting system best suited to its own organization or, if a railroad already has some sort of reporting system, to modify it to meet the needs of its RRP.

Without the required RRP safety outreach component of an effective RRP, Class I and ISP railroads would be unable to communicate important safety information to employees and contractors who work in implementing the RRP. Specifically, in their safety outreach programs, Class I and ISP railroads would convey safety-critical information to employees; would explain why RRP-related safety actions are taken; and would explain why safety procedures are introduced or changed. In essence, railroads would use the safety outreach component of an RRP to communicate the effect the RRP is having on the railroad's overall safety performance to those employees most responsible for supporting and fulfilling the railroad's RRP. Ongoing safety outreach will help crystallize any changes that need to be made in the railroad's RRP to enhance safety.

Without the required RRP technology analysis, Class I and ISP railroads would be unable to evaluate current, new, or novel technologies that could mitigate or eliminate hazards and the resulting risks identified through the risk-based hazard management program (HMP). Without the required technology analysis, these railroads would be unable to analyze the safety impact, feasibility, and costs and benefits of implementing such technologies. The technology analysis, at a minimum, would consider different technologies including processor-based technologies, positive train control (PTC) systems, electronically-controlled pneumatic brakes, rail integrity inspection systems, rail integrity warning systems, switch position monitors and indicators, trespasser prevention technology, and highway-rail grade crossing warning and protection technology.

Without the required RRP training, the employees of Class I and ISP railroads who hold positions of safety leadership and employees whose job duties primarily relate to developing and implementing an RRP would not be familiar with the elements of their railroad's program and would not have the necessary knowledge and skills needed to fulfil their responsibilities. Rail safety would suffer as a result.

Without the required RRP "good faith" and "best efforts" consultation by Class I and ISP railroads with their employees/employee representative organizations, railroads would not be able to educate their directly affected employees on risk reduction and how it may affects them. Also, without this essential consultation, it would not be possible to gain the support and input of those employees who have direct and intimate knowledge of the railroad's daily operations and who will be tasked with implementing each railroad's RRP. Good faith and best efforts consultation enables employees to directly and proactively provide their knowledge and insight so that railroads can make their RRPs as effective as possible. This will enhance overall rail safety.

Without the RRP requirement to conduct annual internal assessments, Class I and ISP railroads would not be able to carry out essential audits to determine that their RRPs are properly implemented and effective. The internal assessments will be used by railroads to determine the extent to which the railroad has accomplished the following: (i) achieved the implementation milestones described in its RRP plan pursuant to proposed § 271.223(b); (ii) complied with the elements of its approved RRP plan that have already been implemented; (iii) achieved the goals described in its RRP plan pursuant to proposed § 271.203(c); (iv) implemented previous internal assessment improvement plans pursuant to proposed § 271.403; and (v) implemented previous external audit improvement plans pursuant to § 271.503. A properly executed internal assessment would provide the railroad with detailed knowledge of the status of its program implementation and the degree to which the program is effectively reducing risk. Results of the internal assessment are required to be reported to the railroad's senior management. The railroad's senior management will use the information to develop an improvement plan in order make their daily operations safer.

Finally, FRA external audits of the railroad's RRP will focus on reviewing the railroad's RRP process and ensuring that the railroad is following the processes and procedures described in its FRA-approved RRP plan. This will be an interactive process. FRA will communicate with the railroad during the audit and attempt to resolve any issues before its completion. Once the audit is completed, FRA will provide the railroad with written notification of the audit results so that railroads would be clearly informed of any areas where the railroad was not properly complying with its RRP plan, any areas that needed to be addressed by the railroad's RRP but were not, or any other areas in which FRA found that the railroad and its program were not in compliance with this Part. Such FRA oversight will serve to remedy any RRP/RRP Plan deficiencies and will also serve to improve rail safety.

In short, this collection of information promotes and enhances national rail safety, and thus serves as a vital component of FRA's multi-faceted safety program. It supports the main DOT objective and is essential in assisting FRA to fulfill its primary agency mission and objective.

7. Special circumstances.

All information collection requirements are in compliance with this section.

8. Compliance with 5 CFR 1320.8.

FRA is publishing a Notice of Proposed Rulemaking (NPRM) in the **Federal Register** on February 27, 2015, titled Risk Reduction Program soliciting comments on the proposed rule and its accompanying information collection requirements from the regulated community, the general public, and interested parties. See 80 FR 10950. FRA will respond to any comments received concerning the proposed rule and its associated collection of information at the final rule stage and in the final rule Supporting Justification.

Background

On December 8, 2010, FRA published an ANPRM soliciting public comment on how FRA could best develop and implement a risk reduction regulation based upon the requirements of the RSIA. See 75 FR 76345-76351. Comments were due by February 7, 2011.

FRA received 11 written comments in response to the ANPRM from a variety of entities, including railroads, industry organizations, non-profit employee labor organizations, a consulting firm, and a private citizen.[2] Many of the questions and issues raised by commenters were subsequently discussed in depth during the RSAC process. This document, therefore, will contain only a very brief overview of the comments. Written

[2] The following 18 entities were signatories to comments in response to the ANPRM: Amtrak; Association of American Railroads (AAR); Association of Railways Museums, Inc. (ARM); American Public Transportation Association (APTA); American Short Line and Regional Railroad Association (ASLRRA); American Train Dispatchers Association (ATDA); Behavioral Science Technology (BST); Brotherhood of Locomotive Engineers and Trainmen (BLET/IBT); Brotherhood of Maintenance of Way Employes Division (BMWED/IBT); Brotherhood of Railroad Signalmen (BRS); Metrolink; New York State Metropolitan Transportation Authority (NYSMTA); Patrick J. Coyle (Chemical Facility Security News); Southern Pennsylvania Transportation Authority (SEPTA); Transport Workers Union of America (TWU); Transportation Communications Union (TCU); Trinity Railway Express; Tourist Railway Association (TRA); and United Transportation Union (UTU).

comments submitted in response to the ANPRM are in the public docket for this proceeding and can be viewed and downloaded at www.regulations.gov.

Many of the ANPRM commenters identified similar issues or questions. Two commenters recommended that FRA develop a performance-based risk reduction rule, in order to encourage railroads to find flexible and creative solutions to safety risks. These commenters also stressed the importance of protecting risk reduction information from disclosure and use in litigation. Other commenters requested clarification on the relationship between risk reduction and system safety, or expressed concerns related to how a risk reduction rule would address issues such as contractors or training requirements. Commenters also provided recommendations on how FRA should identify railroads with inadequate safety performance. Several labor organizations also submitted a joint comment strongly emphasizing the importance of the Section 103(g) consultation requirements. Issues such as the above were subsequently discussed at length with both industry and labor organization representatives during the RSAC process.

Following publication of the ANPRM and close of the comment period, FRA also held two public hearings that provided interested persons an opportunity to discuss the development of a risk reduction regulation in response to the ANPRM. Interested persons were invited to present oral statements and to proffer information and views at the hearings. The first public hearing was held on July 19, 2011 in Chicago, IL, and the second public hearing was held on July 21, 2011 in Washington, DC. See 76 FR 40320, July 8, 2011. During the hearings, testimony was given by representatives of the AAR, ASLRRA, Rail World, Inc., and the Teamsters Rail Conference (the BLET/IBT and BMWED/IBT). As with the comments in response to the ANPRM, the hearing testimony focused almost exclusively on topics that continued to be discussed during the RSAC process. Significant topics of discussion included the following: the identification of railroads with inadequate safety performance; the consultation requirements of section 103(g); the role of contractors within a railroad's RRP; the information protection study mandated by section 109; retention of RRP records; and FRA review of a railroad's RRP. Transcripts of the public hearings are in the public docket for this proceeding and can be viewed and downloaded at www.regulations.gov.

Following the close of the ANPRM comment period and the public hearings, FRA decided that additional input regarding the development of a risk reduction regulation would be beneficial. FRA, therefore, placed the risk reduction rulemaking into a modified RSAC process, which discussed many of the questions and concerns that appeared in the ANPRM and in responses thereto.

FRA proposed Task No. 11-04 to the RSAC on December 8, 2011. The RSAC accepted the task, and formed the Risk Reduction Program (RRP) Working Group (Working Group) for the purpose of developing and implementing RRP under the RSIA. The Working Group is comprised of members from the following organizations:

- Association of American Railroads (AAR);[3]
- Amtrak (National Railroad Passenger Corporation);
- American Public Transportation Association (APTA);
- American Short Line and Regional Railroad Association (ASLRRA);
- Brotherhood of Locomotive Engineers and Trainmen (BLET);
- Brotherhood of Maintenance of Way Employes Division (BMWED)
- Brotherhood of Railroad Signalmen (BRS);
- Federal Railroad Administration (FRA);
- Long Island Rail Road (LIRR);
- Metro-North Commuter Railroad Company (Metro-North);
- National Association of Railroad Passengers (NARP);
- National Railroad Construction and Maintenance Association;
- National Transportation Safety Board (NTSB);
- SEPTA;
- TRA; and
- UTU.

The Working Group completed its work after four in-person meetings and several conference calls. The first meeting of the Working Group took place on January 31 and February 1, 2012, in Cambridge, Massachusetts. At that meeting the group discussed the appropriate scope of a risk reduction regulation and heard several presentations from stakeholders regarding the requirements of the RSIA and current risk reduction practices on railroads. Subsequent meetings were held in Washington, DC on April 10, 2012; May 16, 2012; and June 13, 2012.

At the April, May, and June meetings, the group discussed a document entitled "Recommendations to the Administrator," which provided FRA advice to consider in developing a risk reduction rule. The document was updated after each meeting to reflect the Working Group's discussions.

At the conclusion of the Working Group's last meeting on June 13, 2012, the Working Group obtained tentative agreement on the "Recommendations to the Administrator" document. This document did not include advice regarding railroads with inadequate safety performance, as this was developed further during subsequent conference calls. The document was also not put before the full RSAC for vote, and therefore does not represent formal RSAC consensus. FRA utilized the comments and documents from the Working Group when developing the proposed rule text, although it has streamlined and reorganized suggestions from the Working Group in order to make the rule's

[3] The AAR is comprised of members including the following entities: BNSF Railway Company (BNSF); Canadian National Railway Company (CN); Canadian Pacific Railway (CP); CSX Transportation, Inc. (CSXT); Iowa Interstate Railroad, Ltd. (IAIS); Kansas City Southern (KCS); Metra Electric District; Norfolk Southern Corporation (NS); and UP.

requirements as clear as possible. FRA has also attempted to note in this NPRM areas in which the proposed rule text substantively differs from the Working Group's suggestions. Ultimately, however, language contained in this proposed rule reflects the RSIA statutory requirements and the Working Group's tentative agreement on how the requirements should be applied.

9. Payments or gifts to respondents.

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

10. Assurance of confidentiality.

Section 109 of the RSIA specifies that certain risk reduction records obtained by the Secretary are exempt from the public disclosure requirements of the Freedom of Information Act (FOIA). This exemption is subject to two exceptions for disclosure necessary to enforce or carry out any Federal law and disclosure when a record is comprised of facts otherwise available to the public and FRA has determined that disclosure would be consistent with the confidentiality needed for RRPs. See 49 U.S.C. 20118. FRA, therefore, believes that railroad risk reduction records in its possession would generally be exempted from mandatory disclosure under the Freedom of Information Act (FOIA). Unless one of the two exceptions provided by the RSIA would apply, FRA would withhold disclosing any such records in response to a FOIA request. See 5 U.S.C. 552(b)(3) and 49 CFR 7.13(c)(3).

Section 109 of the RSIA also authorizes the Secretary to issue a regulation protecting from discovery and admissibility into evidence in litigation certain information generated for the purpose of developing, implementing, or evaluating a railroad Risk Reduction Program (RRP). Currently, the proposed rule would implement Section 109 with respect to RRPs covered by this proposed Part. If a System Safety Program (SSP) final rule is published before an RRP final rule, however, the information protection provisions contained in the SSP final rule would specifically apply to information generated for an RRP as well.

FRA anticipates that a final RRP rule would become effective 60 days after the date of publication. However, by statute, the protection of certain information from discovery, admission into evidence, or use for other purposes in a proceeding for damages would not become applicable until one year after the publication of the final rule. Assuming that an SSP final rule could be published before an RRP final rule, FRA would make the SSP information protection provisions applicable to RRP programs as well. This approach would permit a railroad subject to the RRP rule to obtain information protection as soon as possible.

An RRP could be successful only if a railroad engaged in a robust assessment of the hazards and associated risks on its system. However, a railroad may be reluctant to reveal such hazards and risks if there is the possibility that such information may be used against it in a court proceeding for damages. In Section 109 of the RSIA, Congress directed FRA to conduct a study to determine if it was in the public interest to withhold certain information, including the railroad's assessment of its safety risks and its statement of mitigation measures, from discovery and admission into evidence in proceedings for damages involving personal injury and wrongful death. See 49 U.S.C. 20119. FRA contracted with an outside organization to conduct this study, and the study concluded that it was in the public interest to withhold this type of information from these types of proceedings. See Study of Existing Legal Protections for Safety-Related Information and Analysis of Considerations for and Against Protecting Railroad Safety Risk Reduction Program Information, FRA, docket no. FRA-2011-0025-0031, Oct. 21, 2011. Furthermore, Congress authorized FRA, by delegation from the Secretary, to prescribe a rule, subject to notice and comment, to address the results of the study. See 49 U.S.C. 20119(b). The proposed rule would address the study's results and set forth protections of certain information from discovery, admission into evidence, or use for other purposes in a proceeding for damages.

11. Justification for any questions of a sensitive nature.

There are no questions or information of a sensitive nature, or data that would normally be considered private matters contained in this rule.

12. Estimate of burden hours for information collected.

Note: As noted in the regulatory impact analysis (RIA) accompanying this NPRM, the total number of Class III railroads in the United States that are potentially affected by this proposed rule is 719. FRA estimates that approximately 90 railroads are exempt from this proposed regulation because they are tourist, scenic, historic, or excursion railroads that do not carry freight. Thus, 629 Class IIIs are potentially affected by this proposed rule. However, the Railroad Safety Improvement Act (RSIA) of 2008 requires each Class I railroad and each railroad with inadequate safety performance to develop and implement a Risk Reduction Program to improve the safety of their operations. There are seven (7) Class I railroads. Railroads determined to have inadequate safety performance would be drawn from the 629 potentially affected Class III railroads. FRA estimates that approximately 10 railroads will be determined to have inadequate safety programs (ISPs) in the first year and five (5) railroads will be determined to have inadequate safety programs (ISPs) in subsequent years. FRA also estimates that zero (0) railroads will comply voluntarily comply with this proposed rule. Thus, FRA estimates the total respondent universe to be 22 railroads. Further, FRA estimates that the number of employees on Class I railroads that are in positions that will be impacted by the proposed requirements to be approximately 150,000. Additionally, FRA estimates that

each ISP railroad will have approximately 100 employees that will be impacted by the requirements of proposed rule.

Purpose and Scope (§ 271.1)

Each railroad subject to this Part must establish a Risk Reduction Program (RRP) that systematically evaluates railroad safety hazards on its system and manages the risks associated with those hazards in order to reduce the numbers and rates of railroad accidents/incidents, injuries, and fatalities.

The burden for this requirement is included under that of § 271.101 below. Consequently, there is no additional burden associated with this requirement.

Waivers (§ 271.7)

A person subject to a requirement of this Part may petition the FRA Administrator for a waiver of compliance with such requirement. The filing of such petition does not affect that person's responsibility for compliance with that requirement while the petition is being considered. Each petition for a waiver under this section must be filed in the manner and contain the information required by Part 211 of this chapter.

FRA estimates that it will receive approximately one (1) waiver request each year under the above requirement. It is calculated that it will take approximately 80 hours to complete each waiver request. Total annual burden for this requirement is 80 hours.

Respondent Universe:	22 railroads
Burden time per response:	80 hours
Frequency of Response:	On occasion
Annual number of Responses:	1 waiver request/petition
Annual Burden:	80 hours

Calculation: 1 waiver requests x 80 hrs. = 80 hours

Total annual burden for this requirement is 80 hours.

Determination of Inadequate Safety Performance (§ 271.13)

(c)(1) Notification and railroad/employee comment. FRA will notify a railroad in writing if it will be subject to a qualitative assessment because it was identified in the quantitative analysis as possibly having inadequate safety performance.

(i) No later than 15 days after receiving FRA's written notice, a railroad shall notify its employees of FRA's written notice. This employee notification shall be posted at all locations where the railroad reasonably expects its employees to report and to have an opportunity to observe the notice. The notification shall be posted and remain continuously displayed until 45 days after FRA's initial written notice. Employees who do not have a regular on-duty point for reporting to work shall be notified by other means, in accordance with the railroad's standard practice for communicating with employees. The notification shall inform railroad employees that they may confidentially submit comments to FRA regarding the railroad's safety performance for a period of 45 days following FRA's initial written notice, and shall contain instructions for doing so.

FRA estimates that approximately 10 railroads per year will be determined to have inadequate safety performance (ISP) and will have to notify their employees of FRA's written notice to that effect under the above requirement. It is estimated that 120 notifications will take place by these railroad and that it will take approximately 30 minutes to complete each notification. Total annual burden for this requirement is 60 hours. (*Note: This notification burden covers those employees who do not report at on-duty point and would follow the railroad's existing process/processes for notifying employees of safety issues or company announcements*.)

Respondent Universe:	22 railroads
Burden time per response:	30 minutes
Frequency of Response:	Annually
Annual number of Responses:	120 notifications
Annual Burden:	60 hours
Calculation:	120 notifications x 30 min. = 60 hours

Additionally, FRA estimates that approximately 10 confidential comments will be submitted to FRA under the above requirement. It is estimated that it will take approximately 30 minutes to complete each confidential comment and send it to FRA. Total annual burden for this requirement is five (5) hours.

Respondent Universe:	100 employees
Burden time per response:	30 minutes
Frequency of Response:	Annually
Annual number of Responses:	10 confidential comments
Annual Burden:	5 hours

Calculation: 10 confidential comments x 30 min. = 5 hours

(ii) Railroad participation. No later than 45 days after receiving FRA's written notice, a railroad may provide FRA documentation supporting any claims that the railroad does not have inadequate safety performance.

FRA estimates that approximately 10 documents per year will be submitted to FRA supporting the claim that the railroad does not have inadequate safety performance (ISP). It is estimated that it will take approximately eight (8) hours to complete each document and send it to FRA. Total annual burden for this requirement is 80 hours.

Respondent Universe:	10 railroads
Burden time per response:	8 hours
Frequency of Response:	Annually
Annual number of Responses:	10 documents
Annual Burden:	80 hours

Calculation: 10 documents x 8 hrs. = 80 hours

(2) Methodology. No later than 90 days after providing the initial notice to a railroad identified by the quantitative analysis, FRA will conduct a qualitative assessment of the identified railroad and make a final determination regarding whether it has an inadequate safety performance. The qualitative assessment will consider any documentation provided by the railroad, comments submitted by railroad employees, and any other pertinent information.

(d) Final notification and compliance. FRA will provide a final written notice to each railroad that received an initial written notice, informing the railroad whether or not FRA determines that the railroad has demonstrated inadequate safety performance. A railroad with inadequate safety performance shall develop and implement an RRP meeting the requirements of this Part. As provided by § 271.301(a), a railroad with inadequate safety performance shall submit to FRA an RRP plan no later than 90 days after receiving final written notice from FRA that it shall comply with this Part, or no later than [**545 DAYS AFTER PUBLICATION DATE OF FINAL RULE**], whichever is later.

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The burden for this requirement is included under that of § 271.101 and that of § 271.301(a) below. Consequently, there is no additional burden associated with this requirement.

(e) Compliance. A railroad with inadequate safety performance shall comply with the requirements of this Part for a minimum period of five years, running from the date on which FRA approves the railroad's RRP plan pursuant to Subpart D of this Part.

(f) Petition. After the five-year compliance period, the railroad may petition FRA for approval to discontinue compliance with this Part. A petition shall be filed according to the procedures for waivers contained in Part 211 of this Chapter.

The burden for this requirement comes into play after a five-year period, and is thus outside the three year maximum approval time period requested for this submission. Any burden associated with this requirement will be included in the next submission for this collection. Consequently, there is no additional burden associated with this requirement.

Total annual burden for this entire requirement is 145 hours (60 + 5 + 80).

§ 271.15 Voluntary compliance.

(a) General. A railroad not otherwise subject to this Part may voluntarily comply by establishing and fully implementing an RRP meeting the requirements of this Part. A voluntary RRP shall be supported by an RRP plan that has been submitted to FRA for approval pursuant to the requirements of Subpart D of this Part. After FRA has approved its RRP plan, a voluntarily-compliant railroad could be subject to civil penalties or other enforcement action for failing to comply with the requirements of this Part.

(b) Duration. A voluntarily-compliant railroad will be required to comply with the requirements of this Part for a minimum period of five years, running from the date on which FRA approves the railroad's plan pursuant to Subpart D of this Part.

FRA believes that there will be zero (0) railroads that will be voluntarily compliant and have to develop an RRP under the above requirement. Consequently, there is no burden associated with it.

(c) Petition. After this five-year period, a voluntarily-compliant railroad may petition FRA for approval to discontinue compliance with this Part. This petition shall be filed according to the procedures for waivers contained in part 211 of this chapter.

This timeframe exceeds the OMB maximum approval period for this information collection request. Consequently, there is no burden associated with it.

Risk Reduction Programs (§ 271.101)

(a) Program required. Each railroad must establish and fully implement an RRP meeting the requirements of this Part. An RRP must systematically evaluate safety hazards on a railroad's system and manage the resulting risks to reduce the number and rates of railroad accidents/incidents, injuries, and fatalities. An RRP is not a one-time exercise,

but an ongoing program that supports continuous safety improvement. An RRP must include the following:

(1) A risk-based hazard management program, as described in § 271.103;

(2) A safety performance evaluation component, as described in § 271.105;

(3) A safety outreach component, as described in § 271.107;

(4) A technology analysis and technology implementation plan, as described in § 271.109; and

(5) RRP implementation and support training, as described in § 271.111.

FRA estimates that approximately seven (7) Risk Reduction Programs (RRPs) meeting the requirements of § 271.101(a) will be developed/implemented by Class I railroads. The burden for each of the four RRP sections is shown below. Total annual burden for this requirement is 48,910 hours.

Respondent Universe:	7 Class I railroads
Burden time per response:	6,987 hours (see below)
Frequency of Response:	On occasion
Annual number of Responses:	7 Risk Reduction Programs
Annual Burden:	48,910 hours

Calculation: 7 Risk Reduction Programs x 6,987 hrs. = 48,910 hours

A. **Itemized Breakdown of Each RRP Section for Class I Railroads**

I. **Section 271.103** – Hazard Management Programs (HMPs) – will be developed by a team of six (6) people working 40 hours per week for 14 weeks (a total of 560 hours). The burden calculation for this section is as follows:

7 HMPs x 560 hrs. = **3,360 hours**

II. **Section 271.105** – Safety Performance Evaluation – has two components:

(i) Safety monitoring – estimated to average 20 hours per year per railroad.

(ii) Safety assessment – estimated to average 1,040 hours per railroad.

The total burden for the above two elements is 1,060 hours. The burden calculation for this section is as follows:

7 safety performance evaluations x 1,060 hours = **7,420 hours**

III**. Section 271.107** – Safety Outreach – has three elements:

(i) Communicating safety critical information to railroad employees.

(ii) Explaining why RRP-safety related actions are taken and explaining why safety procedures are introduced or changed. The 7 Class I railroads are estimated to have 150,000 employees. The burden calculation for these two elements then is as follows:

150,000 communications x 15 minutes = 37,500 hours

(iii) Reporting to railroad senior management the status of the risk-based Hazard Management Program (HMP) activities on an ongoing basis. FRA estimates that the 7 Class I railroads would receive one report per month or a total of 84 reports per year and that it would take approximately 30 minutes to complete each report. The burden calculation then is as follows:

84 reports x 30 minutes = 42 hours

Burden = 37,500 hours + 42 hours = **37,542 hours**

IV. Section 271.109 – Technology Analysis and Technology Implementation Plans -- requires railroad to complete a technology implementation plan (TIP) after completing a technology analysis. FRA estimates that it will take each railroad a total of 60 hours to do the necessary analysis and complete the technology implementation plan.
The burden calculation then is as follows:

7 TIPs x 60 hours = **420 hours**

V. **Section 217.111** – RRP Implementation Training

7 Implementation training programs x 24 hrs. = **168 hours**

Total RRP Burden for Class I RRs = **48,910 hours** (3,360 + 7,420 + 37,542 + 420 + 168).

Additionally, FRA estimates that approximately 10 railroads will be determined to have **inadequate safety plans** (**ISPs**) and will have to develop/implement Risk Reduction Programs (RRPs) that meet the requirements of § 271.101(a) above. The average burden to develop/implement each ISP RRP is 343 hours. Total annual burden for this

requirement is 3,430 hours. [*Note: Please see itemized breakdown below of the burden for each of the five sections stipulated in § 271.101(a*) *that comprise an RRP*.]

Respondent Universe:	10 ISP railroads
Burden time per response:	343 hours
Frequency of Response:	On occasion
Annual number of Responses:	10 Risk Reduction Programs
Annual Burden:	3,430 hours

Calculation: 10 Risk Reduction Programs x 343 hrs. = 3,430 hours

B. **Itemized Breakdown of Each RRP Section for ISP Railroads**

I. **Section 271.103** – Hazard Management Programs (HMPs) – will be developed by a team of three (3) people working 40 hours per week for 2 weeks (a total of 240 hours). The burden calculation for this section is as follows:

10 HMPs x 240 hrs. = **2,400 hours**

II. **Section 271.105** – Safety Performance Evaluation – has two components:

(i) Safety monitoring – estimated to average six (6) hours per year per railroad.

(ii) Safety assessment – estimated to average 40 hours per railroad.

The total burden for the above two elements is 46 hours. The burden calculation for this section is as follows:

10 safety performance evaluations x 46 hours = **460 hours**

III**. Section 271.107** – Safety Outreach – has three elements:

(i) Communicating safety critical information to railroad employees.

(ii) Explaining why RRP-safety related actions are taken and explaining why safety procedures are introduced or changed. The 10 ISP railroads are estimated to have 100 employees each. The burden calculation for these two elements then is as follows:

1,000 communications x 15 minutes = 250 hours

(iii) Reporting to railroad senior management the status of the risk-based Hazard Management Program (HMP) activities on an ongoing basis. FRA estimates that each of the 10 ISP railroads would receive one report per month or a total of 120 reports per year

and that it would take approximately 15 minutes to complete each report. The burden calculation then is as follows:

120 reports x 15 minutes = 30 hours

Burden = 250 hours + 30 hours = **280 hours**

IV. Section 271.109 – Technology Analysis and Technology Implementation Plans -- requires railroad to complete a technology implementation plan (TIP) after completing a technology analysis. FRA estimates that it will take each ISP railroad a total of five (5) hours to do the necessary analysis and complete the technology implementation plan.

The burden calculation then is as follows:

10 TIPs x 5 hours = **50 hours**

V. **Section 217.111** – RRP Implementation Training

10 Implementation training programs x 24 hrs. = **240 hours**

Total RRP Burden for ISP RRs = **3,430 hours** (2,400 + 460 + 280 + 50 + 240).

(b) RRP plans. A railroad's RRP shall be supported by an FRA-approved RRP plan meeting the requirements of Subpart C of this Part.

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

(c) Host railroads and system safety programs. As part of its RRP, each railroad that hosts passenger train service for a railroad subject to FRA system safety program requirements must communicate with the railroad that provides or operates such passenger service and coordinate the portions of the system safety program applicable to the railroad hosting the passenger train service.

FRA estimates that there will be approximately 40 communications/consultations between Class I and short line railroads under the above requirement. It is estimated that each communication/consultation will take approximately two (2) hours each to complete. Total annual burden for this requirement is 80 hours.

Respondent Universe:	7 railroads
Burden time per response:	2 hours
Frequency of Response:	On occasion
Annual number of Responses:	40 communications/consultations

Annual Burden: 80 hours

Calculation: 40 communications/consultations x 2 hrs. = 80 hours

(d) Persons that utilize or perform significant safety-related services. Under § 271.205(b), a railroad's RRP plan must identify persons utilizing or performing on the railroad's behalf significant safety-related services (including entities such as host railroads, contract operators, shared track/corridor operators, or other contractors utilizing or performing significant safety-related services). A railroad must ensure that these persons utilizing or performing significant safety-related services on its behalf support and participate in its RRP.

Under this requirement, the impacted seven (7) Class I railroads will ensure that entities utilizing or performing significant safety-related services on its behalf support and participate in its RRP through e-mail and phone communications. FRA estimates then that there will be approximately 318 communications/consultations between Class I railroads and railroads operating on those tracks with trackage or haulage rights under the above requirement. It is estimated that each communication will take approximately two (2) hours to complete each communication/consultation. Total annual burden for this requirement is 636 hours.

Respondent Universe:	7 railroads
Burden time per response:	2 hours
Frequency of Response:	On occasion
Annual number of Responses:	318 communications/consultations
Annual Burden:	636 hours

Calculation: 318 communications /consultations x 2 hrs. = 636 hours

Further, there will be consultations between Class I railroads and contractors under the above requirement. FRA estimates that large contractors, on average, will work with approximately six (6) Class I railroads each, while small contractors, on average, work with approximately two (2) Class I railroads each. Based on observations of its compliance staff (i.e., staff directors responsible for each major area of enforcement nationwide), FRA estimates that there are approximately 400 contractors working with Class I railroads on their track and structures, of which 30 are large contractors. The 30 large contractors would participate in 180 consultations, while the 370 small contractors would participate in 740 consultations. Also, FRA estimates that there are approximately 100 signal contractors, of which 20 are large contractors and 80 are small contractors. The 20 large contractors would participate in 120 consultations, while the 80 small contractors would participate in 160 consultations. Additionally, FRA estimates that there are approximately 140 mobile tack car repair crews (all small contractors) that

would participate in 280 consultations. Finally, FRA estimates that there would be eight (8) consultations needed between Class I railroads and Motive Power and Equipment (MP&E) contractors. Thus, there would be a total of 1,488 communications/ consultations under the above requirement (180 + 740 + 120 + 160 + 280 + 8). It is estimated that each communication/consultation will take approximately one (1) hour to complete. Total annual burden for this requirement is 636 hours.

Respondent Universe:	7 railroads
Burden time per response:	1 hour
Frequency of Response:	On occasion
Annual number of Responses:	1,488 communications/consultations
Annual Burden:	1,488 hours

Calculation: 1,488 communications /consultations x 1 hr. = 1,488 hours

Additionally, the impacted 10 ISP railroads will also ensure that entities utilizing or performing significant safety-related services on its behalf support and participate in its RRP through e-mail and phone communications. FRA estimates then that there will be approximately 10 communications/consultations between ISP railroads and relevant entities under the above requirement. It is estimated that each communication will take approximately four (4) hours to complete each communication/consultations. Total annual burden for this requirement is 40 hours.

Respondent Universe:	10 railroads
Burden time per response:	4 hours
Frequency of Response:	On occasion
Annual number of Responses:	10 communications/consultations
Annual Burden:	40 hours

Calculation: 40 communications x 1 hr. = 40 hours

Total annual burden for this entire requirement is 54,584 hours (48,910 + 3,430 + 80 + 636 + 1,488 + 40).

Risk-based Management Program (§ 271.103)

(a) General. (1) An RRP must include an integrated, system-wide, and on-going risk-based hazard management program (HMP) that proactively identifies hazards and mitigates the risks resulting from those hazards.

(2) A risk-based HMP must be fully implemented (i.e., activities initiated) within 36 months after FRA approves a railroad's RRP plan pursuant to § 271.301 (b).

The burden for RRP Plans is included that of § 271.203 below. Consequently, there is no additional burden associated with this requirement.

(b) Risk-based hazard analysis. As part of its risk-based HMP, a railroad must conduct a risk-based hazard analysis that addresses, at a minimum, the following aspects of a railroad's system: infrastructure; equipment; employee levels and work schedules; operating rules and practices; management structure; employee training; and other areas impacting railroad safety that are not covered by railroad safety laws or regulations or other Federal laws or regulations. A railroad must make the results of its risk-based hazard analysis available to FRA upon request. At a minimum, a risk-based hazard analysis must:

(1) Identify hazards by analyzing:

(i) Aspects of the railroad's system, including any operational changes, system extensions, or system modifications; and

(ii) Accidents/incidents, injuries, fatalities, and other known indicators of hazards.

(2) Calculate risk by determining and analyzing the likelihood and severity of potential events associated with identified risk-based hazards; and

(3) Compare and prioritize the identified risks for mitigation purposes.

(c) Mitigation strategies. (1) As part of its risk-based HMP, a railroad must design and implement mitigation strategies that improve safety by:

(i) Mitigating or eliminating aspects of a railroad's system that increase risks identified in the risk-based hazard analysis; and

(ii) Enhancing aspects of a railroad's system that decrease risks identified in the risk-based hazard analysis.

(2) A railroad may use pilot project, including pilot projects conducted by other railroads, to determine whether quantitative data suggest that a particular mitigation strategy has potential to succeed on a full-scale basis.

*The burden for H*azard Management Programs (HMPs) *is included above under that of § 271.101 (Risk Reduction Programs) above. Consequently, there is no additional burden associated with this requirement.*

Safety Performance Evaluation (§ 271.105)

(a) General. As part of its RRP, a railroad must develop and maintain ongoing processes and systems for evaluating the safety performance of its system and measuring its safety culture. A railroad's safety performance evaluation must consist of both a safety monitoring and a safety assessment component.

The burden for RRPs is included that of § 271.101above. Consequently, there is no additional burden associated with this requirement.

(b) Safety monitoring. A railroad must monitor the safety performance of its system by, at a minimum, establishing processes and systems to acquire safety data and information from the following sources:

(1) Continuous monitoring of operational processes and systems (including any operational changes, system extensions, or system modifications);

(2) Periodic monitoring of the operational environment to detect changes that may generate new hazards;

(3) Investigations of accidents/incidents, injuries, fatalities, and other known indicators of hazards;

(4) Investigations of reports regarding potential non-compliance with Federal railroad safety laws or regulations, railroad operating rules and practices, or mitigation strategies established by the railroad; and

(5) A reporting system through which employees can report safety concerns (including, but not limited to, hazards, issues, occurrences, and incidents) and propose safety solutions and improvements.

The burden for Safety Monitoring is included under that of Risk Reduction Programs (RRPs) in § 271.101 above. Consequently, there is no additional burden associated with this requirement.

(c) Safety assessment. For the purpose of assessing the need for changes to a railroad's mitigation strategies or overall RRP, a railroad must establish processes to analyze the data and information collected pursuant to paragraph (b) of this section (as well as any other relevant data regarding its operations, products, and services). At a minimum, this assessment must:

(1) Evaluate the overall effectiveness of the railroad's RRP in reducing the numbers and rates of railroad accidents/incidents, injuries, and fatalities;

(2) Evaluate the effectiveness of the railroad's RRP in meeting the goals described by its RRP plan (see § 271.203(c));

(3) Evaluate the effectiveness of risk mitigations in reducing the risk associated with an identified hazard. Any hazards associated with ineffective mitigation strategies must be reevaluated through the railroad's risk-based HMP, as described in § 271.103; and

(4) Identify new, potential, or previously unknown hazards, which must then be evaluated by the railroad's risk-based HMP, as described in § 271.103.

The burden for Safety Assessment is included under that of Risk Reduction Programs (RRPs) in § 271.101 above. Consequently, there is no additional burden associated with this requirement.

Safety Outreach (§ 271.107)

(a) Outreach. An RRP must include a safety outreach component that communicates RRP safety information to railroad personnel (including contractors) as that information is relevant to their positions. At a minimum, a safety outreach program must:

(1) Convey safety critical information;

(2) Explain why RRP-related safety actions are taken; and

(3) Explain why safety procedures are introduced or changed;

The burden for Safety Outreach is included under that of Risk Reduction Programs (RRPs) in § 271.101 above. Consequently, there is no additional burden associated with this requirement.

(b) Reporting to management. The status of risk-based HMP activities must be reported to railroad senior management on an on-going basis.

For the Class I railroads, FRA estimates that approximately 84 risk-based HMP activities status reports will be made to railroad senior management each year (1 report per mo. x 7 RRs) under the above requirement. It is estimated that it will take approximately 30 minutes to complete each status report. Total annual burden for this requirement is 42 hours.

Respondent Universe:	7 railroads
Burden time per response:	30 minutes
Frequency of Response:	On occasion
Annual number of Responses:	84 risk-based HMP activities status

reports
Annual Burden: 42 hours

Calculation: 84 risk-based HMP activities status reports x 30 min. = 42 Hours

For the 10 ISP railroads, FRA estimates that approximately 120 risk-based HMP activities status reports will be made to railroad senior management each year (1 report per mo. x 10 RRs) under the above requirement. It is estimated that it will take approximately three (3) hours to complete each status report. Total annual burden for this requirement is 360 hours.

Respondent Universe: 10 railroads
Burden time per response: 3 hours
Frequency of Response: On occasion
Annual number of Responses: 120 risk-based HMP activities status reports
Annual Burden: 360 hours

Calculation: 120 risk-based HMP activities status reports x 15 min. = 360 hours

Total annual burden for this entire requirement is 402 hours (42 + 360).

Technology Analysis and Technology Implementation Plan (§ 271.109)

(a) General. As part of its RRP, a railroad must conduct a technology analysis and develop and adopt a technology implementation plan no later than **[1095 DAYS AFTER DATE OF PUBLICATION OF THE FINAL RULE IN THE FEDERAL REGISTER]**. A railroad with inadequate safety performance shall conduct a technology analysis and develop and adopt a technology implementation plan no later than three years after receiving final written notification from FRA that it shall comply with this Part, pursuant to § 271.13(e), or no later than **[1095 DAYS AFTER DATE OF PUBLICATION OF THE FINAL RULE IN THE FEDERAL REGISTER],** whichever is later. A railroad that the STB reclassifies or newly classifies as a Class I railroad shall conduct a technology analysis and develop and adopt a technology implementation plan no later than three years following the effective date of the classification or reclassification or no later than **[1155 DAYS AFTER DATE OF PUBLICATION OF THE FINAL RULE IN THE FEDERAL REGISTER]**, whichever is later. A voluntarily-compliant railroad shall conduct a technology analysis and develop and adopt a technology implementation plan no later than three years after FRA approves the railroad's RRP plan.

(b) Technology analysis. A technology analysis must evaluate current, new, or novel technologies that may mitigate or eliminate hazards and the resulting risks identified through the risk-based hazard management program. The railroad must analyze the safety impact, feasibility, and costs and benefits of implementing technologies that will mitigate or eliminate hazards and the resulting risks. At a minimum, the technologies a railroad must consider as part of its technology analysis are: processor-based technologies, positive train control systems, electronically-controlled pneumatic brakes, rail integrity inspection systems, rail integrity warning systems, switch position monitors and indicators, trespasser prevention technology, and highway-rail grade crossing warning and protection technology.

The burden for these requirements are included above under Risk Reduction Programs (RRPs) in *§ 271.101. Consequently, there is no additional burden associated with this requirement.*

(c) Technology implementation plan. A railroad must develop, and periodically update as necessary, a technology implementation plan that contains a prioritized implementation schedule describing the railroad carrier's plan for development, adoption, implementation, maintenance, and use of current, new, or novel technologies on its system over a 10-year period to reduce safety risks identified in the railroad's risk-based hazard management program.

The burden for Technology Implementation Plans is included under that of Risk Reduction Programs (RRPs) in § 271.101 above. Consequently, there is no additional burden associated with this requirement.

(d) Positive train control. Except as required by Subpart I of Part 236 of this Chapter, if a railroad decides to implement positive train control systems as part of its technology implementation plan, the railroad shall set forth and comply with a schedule for implementation of the positive train control system no later than December 31, 2018.

As noted above, the burden for technology implementation plans are included above under Risk Reduction Programs (RRPs) in *§ 271. Consequently, there is no additional burden associated with this requirement.*

§ 271.111 Implementation Training

(a) A railroad shall provide RRP training to each employee, including an employee of any person identified by the railroad's RRP plan pursuant to § 271.205(a)(3) as utilizing or performing significant safety-related services on the railroad's behalf, who has significant responsibility for implementing and supporting the railroad's RRP. This training shall help ensure that all personnel with significant responsibility for implementing and supporting the RRP understand the goals of the program, are familiar

with the elements of the railroad's program, and have the requisite knowledge and skills to fulfill their responsibilities under the program.

Training under this section may include, but is not limited to, interactive computer-based training, video conferencing, or formal classroom training.

For the Class I railroads, FRA estimates then that approximately 200 employees per railroad per year, or a total of 1,400 employees will receive RRP training under the above requirement. It is estimated that it will take approximately two (2) hours to train each employee. Total annual burden for this requirement is 2,800 hours.

Respondent Universe:	150,000 Railroad employees
Burden time per response:	2 hours
Frequency of Response:	On occasion
Annual number of Responses:	1,400 RRP trained railroad employees
Annual Burden:	2,800 hours

Calculation: 1,400 RRP trained railroad employees x 2 hrs. = 2,800 hours

Additionally, for the Class I railroads, FRA estimates that there will be a 10 percent attrition rate and thus approximately 20 new/replacement employees per Class I railroad (or a total of 140 employees) will receive RRP training under the above requirement. It is estimated that it will take approximately two (2) hours to train each employee. Total annual burden for this requirement is 280 hours.

Respondent Universe:	150,000 Railroad employees
Burden time per response:	2 hours
Frequency of Response:	On occasion
Annual number of Responses:	140 RRP trained railroad employees
Annual Burden:	280 hours

Calculation: 140 RRP trained railroad employees x 2 hrs. = 280 hours

For the 10 ISP railroads, FRA estimates that approximately 10 employees per railroad per year, or a total of 100 employees will receive RRP training under the above requirement. It is estimated that it will take approximately two (2) hours to train each employee. Total annual burden for this requirement is 200 hours.

Respondent Universe:	1,000 Railroad

	employees
Burden time per response:	2 hours
Frequency of Response:	On occasion
Annual number of Responses:	100 RRP trained railroad employees
Annual Burden:	200 hours

Calculation: 100 RRP trained railroad employees x 2 hrs. = 200 hours

(b) A railroad must keep a record of training conducted under this section and update that record as necessary.

FRA estimates then that approximately 1,640 records of railroad employees will be kept under the above requirement. It is estimated that it will take approximately three (3) minutes to train each record. Total annual burden for this requirement is 82 hours.

Respondent Universe:	17 Railroads
Burden time per response:	3 minutes
Frequency of Response:	On occasion
Annual number of Responses:	1,640 records of RRP trained railroad employees
Annual Burden:	82 hours

Calculation: 1,640 RRP trained railroad employees x 3 min. = 82 hours

Total annual burden for this entire requirement is 3,362 hours (2,800 + 280 + 200 + 82).

Risk Reduction Program Plan Requirments (§ 271.201) – General

A railroad must adopt and implement its RRP through a written RRP plan containing the elements described in this Subpart. A railroad's RRP plan must be approved by FRA according to the requirements in Subpart D of this Part.

The burden for RRP Plans is included below under that of § 271.203 below. Consequently, there is no additional burden associated with this requirement.

Policy, Purpose and Scope, and Goals (§ 271.203)

(a) Policy statement. An RRP plan must contain a policy statement endorsing the railroad's RRP. This statement must be signed by the chief official at the railroad (e.g., Chief Executive Officer).

(b) Purpose and scope. An RRP plan must contain a statement describing the purpose and scope of the railroad's RRP. This purpose and scope statement must describe:

(1) The railroad's safety philosophy and safety culture;

(2) How the railroad promotes improvements to its safety culture;

(3) The roles and responsibilities of railroad personnel (including management) within the railroad's RRP; and

(4) How any entity that utilizes or provides significant safety-related services to a railroad (including host railroads, contract operators, shared track/corridor operators, or other contractors) will support and participate in the railroad's RRP.

(c) Goals. An RRP plan must contain a statement that defines the specific goals of the RRP and describes clear strategies for reaching those goals. These goals must be long-term, meaningful, measurable, and focused on the mitigation of risks arising from identified safety hazards.

FRA estimates that approximately seven (7) written RRP plans will be developed by Class I railroads under the above requirement. It is estimated that it will take six (6) people working two days a week once a month for a year or approximately 1,152 hours total to develop each written RRP plan. Total annual burden for this requirement is 8,064 hours.

Respondent Universe:	7 railroads
Burden time per response:	1,152 hours
Frequency of Response:	On occasion
Annual number of Responses:	7 written RRP plans
Annual Burden:	8,064 hours

Calculation: 7 written RRP plans x 1,152 hrs. = 8,064 hours

Additionally, FRA estimates that approximately 10 written RRP plans will be developed by ISP railroads under the above requirement. It is estimated that it will take three people two weeks or approximately 240 hours to complete each written RRP plan. Total annual burden for this requirement is 2,400 hours.

Respondent Universe:	10 railroads
Burden time per response:	240 hours
Frequency of Response:	On occasion
Annual number of Responses:	10 written RRP plans
Annual Burden:	2,400 hours

Calculation: 10 written RRP plans x 240 hrs. = 2,400 hours

Total annual burden for this entire requirement is 10,464 hours (8,064 + 2,400).

System Description (§ 271.205)

An RRP plan must contain a description of the characteristics of the railroad's system. At a minimum, the system description must:

(1) Support the identification of hazards by establishing a basic understanding of the scope of the railroad's system;

(2) Include components briefly describing the railroad's history, operations, scope of service, maintenance, physical plant, and system requirements; and

(3) Identify all entities that utilize or perform significant safety-related services on the railroad's behalf (including entities such as host railroads, contract operations, shared track/corridor operators, or other contractors).

The burden for RRP Plans is included above under that of § 271.203. Consequently, there is no additional burden associated with this requirement.

Consultation Process Description § 271.207)

(a) General duty.

(1) Each railroad required to establish an RRP under this Part must in good faith consult with, and use its best efforts to reach agreement with, all of its directly affected employees, including any non-profit labor organization representing a class or craft of directly affected employees, on the contents of the RRP plan.

(2) A railroad that consults with a non-profit employee labor organization is considered to have consulted with the directly affected employees represented by that organization.

FRA estimates that approximately seven (7) consultations with directly affected employees by Class I railroads will take place and, therefore, seven (7) consultation statements will be completed under the above requirement. It is estimated that it will take approximately 200 hours to complete each consultation and associated consultation statement. Total annual burden for this requirement is 1,400 hours.

Respondent Universe:	7 railroads
Burden time per response:	200 hours
Frequency of Response:	On occasion
Annual number of Responses:	7 consultations/consultation

	statements
Annual Burden:	1,400 hours

Calculation: 7 consultations/consultation statements x 200 hrs. = 1,400 hours

Additionally, FRA estimates that approximately 10 consultations with directly affected employees by ISP railroads will take place and, therefore, 10 consultation statements will be completed under the above requirement. It is estimated that it will take approximately 20 hours to complete each consultation and associated consultation statement. Total annual burden for this requirement is 200 hours.

Respondent Universe:	10 railroads
Burden time per response:	20 hours
Frequency of Response:	On occasion
Annual number of Responses:	10 consultations/consultation statements
Annual Burden:	200 hours

Calculation: 10 consultations/consultation statements x 20 hrs. = 200 hours

(3) A Class I railroad must meet no later than [**240 DAYS AFTER PUBLICATION DATE OF THE FINAL RULE IN THE FEDERAL REGISTER]** with its directly affected employees to discuss the consultation process. The Class I railroad must notify the directly affected employees of this meeting no less than 60 days before it is scheduled.

FRA estimates that approximately two (2) meeting notifications will be made by the Class I railroads to directly affected employees under the above requirement. It is estimated that it will take approximately eight (8) hours to complete each notification. Total annual burden for this requirement is 16 hours.

Respondent Universe:	7 railroads
Burden time per response:	8 hours
Frequency of Response:	On occasion
Annual number of Responses:	2 notifications
Annual Burden:	16 hours

Calculation: 2 notifications x 8 hrs. = 16 hours

(4) A railroad determined to have inadequate safety performance shall meet no later than 30 days following FRA's notification with its directly affected employees to discuss the

consultation process. The inadequate safety performance railroad shall notify the directly affected employees of this meeting no less than 15 days before it is scheduled.

FRA estimates that approximately one (1) meeting notification will be made by an ISP railroad to directly affected employees under the above requirement. It is estimated that it will take approximately 30 minutes to complete each notification. Total annual burden for this requirement is one (1) hours.

Respondent Universe:	10 railroads
Burden time per response:	30 minutes
Frequency of Response:	On occasion
Annual number of Responses:	1 notification
Annual Burden:	1 hour

Calculation: 1 notification x 30 min. = 1 hour

(5) A railroad that the STB reclassifies or newly classifies as a Class I railroad shall meet with its directly affected employees to discuss the consultation process no later than 30 days following the effective date of the classification or reclassification. The reclassified or newly classified Class I railroad shall notify the directly affected employees of this meeting no less than 15 days before it is scheduled**.**

Since this has not happened in the last five years, FRA believes that the STB will reclassify or newly classify zero (0) railroads as a Class I under the above requirement. Consequently, there is no burden associated with it.

(6) A voluntarily-compliant railroad shall in good faith consult with, and use its best efforts to reach agreement with, all of its directly affected employees, including any non-profit labor organization representing a class or craft of directly affected employees, on the contents of the RRP plan. However, as there is no deadline for a voluntarily-compliant railroad to file an RRP plan with FRA, there is also no requirement for a voluntarily-compliant railroad to meet with its directly affected employees within a certain timeframe.

FRA estimates that approximately one (1) consultation would be completed under the above requirement between a railroad and its directly affected employees under the above requirement. It is estimated that it will take approximately 20 hours to complete the required consultation/consultation statement. Total annual burden for this requirement is 20 hours.

Respondent Universe:	72 railroads
Burden time per response:	20 hours
Frequency of Response:	On occasion
Annual number of Responses:	1 consultation/ consultation

statement

Annual Burden: 20 hours

Calculation: 1 consultation/ consultation statement x 20 hrs. = 20 hours

(b) Railroad consultation statements. A railroad required to submit an RRP plan under § 271. 301(a) must also submit, together with that plan, a consultation statement that includes the following information:

(1) A detailed description of the process the railroad utilized to consult with its directly affected employees;

(2) If the railroad was not able to reach agreement with its directly affected employees on the contents of its RRP plan, identification of any known areas of non-agreement and an explanation why it believes agreement was not reached;

(3) If the RRP plan would affect a provision of a collective bargaining agreement between the railroad and a non-profit employee labor organization, identification of any such provision and an explanation how the RRP plan would affect it; and

(4) A service list containing the names and contact information for the international/national president and general chairperson of any non-profit employee labor organization representing a class or craft of the railroad's directly affected employees and any directly affected employee not represented by a non-profit employee labor organization who significantly participated in the consultation process. If an international/national president did not participate in the consultation process, the service list must also contain the name and contact information for a designated representative who participated on his or her behalf. When a railroad submits its RRP plan and consultation statement to FRA, it must also send a copy of these documents to all individuals identified in the service list. A railroad may send the documents to the identified individuals via electronic means or utilizing other service means reasonably calculated to succeed.

The burden for this requirement is included above under that § 271.207(a). Consequently, there is no additional burden associated with this requirement.

FRA estimates then that approximately 380 copies of RRP plans and 380 copies of consultation statements (30 general chairs + 350 service list people) will be sent to individuals identified in the service list under the above requirement. It is estimated that it will take approximately two (2) minutes to send the required documents to each individual identified in the service list. Total annual burden for this requirement is 25 hours.

Respondent Universe:	7 Railroads
Burden time per response:	2 minutes
Frequency of Response:	On occasion
Annual number of Responses:	380 RRP plan copies and 380 consultation statement copies
Annual Burden:	25 hours

Calculation: 380 RRP plan copies x 2 min. + 380 consultation statement copies x 2 min. = 25 hours

(c) Statements from directly affected employees.

(1) If a railroad and its directly affected employees cannot reach agreement on the proposed contents of an RRP plan, then directly affected employees may file a statement with the FRA Associate Administrator explaining their views on the plan on which agreement was not reached. The FRA Associate Administrator shall consider any such views during the plan review and approval process.

(2) As provided in § 271.301(a)(4), a railroad's directly affected employees have 60 days following the railroad's submission of a proposed RRP plan to submit the statement described in paragraph (c)(1) of this section.

FRA estimates that approximately three (3) statements will be filed by directly affected employees under the above requirement. It is estimated that it will take approximately six (6) hours to complete each employee statement. Total annual burden for this requirement is 18 hours.

Respondent Universe:	10 Labor Organizations
Burden time per response:	6 hours
Frequency of Response:	On occasion
Annual number of Responses:	3 employee statements
Annual Burden:	18 hours

Calculation: 3 employee statements x 6 hrs. = 18 hours

Total annual burden for this entire requirement is 1,680 hours (1,400 + 200 + 16 + 1 + 20 + 25 + 18).

Consultation on Amendments (§ 271.209)

A railroad's RRP plan must include a description of the process the railroad will use to consult with its directly affected employees on any subsequent substantive amendments

to the railroad's system safety program. The requirements of this paragraph do not apply to non-substantive amendments (e.g., amendments that update names and addresses of railroad personnel).

The burden for RRP plans is included above under that of § 271.101(a). The burden consulting with directly affected employees on the contents of the RRP plan is included above under that of § 271.207(a). Consequently, there is no additional burden associated with these requirements.

For the Class I railroads, FRA estimates that approximately seven (7) RRP plans will be substantively amended under the above requirement. It is estimated that it will take approximately 40 hours to complete each RRP plan amendment. Total annual burden for this requirement is 280 hours.

Respondent Universe:	7 Railroads
Burden time per response:	40 hours
Frequency of Response:	On occasion
Annual number of Responses:	7 RRP plan amendments
Annual Burden:	280 hours

Calculation: 7 RRP plan amendments x 40 hrs. = 280 hours

For the ISP railroads, FRA estimates that approximately 10 RRP plans will be substantively amended under the above requirement. It is estimated that it will take approximately four (4) hours to complete each RRP plan amendment. Total annual burden for this requirement is 40 hours.

Respondent Universe:	10 Railroads
Burden time per response:	4 hours
Frequency of Response:	On occasion
Annual number of Responses:	10 RRP plan amendments
Annual Burden:	40 hours

Calculation: 10 RRP plan amendments x 4 hrs. = 40 hours

Total annual burden for this entire requirement is 320 hours (280 + 40).

Risk-based Hazard Management Program Process (§ 271.211)

(a) Risk-based hazard analysis. An RRP plan must describe the railroad's method for conducting its risk-based hazard analysis pursuant to § 271.103(b). The description must specify:

(1) The processes the railroad will use to identify hazards and the risks resulting from those hazards;

(2) The sources the railroad will use to support the on-going identification of hazards and the risks associated with those hazards; and

(3) The processes the railroad will use to compare and prioritize identified risks for mitigation purposes.

(b) Mitigation strategies. An RRP plan must describe the railroad's processes for:

(1) Identifying and selecting mitigation strategies; and

(2) Monitoring an identified hazard through the mitigation of the risk associated with that hazard.

The burden for RRP plans is included above under that of § 271.203. Consequently, there is no additional burden associated with this requirement.

Safety Performance Evaluation Process (§ 271.213)

An RRP plan must describe a railroad's processes for measuring its safety culture pursuant to § 271.105(a), monitoring safety performance pursuant to § 271.105(b), and conducting safety assessments pursuant to § 271.105(c).

The burden for RRP Plans is included above under that of § 271.203. Consequently, there is no additional burden associated with this requirement.

Safety Outreach Process (§ 271.215)

An RRP plan must describe a railroad's process for communicating safety information to railroad personnel and management pursuant to § 271.107.

The burden for RRP Plans is included above under that of § 271.203. Consequently, there is no additional burden associated with this requirement.

Technology Implementation Plan Process (§ 271.217)

An RRP plan must contain a description of the railroad's processes for:

(1) Conducting a technology analysis pursuant to § 271.109(b); and

(2) Developing a technology implementation plan pursuant to § 271.109(c).

The burden for RRP Plans is included above under that of § 271.203. Consequently, there is no additional burden associated with this requirement.

Implementation and Support Training Plan (§ 271.219)

(a) An RRP plan must contain a training plan describing the railroad's processes, pursuant to § 271.111, for training employees with significant responsibility for implementing and supporting the RRP (including employees of a person identified pursuant to § 271.205(a)(3) as utilizing or performing significant safety-related services on the railroad's behalf who have significant responsibility for implementing and supporting the railroad's RRP).

(b) The training plan must describe the frequency and content of the RRP training for each position or job function identified pursuant to § 271.223(b)(3) as having significant responsibilities for implementing the RRP.

The burden for RRP Plans is included above under § 271.203 and the burden for employee training is included above under that of § 271.111. Consequently, there is no additional burden associated with this requirement.

Internal Assessment Process (§ 271.221)

An RRP plan must describe the railroad's process for conducting an internal assessment of its RRP pursuant to Subpart E of this Part. At a minimum, this description must contain the railroad's processes used to:

(a) Conduct an internal assessment of its RRP;

(b) Internally report the results of its internal assessment to railroad senior management; and

(c) Develop improvement plans, including developing and monitoring recommended improvements (including any necessary revisions or updates to the RRP plan) for fully implementing the railroad's RRP, complying with the implemented elements of the RRP plan, or achieving the goals identified in the railroad's RRP plan pursuant to § 271.203(c).

The burden for RRP Plans is included above under that of § 271.203. Consequently, there is no additional burden associated with this requirement.

RRP Implementation Plan (§ 271.223)

(a) An RRP plan must describe how the railroad will implement its RRP. A railroad may implement its RRP in stages, so long as the entire RRP is fully implemented within 36 months of FRA's approval of the plan.

(b) At a minimum, a railroad's implementation plan must:

(1) Cover the entire 36-month implementation period;

(2) Contain a timeline describing when certain implementation milestones will be achieved. Implementation milestones must be specific and measurable;

(3) Describe the roles and responsibilities of each position or job function that has significant responsibility for implementing the railroad's RRP or any changes to the railroad's RRP (including any such positions or job functions held by an entity or contractor that utilizes or performs on the railroad's behalf significant safety-related services); and

(4) Describe how significant changes to the RRP may be made.

The burden for RRP Plans is included above under that of § 271.203. Consequently, there is no additional burden associated with this requirement.

SUBPART D—REVIEW, APPROVAL, AND RETENION OF RISK REDUCTION PROGRAM PLANS

Filing and Approval (§ 271.301)

(a) Filing. A Class I railroad must submit one copy of its RRP plan to the FRA Associate Administrator for Railroad Safety/Chief Safety Officer at Mail Stop 25, 1200 New Jersey Avenue, SE, Washington, DC, 20590, no later than [**545 DAYS AFTER THE DATE OF PUBLICATION OF THE FINAL RULE IN THE FEDERAL REGISTER**]. A railroad with inadequate safety performance must submit its RRP plan no later than 90 days after receiving final written notification from FRA that it shall comply with this Part, pursuant to § 271.13(d) or no later than [**545 DAYS AFTER THE DATE OF PUBLICATION OF THE FINAL RULE IN THE FEDERAL REGISTER**], whichever is later. A railroad that the STB reclassifies or newly classifies as a Class I railroad shall submit its RRP plan no later than 90 days following the effective date of the classification or reclassification or no later than [**545 DAYS AFTER THE DATE OF PUBLICATION OF THE FINAL RULE IN THE FEDERAL REGISTER**], whichever is later. A voluntarily-compliant railroad may submit an RRP plan at any time. A railroad's submitted RRP plan must include:

(1) The signature, name, title, address, and telephone number of the chief official responsible for safety and who bears the primary managerial authority for implementing the submitting railroad's safety policy. By signing, this chief official is certifying that the contents of the RRP plan are accurate and that the railroad will implement the contents of the program as approved by FRA;
(2) The contact information for the primary person responsible for managing the RRP;

(3) The contact information for the senior representatives of the persons that the railroad has determined utilize or provide significant safety-related services (including host railroads, contract operators, shared track/corridor operators, and other contractors); and

(4) As required by § 271.207(b), a statement describing how it consulted with its directly affected employees on the contents of its RRP plan. Directly affected employees have 60 days following the railroad's submission of its proposed RRP plan to file a statement in accordance with § 271.207(c). [*Note: The burden for this requirement is included under that of § 271.207. Consequently, there is no additional burden associated with this requirement*.]

FRA estimates that each of the seven (7) Class I railroads and each of the 10 ISP railroads will submit one copy of its RRP plan to FRA for approval under the above requirement. It is estimated that it will take approximately two (2) hours to submit its RRP plan. Total annual burden for this requirement is 34 hours.

Respondent Universe:	17 railroads (7 Class I + 10 ISP)
Burden time per response:	2 hours
Frequency of Response:	On occasion
Annual number of Responses:	17 filed RRP plans
Annual Burden:	34 hours

Calculation: 17 filed RRP plan x 2 hrs. = 34 hours

(b) Approval. (1) Within 90 days of receipt of an RRP plan, or within 90 days of receipt of each RRP plan submitted prior to the commencement of railroad operations, FRA will review the proposed RRP plan to determine if it sufficiently addresses the elements required. This review will also consider any statement submitted by directly affected employees pursuant to § 271.207(c).

(2) FRA will notify the primary contact person of the submitting railroad in writing whether FRA has approved the proposed plan and, if not approved, the specific points in which the RRP plan is deficient. FRA will also provide this notification to each individual identified in the service list accompanying the consultation statement required under § 271.207(b)(4).

(3) If FRA does not approve an RRP plan, the submitting railroad must amend the proposed plan to correct all identified deficiencies and must provide FRA a corrected copy no later than 60 days following receipt of FRA's written notice that the submitted plan was not approved. If FRA determines that the necessary corrections are substantively significant, it will direct the railroad to consult further with its directly affected employees regarding the corrections. If the corrections are substantively significant, a railroad will also be required to include an updated consultation statement, along with its resubmitted plan, pursuant to § 217.107(b). Directly affected employees will also have 30 days following the railroad's resubmission of its proposed RRP plan to file a statement addressing the substantively significant changes in accordance with § 271.207(c).

FRA estimates that approximately two Class I railroads will be directed to correct a submitted RRP plan that is substantively significant under the above requirement. It is estimated that it will take approximately two (2) hours for each railroad to complete the necessary revisions to their RRP plans and submit them to FRA. Total annual burden for this requirement is four (4) hours.

Respondent Universe:	7 railroads
Burden time per response:	3 hours
Frequency of Response:	On occasion
Annual number of Responses:	2 corrected/resubmitted RRP plans
Annual Burden:	4 hours

Calculation: 2 corrected/resubmitted RRP plans x 2 hrs. = 4 hours

Additionally, FRA estimates that approximately two Class I railroads will be asked under the above provision to consult further with directly affected employees on changes to a submitted RRP plan that are substantively significant. It is estimated the railroad and its labor organizations will expend approximately three (3) hours consulting and then certifying the consultation/completing the consultation statement. Total annual burden for this requirement is six (6) hours.

Respondent Universe:	7 railroads
Burden time per response:	3 hours
Frequency of Response:	On occasion
Annual number of Responses:	2 consultation statements
Annual Burden:	6 hours

Calculation: 2 consultation statements x 3 hrs. = 6 hours

Total annual burden for this entire requirement is 44 hours (34 + 4 + 6).

Amendments (§ 271.303)

(a) Consultation requirements. For substantive amendments, a railroad must follow the process, described in its RRP plan pursuant to § 271.209, for consulting with its directly affected employees.
The burden for substantively amended RRP plans is included above under that of § 271.209. Consequently, there is no additional burden associated with this requirement.

FRA estimates that approximately two (2) railroad consultations with employees will take place regarding substantive amendments to its RRP plan under the above requirement. It is estimated that each consultation will take approximately 60 minutes to complete. Total annual burden for this requirement is two (2) hours.

Respondent Universe:	17 railroads (7 Class I + 10 ISP)
Burden time per response:	60 minutes
Frequency of Response:	On occasion
Annual number of Responses:	2 consultations
Annual Burden:	2 hours

Calculation: 2 consultations x 60 min. = 2 hours

(b) Filing. (1) A railroad must submit any amendment(s) to its approved RRP plan to FRA's Associate Administrator not less than 60 days prior to the proposed effective date of the amendment(s). The railroad must file the amendment(s) with a cover letter outlining the proposed changes to the approved RRP plan.

FRA estimates that each of the seven (7) Class I railroads will amend its RRP plan under the above requirement. It is estimated that it will take approximately six (6) hours to amend each RRP plan. Total annual burden for this requirement is 42 hours.

Respondent Universe:	7 railroads
Burden time per response:	6 hours
Frequency of Response:	On occasion
Annual number of Responses:	7 amended RRP plans
Annual Burden:	42 hours

Calculation: 7 amended RRP plans x 40 hrs. = 42 hours

Additionally, FRA estimates that approximately one (1) ISP railroad will amend it RRP plan under the above requirement. It is estimated that it will take approximately one (1) hour to amend the RRP plan. Total annual burden for this requirement is 20 hours.

Respondent Universe:	10 railroads
Burden time per response:	1 hour
Frequency of Response:	On occasion
Annual number of Responses:	1 amended RRP plan
Annual Burden:	1 hour

Calculation: 1 written RRP plan x 1 hr. = 1 hour

(2) If the proposed amendment is limited to adding or changing a name, title, address, or telephone number of a person, FRA approval is not required under the process of this section, although the railroad shall still file the amended RRP plan with FRA's Associate Administrator for Railroad Safety/Chief Safety Officer. These proposed amendments may be implemented by the railroad upon filing with FRA. All other proposed amendments must comply with the formal approval process described by this section.

FRA estimates that zero (0) non-substantive amendments will be submitted by railroads under the above requirement. Consequently, there is no additional burred associated with it.

(c) Review. (1) FRA will review a proposed amendment to an RRP plan within 45 days of receipt. FRA will then notify the primary contact person of the railroad, whether the proposed amendment has been approved by FRA. If not approved, FRA will inform the railroad of the specific points in which the proposed amendment is deficient.

(2) If FRA has not notified the railroad by the proposed effective date of the amendment whether the amendment has been approved or not, the railroad may implement the amendment, subject to FRA's decision.

(3) If a proposed RRP plan amendment is not approved by FRA, no later than 60 days following the receipt of FRA's written notice, the railroad must either provide FRA a corrected copy of the amendment that addresses all deficiencies noted by FRA or notice that the railroad is retracting the amendment.

FRA estimates that approximately one (1) RRP amended plan will be disapproved by FRA and need to be corrected under the above requirement. It is estimated that it will take approximately 80 hours to correct the RRP plan. Total annual burden for this requirement is 80 hours.

Respondent Universe:	7 railroads
Burden time per response:	80 hours
Frequency of Response:	On occasion
Annual number of Responses:	1 corrected RRP amended plan

Annual Burden: 80 hours

Calculation: 1 corrected amended RRP plan x 80 hrs. = 80 hours

Total annual burden for this entire requirement is 125 hours (2 + 42 + 1 + 80).

Reopened Review (§ 271.305)

Following approval of an RRP plan or an amendment to such a plan, FRA may reopen consideration of the plan or amendment, in whole or in specific part, for cause stated.

FRA estimates that approximately zero (0) RRP plans/amended plans will be reopened for cause stated by FRA. Consequently, there is no additional burden associated with this requirement.

Retention of RRP Plans (§271.307)

(a) Railroads. A railroad must retain at its system and division headquarters one copy of its RRP plan and each subsequent amendment(s) to that plan. A railroad may comply with this requirement by making an electronic copy available.

(b) Inspection and copying. A railroad must make a copy of the RRP plan available to representatives of the FRA or States participating under Part 212 of this Chapter for inspection and copying during normal business hours.

FRA estimates that approximately 34 RRP plan copies/amended plan copies will be kept by railroad under the above requirement. It is estimated that it will take approximately 10 minutes to keep each copy. Total annual burden for this requirement is six (6) hours.

Respondent Universe:	17 railroads (7 Class I + 10 ISP)
Burden time per response:	10 minutes
Frequency of Response:	On occasion
Annual number of Responses:	34 RRP plan copies/amended plan copies
Annual Burden:	6 hours

Calculation: 34 RRP plan copies/amended plan copies x 10 min. = 6 hours

SUBPART E— INTERNAL ASSESSMENTS

Annual Internal Assessments (§ 271.401)

Beginning with the first calendar year after the calendar year in which FRA approves a railroad's RRP plan pursuant to § 271.301(b), the railroad must annually (i.e., once every calendar year) conduct an internal assessment of its RRP.

(b) The internal assessment shall determine the extent to which the railroad has:

(1) Achieved the implementation milestones described in its RRP plan pursuant to § 271.223(b);

(2) Complied with the implemented elements of the approved RRP plan; and

(3) Achieved the goals described in its RRP plan pursuant to § 271.203(c).

(4) Implemented previous internal assessment improvement plans pursuant to § 271.403; and

(5) Implemented previous external audit improvements plans pursuant to § 271.503.

(c) A railroad must ensure that the results of its internal assessments are internally reported to railroad senior management.

The burden for this requirement is included under that of § 271.403 below. Consequently, there is no additional burden associated with this requirement.

Internal Assessment Improvement Plans (§ 271.403)

(a) Within 30 days of completing its internal assessment, a railroad must develop an improvement plan that addresses the findings of its internal assessment.

(b) At a minimum, a railroad's improvement plan must:

(1) Describe recommended improvements (including any necessary revisions or updates to the RRP plan, which would be made through the amendment process described in § 271.303) that address the findings of the internal assessment for fully implementing the railroad's RRP, complying with the implemented elements of the RRP plan, achieving the goals identified in the railroad's RRP plan pursuant to § 271.203(c), and implementing previous internal assessment improvement plans and external audit improvement plans; .

(2) Identify by position title the individual who is responsible for carrying out the recommended improvements;

(3) Contain a timeline describing when specific and measurable milestones for implementing the recommended improvements will be achieved; and

(4) Specify processes for monitoring the implementation and evaluating the effectiveness of the recommended improvements.
For the Class I railroads, FRA estimates that approximately seven (7) internal assessments/improvement plans will be developed by railroads under the above requirement. It is estimated that it will take approximately 120 hours to complete each assessment/develop each internal assessment improvement plan. Total annual burden for this requirement is 840 hours.

Respondent Universe:	7 railroads
Burden time per response:	120 hours
Frequency of Response:	On occasion
Annual number of Responses:	7 internal assessments/improvement plans
Annual Burden:	840 hours

Calculation: 7 internal assessment improvement plans x 120 hrs. = 840 hours

For the ISP railroads, FRA estimates that approximately 10 internal assessments/ improvement plans will be developed under the above requirement. It is estimated that it will take approximately 32 hours to complete each assessment/develop each internal assessment improvement plan. Total annual burden for this requirement is 320 hours.

Respondent Universe:	10 railroads
Burden time per response:	32 hours
Frequency of Response:	On occasion
Annual number of Responses:	10 ISP railroad internal assessments/ improvement plans
Annual Burden:	320 hours

Calculation: 10 ISP internal assessments/improvement plans x 32 hrs. = 320 hours

Total annual burden for this entire requirement is 1,160 hours (840 + 320).

Internal Assessment Reports (§ 271.405)

(a) Within 60 days of completing its internal assessment, a railroad must submit a copy of an internal assessment report to the FRA Associate Administrator for Railroad Safety/Chief Safety Officer at Mail Stop 25, 1200 New Jersey Avenue, SE, Washington, DC, 20590.

(b) This report must be signed by the railroad's chief official responsible for safety and who bears primary managerial authority for implementing the railroad's safety policy. The report must include:
(1) A description of the railroad's internal assessment;

(2) The findings of the internal assessment;

(3) A specific description of the recommended improvements contained in the railroad's internal assessment improvement plan, including any amendments that would be made to the railroad's RRP plan pursuant to § 271.303; and

(4) The status of the recommended improvements contained in the railroad's internal assessment improvement plan and any outstanding recommended improvements from previous internal assessment improvement plans.

For Class I railroads, FRA estimates that approximately seven (7) internal assessment reports/copies will be submitted to FRA with the necessary information under the above requirement. It is estimated that it will take approximately eight (8) hours to complete each internal assessment report and send a copy to FRA. Total annual burden for this requirement is 56 hours.

Respondent Universe:	7 railroads
Burden time per response:	8 hours
Frequency of Response:	On occasion
Annual number of Responses:	7 internal assessment reports/ copies
Annual Burden:	56 hours

Calculation: 7 internal assessment report copies x 8 hrs. = 56 hours

Additionally, for ISP railroads, FRA estimates that approximately 10 internal assessment reports/ copies by ISP railroads will be submitted to FRA with the necessary information under the above requirement. It is estimated that it will take approximately two (2) hours to send each internal assessment report copy to FRA. Total annual burden for this requirement is 20 hours.

Respondent Universe:	10 railroads
Burden time per response:	2 hours

Frequency of Response:	On occasion
Annual number of Responses:	10 internal assessment reports/ copies
Annual Burden:	20 hours

Calculation: 10 internal assessment reports/copies x 2 hrs. = 20 hours

Total annual burden for this requirement is 76 hours (56 + 20).

SUBPART F – EXTERNAL AUDITS

External Audit Improvement Plans (§ 271.503)

(a) Submission. Within 60 days of receiving FRA's written notice of the audit results, if necessary, a railroad must submit for approval an improvement plan addressing any instances of deficiency or non-compliance found in the audit to the FRA Associate Administrator for Railroad Safety/Chief Safety Officer at Mail Stop 25, 1200 New Jersey Avenue, SE, Washington, DC, 20590.

(b) Requirements. At a minimum, an improvement plan must:

(1) Describe the improvements the railroad will implement to address the audit findings;

(2) Identify by position title the individual who is responsible for carrying out the improvements necessary to address the audit findings; and

(3) Contain a timeline describing when milestones for implementing the recommended improvements will be achieved. These implementation milestones must be specific and measurable.

For the Class I railroads, FRA estimates that approximately two (2) improvement plans per year will be submitted to FRA by railroad officials in response to agency audits under the above requirement. It is estimated that it will take approximately 40 hours to develop and complete each improvement plans and send it to FRA. Total annual burden for this requirement is 80 hours.

Respondent Universe:	7 railroads
Burden time per response:	40 hours
Frequency of Response:	On occasion
Annual number of Responses:	2 improvement plans
Annual Burden:	80 hours

Calculation: 2 improvement plans x 40 hrs. = 80 hours

Additionally, for the ISP railroads, FRA estimates that approximately one (1) improvement plan per year will be submitted to FRA by railroad officials in response to agency audits under the above requirement. It is estimated that it will take approximately four (4) hours to complete each improvement plan and send it to FRA. Total annual burden for this requirement is four (4) hours.

Respondent Universe:	10 railroads
Burden time per response:	4 hours
Frequency of Response:	On occasion
Annual number of Responses:	1 improvement plan
Annual Burden:	4 hours

Calculation: 1 improvement plan x 4 hrs. = 4 hours

(c) Approval. If FRA does not approve the railroad's improvement plan, FRA will notify the railroad of the plan's specific deficiencies. The railroad must amend the proposed plan to correct the identified deficiencies and provide FRA a corrected copy no later than 30 days following receipt of FRA's notice that the proposed plan was not approved.

FRA estimates that approximately one (1) improvement plan will be disapproved by FRA and will need to be amended under the above requirement. It is estimated that it will take approximately eight (8) hours to amend each improvement plan and send it to FRA. Total annual burden for this requirement is eight (8) hours.

Respondent Universe:	7 railroads
Burden time per response:	8 hours
Frequency of Response:	On occasion
Annual number of Responses:	1 amended improvement plan
Annual Burden:	8 hours

Calculation: 1amended improvement plans x 8 hrs. = 8 hours

(d) Status reports. Upon the request of the FRA Associate Administrator, a railroad must provide FRA for review a status report on the implementation of the improvements contained in the improvement plan.

FRA estimates that approximately one (1) railroad status report on the implementation of the improvements contained in the improvement plan will be provided to FRA upon request under the above requirement. It is estimated that it will take approximately eight (8) hours to complete and send each status report. Total annual burden for this requirement is eight (8) hours.

Respondent Universe:	7 railroads
Burden time per response:	8 hours
Frequency of Response:	On occasion
Annual number of Responses:	1 status report
Annual Burden:	8 hours

Calculation: 1 status report s x 8 hrs. = 8 hours

Total annual burden for this entire requirement is 100 hours (80 + 4 + 8 + 8).

Appendix B to Part 271 – Federal Railroad Administration (FRA) Guidance on the Risk Reduction Program Consultation Process

The Meaning of "Good Faith" and "Best Efforts"

When reviewing RRP plans, FRA will determine on a case-by-case basis whether a railroad has met its § 271.207 good faith and best efforts obligations. This determination will be based upon the consultation statement submitted by the railroad pursuant to § 271.207(b) and any statements submitted by employees pursuant to § 271.207(c). If FRA finds that these statements do not provide sufficient information to determine whether a railroad used good faith and best efforts to reach agreement, FRA may investigate further and contact the railroad or its employees to request additional information.

In approximately three (3) instances, FRA estimates that will not receive sufficient information to determine whether a railroad used good faith and best efforts to reach agreement with its employees on the content of its RRP plan and thus railroads will need to submit three (3) additional information/documents under the above requirement. It is estimated that it will take approximately 40 hours to provide each document to FRA. Total annual burden for this requirement is 120 hours.

Respondent Universe:	7 railroads
Burden time per response:	40 hours
Frequency of Response:	On occasion
Annual number of Responses:	3 additional information/documents
Annual Burden:	120 hours

Calculation: 3 additional information/documents x 40 hrs. = 120 hours

If FRA determines that a railroad did not use good faith and best efforts, FRA may disapprove the RRP plan submitted by the railroad and direct the railroad to comply with the consultation requirements of § 271.207.

In approximately one (1) instance, FRA estimates that it will disapprove the RRP plan

submitted by the railroad and direct the railroad to comply with the consultation requirements of § 271.207. It is estimated then that one (1) consultation will take place and that each consultation will take approximately eight (8) hours to complete. Total annual burden for this requirement is eight (8) hours.

Respondent Universe:	7 railroads
Burden time per response:	8 hours
Frequency of Response:	On occasion
Annual number of Responses:	1 consultation
Annual Burden:	8 hours

Calculation: 1 consultation x 8 hrs. = 8 hours

Pursuant to § 271.301(b)(3), if FRA does not approve the RRP plan, the railroad will have 60 days, following receipt of FRA's written notice that the plan was not approved, to correct any deficiency identified. In such cases, the identified deficiency would be that the railroad did not use good faith and best efforts to consult and reach agreement with its directly affected employees. If a railroad then does not submit to FRA within 60 days an RRP plan meeting the consultation requirements of § 271.207, the railroad could be subject to penalties for failure to comply with § 271.301(b)(3).

The burden for this requirements is already included under that of § 271.301(b)(3). Consequently, there is no additional burden associated with this requirement.

Total annual burden for this entire requirement is 128 hours (120 + 8).

Guidance on How a Railroad May Consult with Directly Affected Employees

Employees represented by a non-profit employee labor organization

A railroad could utilize the following process as a roadmap for using good faith and best efforts when consulting with represented employees in an attempt to reach agreement on the contents of an RRP plan.

- Pursuant to § 271.207(a)(3), a railroad shall meet with representatives from a non-profit employee labor organization (representing a class or craft of the railroad's directly affected employees) within 240 days from [**THE DATE OF PUBLICATION OF THE FINAL RULE IN THE FEDERAL REGISTER**] to begin the process of consulting on the contents of the railroad's RRP plan. A railroad should provide notice at least 60 days before the scheduled meeting.

The burden for this requirement is included under that of § 271.207. Consequently, there is no additional burden associated with this requirement.

- During the time between the initial meeting and the applicability date of § 271.11, the parties may meet to discuss administrative details of the consultation process as necessary.

  For Class I railroads, FRA estimates that seven (7) meetings between railroads and employees represented by a non-profit employee labor organization to discuss the administrative details of the consultation process will take place under the above requirement. It is estimated that it each meeting will take approximately two (2) hours to complete. Total annual burden for this requirement is 14 hours.

Respondent Universe:	7 railroads
Burden time per response:	2 hours
Frequency of Response:	On occasion
Annual number of Responses:	7 meetings
Annual Burden:	14 hours

  Calculation: 7 meetings/consultations x 2 hrs. = 14 hours

  For Class ISP railroads, FRA estimates that 10 meetings between railroads and employees represented by a non-profit employee labor organization to discuss the administrative details of the consultation process will take place under the above requirement. It is estimated that it each meeting will take approximately one (1) hour to complete. Total annual burden for this requirement is 10 hours.

Respondent Universe:	10 railroads
Burden time per response:	1 hour
Frequency of Response:	On occasion
Annual number of Responses:	10 meetings
Annual Burden:	10 hours

  Calculation: 10 meetings/consultations x 1 hr. = 10 hours

- Within 60 days after [**365 DAYS AFTER THE DATE OF PUBLICATION OF THE FINAL RULE IN THE FEDERAL REGISTER**], a railroad should have a meeting with the representatives of the directly affected employees to discuss substantive issues with the RRP plan.

- Within 180 days after [**365 DAYS AFTER THE DATE OF PUBLICATION OF THE FINAL RULE IN THE FEDERAL REGISTER**], a railroad would file its RRP plan with FRA.

- As provided by § 271.207(c), if agreement on the contents of an RRP plan could not be reached, a labor organization (representing a class or craft of the railroad's directly affected employees) could file a statement with the FRA Associate Administrator explaining its views on the plan on which agreement was not reached.

  The burden for the above requirements is included under that of § 271.207 above. Consequently, there is no additional burden associated with this requirement.

Employees who are not represented by a non-profit employee labor organization

- Following the initial notification (and before the railroad submits its RRP plan to FRA), a railroad should provide non-represented employees a draft proposal of its RRP plan. This draft proposal should solicit additional input from non-represented employees, and the railroad should provide non-represented employees 60 days to submit comments to the railroad on the draft.

  This requirement will affect short line railroads. Thus, FRA estimates that two (2) draft RRP plans proposal copies will be provided to non-represented employees under the above requirement. It is estimated that it will take approximately 20 hours to develop each draft RRP plan proposal and provide non-represented employees a copy. Total annual burden for this requirement is 40 hours.

Respondent Universe:	10 railroads
Burden time per response:	20 hours
Frequency of Response:	On occasion
Annual number of Responses:	2 draft RRP plan proposals/copies
Annual Burden:	40 hours

  Calculation: 2 draft RRP plan proposals/copies x 20 hrs. = 40 hours

- Following this 60-day comment period and any changes to the draft RRP plan made as a result, the railroad should submit the proposed RRP plan to FRA, as required by this Part.

  FRA estimates that six (6) comments will be made on draft RRP Plan proposals under the above requirement. It is estimated that it will take approximately one (1) hour to complete and send each comment. Total annual burden for this requirement is six (6) hours.

Respondent Universe:	100 employees
Burden time per response:	1 hour
Frequency of Response:	On occasion

Annual number of Responses: 6 comments
Annual Burden: 6 hours

Calculation: 6 comments x 1 hr. = 6 hours

The burden for the above requirements is included under that of § 271.207 above. Consequently, there is no additional burden associated with this requirement.

As provided by § 271.207(c), if agreement on the contents of an RRP plan cannot be reached, then a non-represented employee may file a statement with the FRA Associate Administrator explaining his or her views on the plan on which agreement was not reached.

The burden for the above requirements is included under that of § 271.207 above. Consequently, there is no additional burden associated with this requirement.

Total annual burden for this entire requirement is 70 hours (14 + 10 + 40 + 6).

Total annual burden for this entire information collection is 72,746 hours.

13. Estimate of total annual costs to respondents.

As noted in the regulatory impact analysis (RIA) accompanying this proposed rule, there are additional annual costs to respondents besides the burden hours shown above. They are as follows:

ADDITIONAL COSTS

$105,000 per year – **Safety Outreach Materials** (§ 271.107) (Class I RRs)

$2,333 per year – **Safety Outreach Materials** (§ 271.107) (ISP RRs)

$23,333 per year – **Implementation and Support Training Materials** (§ 271.111) (Class I RRs)

$23 per year – **Cost to Submit RRP Plan to FRA** (§ 271.301) (Class I RRs)

$33 per year – **Cost to Submit RRP Plan to FRA** (§ 271.301) (ISP RRs)

$23 per year – **Cost to Submit Amendments to RRP Plan to FRA** (§ 271.303) (Class I RRs)

$33 per year – **Cost to Submit Amendments to RRP Plan to FRA** (§ 271.303) (ISP

RRs)

$23 per year – **Cost to Submit Internal Assessment Report to FRA** (§ 271.405) (Class I RRs)

$33 per year – **Cost to Submit Internal Assessment Report to FRA** (§ 271.405) (ISP RRs)

$6 per year – **Cost to Submit External Audit Improvement Plan Report to FRA** (§ 271.503) (Class I RRs)
$17 per year – **Cost to Submit External Audit Improvement Plan to FRA (§ 271.503)** (ISP RRs)

$26,919 per year – **Cost to Measure Safety Culture Using Survey** (§ 271.105) (1,000 employees per Class I Railroad @.25 hour per survey)

$1,182 per year – **Cost to Measure Safety Culture Using Survey** (§ 271.105) (30 employees per ISP Railroad @.25 hour per survey)

$158,958 = **TOTAL COSTS PER YEAR**

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

COSTS FOR SUBPART D – Per Class I Railroad

FRA Activity for Class I Railroads	Time / Cost (hours)	Number of FRA Employees	Total
Review initial RRP plan (Class I)	40	2	80
Review corrections to plan (Class I)	24	1	24
Review amendments	16	1	16
Review corrected amendments	8	1	8
Total Cost for Review and Approval (per railroad)			$5,910
Total Cost for Amendments (per railroad)			$1,364

Note: Costs are estimates for the first year of the costs. All labor costs are increased i, n subsequent years.

SUBTOTAL = $41,370 (Review & Approval RRP Plans Cost for 7 Class I RRs x $5,910) + $9,548 (Amendment Review Cost for 7 Class RRs x $1,364) = **$50,918**

COSTS FOR SUBPART D - Per ISP Railroad

FRA Activity for Railroads with ISP	Time / Cost (hours)	Number of FRA Employees	Total
Review initial RRP plan (others)	32	1	32
Review corrections to plan (others)	8	1	8
Review amendments (others)	8	1	8
Total Cost for Review and Approval (per railroad)			$2,273
Total Cost for Amendments (per railroad)			$455

Note: Costs are estimates for the first year of the costs. All labor costs are increased in subsequent years.

SUBTOTAL = $22,730 (Review & Approval RRP Plans Cost for 10 ISP RRs x $2,273) + $4,550 (Amendment Review Cost for 10 ISP RRs x $455) = **$27,280**

COSTS FOR SUBPART F – Per Class I Railroad

FRA Activity for Class I Railroads	Time / Cost (hours)	Number of FRA Employees	Total
Review RR internal assessment report	32	1	32
Audit RRP program (RR HQ)	40	4	160
Develop audit report	40	1	40
Review RR improvement plan	24	1	24
Total Cost (per railroad)			**$14,548**
Travel – RR audit (HQ)	$2,200	4	$8,800
Travel – RR audit (Field)	$2,200	2	$4,400
Total Travel Cost (per railroad)			**$13,200**

Note: Costs are estimates for the first year of the costs. All labor costs are increased, as noted prior, in subsequent years.

SUBTOTAL = $101,836 (Costs: Review Internal Assessment Report + RRP Program Audit + Develop Audit Report + Review RRP Improvement Plan for 7 Class I RRs x $14,548) + $92,400 (Costs: Travel for Audit (HQ Staff + Travel for Audit (Field Staff) st – 7 Class RRs x $1,364) = **$194,236**

COSTS FOR SUBPART F - Per ISP Railroad

FRA Activity for Railroads with ISP	Time / Cost (hours)	Number of FRA Employees	Total
Review internal assessment rep (others)	12	1	12
Audit RRP program (field)	40	1	40
Develop audit report	8	1	8
Review RR improvement plan	8	1	8
Conduct external audit (others)	16	2	32
Total (per railroad)			**$5,683**
Travel – RR audit (Field)	$2,200	2	$4,400
Travel – RR audit (other)	1000	2	$2,000
Total			**$6,400**

Note: Costs are estimates for the first year of the costs. All labor costs are increased, as noted prior, in subsequent years.

SUBTOTAL = $56,830 (Costs: Review Internal Assessment Report + RRP Program Audit + Develop Audit Report + Review RRP Improvement Plan + Conduct External Audit for 10 ISP RRs x $5,683) + $64,000 (Costs: Travel for Audit (HQ Staff + Travel for Audit (Field Staff) for 10 ISP RRs x $6,400) = **$120,830**

GRAND TOTAL = $393,264 ($50,918 + $27,280 + $194,236 + $120,830)

15. Explanation of program changes and adjustments.

This is a new collection of information solely associated with FRA's proposed rule that adds new Part 271. The total burden **requested** for this submission amounts to **72,746 hours** and the total number of **responses requested** is **6,450**. By definition, the entire requested burden is a **program change**.

The total cost to respondents amounts to **$158,958** per year. By definition, the entire cost to respondents is also a **program change**.

16. Publication of results of data collection.

There are no plans for publication of this submission.

The information to be collected will be used by specialists of the Office of Safety, as well as field personnel, to enforce the regulation. The information collected may be incorporated into the FRA database, where relevant and appropriate, and provided to the general public and other interested parties who wish to access the information on the FRA Website.

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 a Notice in the Federal Register.

18. Exception to certification statement.

No exceptions are taken at this time regarding this information collection. FRA does not expect that there would be circumstances in the future where the agency would take an exception to one of the certification criteria. However, FRA cannot categorically state that the agency would never take an exception because there may be circumstances (such as legislative mandate by Congress, etc.) that might warrant FRA taking an exception. In such a case, FRA would provide a full explanation to OMB for it to evaluate and comment on.

Meeting Department of Transportation (DOT) Strategic Goals

This information collection supports DOT's main strategic goal, transportation safety. This information collection seeks to reduce the number and severity of railroad accidents/incidents, as well as any resulting property damage, by ensuring that only qualified individuals are employed by railroads as conductors or passenger conductors. Specifically, if Class I railroads and railroads with inadequate safety performance do not develop and implement Risk Reduction Programs (RRPs), then undoubtedly there will be higher numbers of train accidents, particularly severe collisions and major derailments, as well as other railroad incidents and corresponding injuries and fatalities to workers that go with them that could have been prevented with an effective Risk Reduction Program.

Without the implementation of an effective RRP, Class I and ISP railroads will not have a comprehensive, system-oriented approach to safety that not only determines daily operations level of risk by identifying and analyzing applicable hazards, but also formulates a plan to mitigate, and where possible, eliminate that risk. An effective RRP encourages – and indeed facilitates – a railroad and its employees to work together to proactively identify hazards and to jointly determine what action to take to mitigate or eliminate the risks associated with those hazards. Effective RRPs will lead to decreases in unsafe behaviors. Decreases in unsafe behaviors or hazards will create a corresponding decrease in railroad-related incidents and the casualties and property damage that go along with them.

Without effective RRPs, Class I and ISP railroads will not have an ongoing program that supports continuous safety improvement. Necessary components of the RRP – a risk-based hazard management program (HMP), a safety performance evaluation component, a safety outreach component, a technology analysis and technology implementation plan, and RRP implementation and support training – provide railroads with a comprehensive

means of assessing their systems risks as well as the framework for reducing those risks.

Without an RRP risk-based hazard management program, Class I and ISP railroads would not be able to identify hazards in a proactive, integrated, system-wide, and ongoing manner. The scope of a risk-based HMP would be scalable, based upon the size and extent of the railroad's system. As part of its HMP, each railroad would have to conduct a risk-based hazard analysis. A risk-based hazard analysis would address the following components of a railroad's system: infrastructure; equipment; employee levels and work schedules; operating rules and practices; management structure; employee training; and other areas impacting railroad safety that are not covered by railroad safety laws or regulations or other Federal laws or regulations. A risk-based hazard analysis would identify hazards by analyzing the following: (1) various aspects of the railroad's system (including any operational changes, system extensions, or system modifications); and (2) accidents and incidents, injuries, fatalities, and other known indicators of hazards (such as data compiled from a close call reporting system). A railroad would then calculate risk by determining and analyzing the likelihood and severity of potential events associated with identified hazards. These risks would be compared and prioritized for the purpose of mitigation.

Without the required RRP safety performance evaluation, Class I and ISP railroads would not be able to monitor new or emerging risks. The safety performance evaluation enables railroads to develop and maintain ongoing processes and systems for evaluating the safety performance of a railroad's system. Each railroad would develop and maintain processes and systems for measuring its safety culture. Overall, a safety performance evaluation would consist of both a safety monitoring and a safety assessment component. The safety performance evaluation would be developed by establishing processes and systems for acquiring data and information from the following sources: (i) continuous monitoring of operational processes and systems; (ii) periodic monitoring of the operational environment to detect changes that may generate new hazards; (iii) investigations of accidents/incidents, injuries, fatalities, and other known indicators of hazards; (iv) investigations of reports regarding potential non-compliance with Federal railroad safety laws or regulations, railroad operating rules and practices, or mitigation strategies established by the railroad; and (v) a reporting system through which employees can report safety concerns (including, but not limited to, hazards, issues, occurrences, and incidents) and propose safety solutions and improvements. A railroad would have substantial flexibility to design a reporting system best suited to its own organization or, if a railroad already has some sort of reporting system, to modify it to meet the needs of its RRP.

Without the required RRP safety outreach component of an effective RRP, Class I and ISP railroads would be unable to communicate important safety information to employees and contractors who work in implementing the RRP. Specifically, in their safety outreach programs, Class I and ISP railroads would convey safety-critical

information to employees; would explain why RRP-related safety actions are taken; and would explain why safety procedures are introduced or changed. In essence, railroads would use the safety outreach component of an RRP to communicate the effect the RRP is having on the railroad's overall safety performance to those employees most responsible for supporting and fulfilling the railroad's RRP. Ongoing safety outreach will help crystallize any changes that need to be made in the railroad's RRP to enhance safety.

Without the required RRP technology analysis, Class I and ISP railroads would be unable to evaluate current, new, or novel technologies that could mitigate or eliminate hazards and the resulting risks identified through the risk-based hazard management program (HMP). Without the required technology analysis, these railroads would be unable to analyze the safety impact, feasibility, and costs and benefits of implementing such technologies. The technology analysis, at a minimum, would consider different technologies including processor-based technologies, positive train control (PTC) systems, electronically-controlled pneumatic brakes, rail integrity inspection systems, rail integrity warning systems, switch position monitors and indicators, trespasser prevention technology, and highway-rail grade crossing warning and protection technology.

Without the required RRP training, the employees of Class I and ISP railroads who hold positions of safety leadership and employees whose job duties primarily relate to developing and implementing an RRP would not be familiar with the elements of their railroad's program and would not have the necessary knowledge and skills needed to fulfil their responsibilities. Rail safety would suffer as a result.

Without the required RRP "good faith" and "best efforts" consultation by Class I and ISP railroads with their employees/employee representative organizations, railroads would not be able to educate their directly affected employees on risk reduction and how it may affects them. Also, without this essential consultation, it would not be possible to gain the support and input of those employees who have direct and intimate knowledge of the railroad's daily operations and who will be tasked with implementing each railroad's RRP. Good faith and best efforts consultation enables employees to directly and proactively provide their knowledge and insight so that railroads can make their RRPs as effective as possible. This will enhance overall rail safety.

Without the RRP requirement to conduct annual internal assessments, Class I and ISP railroads would not be able to carry out essential audits to determine that their RRPs are properly implemented and effective. The internal assessments will be used by railroads to determine the extent to which the railroad has accomplished the following: (i) achieved the implementation milestones described in its RRP plan pursuant to proposed § 271.223(b); (ii) complied with the elements of its approved RRP plan that have already been implemented; (iii) achieved the goals described in its RRP plan pursuant to proposed § 271.203(c); (iv) implemented previous internal assessment

improvement plans pursuant to proposed § 271.403; and (v) implemented previous external audit improvement plans pursuant to § 271.503. A properly executed internal assessment would provide the railroad with detailed knowledge of the status of its program implementation and the degree to which the program is effectively reducing risk. Results of the internal assessment are required to be reported to the railroad's senior management. The railroad's senior management will use the information to develop an improvement plan in order make their daily operations safer.

Finally, FRA external audits of the railroad's RRP will focus on reviewing the railroad's RRP process and ensuring that the railroad is following the processes and procedures described in its FRA-approved RRP plan. This will be an interactive process. FRA will communicate with the railroad during the audit and attempt to resolve any issues before its completion. Once the audit is completed, FRA will provide the railroad with written notification of the audit results so that railroads would be clearly informed of any areas where the railroad was not properly complying with its RRP plan, any areas that needed to be addressed by the railroad's RRP but were not, or any other areas in which FRA found that the railroad and its program were not in compliance with this Part. Such FRA oversight will serve to remedy any RRP/RRP Plan deficiencies and will also serve to improve rail safety.

In sum, this collection of information promotes and enhances national rail safety, and thus serves as a vital component of FRA's multi-faceted safety program. It supports the main DOT objective and is essential in assisting FRA to fulfill its primary agency mission and objective.

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