

SUPPORTING JUSTIFICATION
Safety Integration Plans for Certain Transactions
49 CFR 244; OMB No. 2130-0557

Summary of Submission

- This submission is a request for a extension without change of the information collection approved by OMB on **March 15, 2017**, and which expires on **April 30, 2017**.
- FRA published the required 60-day **Federal Register** Notice on **October 26, 2016**. See 81 FR 74496. FRA received no comments in response to this notice.
- The total number of burden **hours requested** for this submission is **528 hours**.
- The total number of burden **hours previously approved** was **528 hours**.
- Total number of **responses requested** is **60**.
- Total number of **responses previously approved** was **60**.
- There are no program changes or adjustments at this time.
- **The answer to question **number 12** itemizes the hourly burden associated with each requirement of this rule (See pp. 10-20)

1. Circumstances that make collection of the information necessary.

Background

The Federal Railroad Administration (FRA) and the Surface Transportation Board (STB/Board), working in conjunction with each other, have developed complementary regulations establishing procedures for the development and implementation of safety integration plans (SIPs) by Class I railroads proposing to engage in certain specified merger, consolidation, or acquisition of control transactions with another railroad (i.e., another Class I railroad, or a Class II railroad with which it proposes to amalgamate operations). The scope of the transactions covered under the two rules is identical.

Under Federal law, primary jurisdiction, expertise, and oversight responsibility in rail safety matters are vested in the Secretary of the Department of Transportation, and delegated to the Federal Railroad Administrator. 49 U.S.C. 20102 *et seq.*; 49 CFR 1.49. FRA has authority to issue regulations to promote safety in every area of railroad operations and reduce railroad-related accidents and incidents. 49 U.S.C. 20101 and

20102. Specifically, 49 U.S.C. 20103 confers authority on FRA to “prescribe regulations for every area of railroad safety” (49 U.S.C. 20103(a)), and “in prescribing regulations [,] FRA “shall consider existing relevant safety information and standards.” 49 U.S.C. 20103(c). FRA has exercised its jurisdiction to protect the safety of railroad operations by issuing and enforcing regulations, partnering with railroad labor organizations and management of particular railroads to identify and develop solutions to safety problems, actively participating in STB rail proceedings, and monitoring railroad operations during the implementation of STB-approved transactions.

The STB is also responsible for promoting a safe rail transportation system. The rail transportation policy (RTP), 49 U.S.C. 10101, which was adopted in the Staggers Rail Act of 1980, Pub. L. 96-448, 94 Stat. 1895 (1980), and amended in the ICC Termination Act of 1995, Pub. L. 104-88, 109 Stat. 803 (1995), establishes the basic policy directive against which all of the statutory provisions the Board administers must be evaluated. The RTP provides, in relevant part, that “in regulating the railroad industry, it is the policy of the U.S. Government … to promote a safe and efficient rail transportation system”… [by allowing rail carriers to] “operate transportation facilities and equipment without detriment to the public health and safety…” 49 U.S.C. 10101(8). The rail transportation policy applies to all transactions subject to the Board’s jurisdiction. Thus, both FRA and STB are vested with authority to ensure safety in the rail industry. Each agency, however, recognizes the other agency’s expertise in regulating the industry. FRA has expertise in the safety of all facets of railroad operations. Concurrently, the STB has expertise in economic regulation and assessment of environmental impacts in the railroad industry. Together, the agencies appreciate that their unique experience and oversight of railroads complement each other’s interest in promoting a safe and viable industry.

In the *Conrail Acquisition* proceeding,¹ the two agencies recognized the need to work together to ensure that the proposed transaction would be safely implemented. Both agencies took a pro-active role in analyzing the complex transaction involving two large railroads – Norfolk Southern Railway Company (NS) and CSX Transportation, Inc. (CSXT) – in their acquisition of a third large railroad, Consolidated Rail Corporation (Conrail). FRA conducted a formal safety assessment and recommended to the STB that the railroads be required to file SIPs explaining how they intended to safely integrate their operations if the transaction were approved. The Board agreed with FRA’s suggestion, and directed NS and CSXT to file SIPs. NS and CSXT subsequently filed SIPs detailing each step of the integration process in their operating plans. Since then, both railroads have continued to coordinate with FRA in implementing the SIPs consistent with the agency’s guidelines, and FRA has advised the Board on each carrier’s progress in executing the plans. The lessons learned from this process demonstrated that

¹ ? CSX Corporation and CSX Transportation, Inc., Norfolk Southern Corporation and Norfolk Southern Railway Company – Control and Operating Leases/Agreements – Conrail Inc. and Consolidated Rail Corporation, STB Finance Docket No. 33388 (Conrail Acquisition).

safety plays a significant role in a regulated transaction and must be addressed before integration commences.

Based on this experience, FRA and STB have decided to formalize this partnership in regulating future rail consolidation transactions among Class I railroads, and among a Class I and a Class II railroad where there is a proposal to amalgamate operations. Under FRA's rule, Class I railroads seeking to consummate a covered transaction must file a proposed SIP with FRA after they seek authority for the transaction from the STB. FRA then reviews the proposed SIP and advises the STB as to whether the plan provides a reasonable assurance of safety for the transaction. Under the STB's rule, rail carriers seeking to carry out a regulated transaction are required to file a proposed SIP with FRA and the Board 60 days after they seek authority for the transaction. Upon completion of FRA's review process, FRA files comments with the Board's Section of Environmental Analysis (SEA), which is responsible for preparing the Board's environmental documents. SEA will then include the proposed SIP, and any additions or revisions based on discussions with FRA in the Board's draft environmental documentation. After reviewing the proposed SIP, SEA's analysis, and comments provided by interested persons during the STB's environmental review process, the Board independently evaluates the transaction and decides whether or not to approve it. Should the Board approve the transaction, the railroads then coordinate with FRA in implementing the SIP, including any amendments made to the plan, and FRA monitors the implementation process and apprises the Board about the railroad's progress in carrying out the plan until FRA advises the Board that the proposed integration has been safely completed. Under the joint regulations, both FRA and the Board are authorized to exercise their full independent enforcement remedies should either FRA or the Board reject the proposed SIP or should a railroad fail to implement the terms of an approved SIP.

FRA believes that the joint rules and associated collections of information serve both agencies missions and the public interest in promoting safety in the railroad industry, consistency in decisions, and efficiency in compliance, enabling the agencies to employ their areas of expertise to fulfill their respective statutory mandates.

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

The information is used by FRA to promote and maintain a safe rail transportation system. Under this rule and its associated collection of information, a Safety Integration Plan (SIP) is required to be filed by railroads with FRA – and a copy sent to the Surface Transportation Board (STB) – whenever a Class I railroad proposes to merge with, consolidate with, or acquire control of another Class I railroad or a Class II railroad with which it also proposes to amalgamate operations. In its review of each SIP, FRA considers whether the plan is thorough, complete, and clear. More importantly, FRA reviews each applicant's proposed SIP – and any amendments to its SIP – to ensure that the affected railroads provide a “reasonable assurance of safety” concerning the proposed amalgamation of operations. In their SIPs, railroads must provide a plan that details a

logical and workable transition from conditions existing before the proposed transaction to conditions intended to exist after the transaction is consummated. Under the “reasonable assurance of safety” standard, FRA conducts a rational basis review of the plan to ensure that it is reasonably sufficient to comply with the Federal railroad safety laws; that it provides for safe railroad operations; and that it ensures the safe integration of operations.

After FRA has reviewed the proposed SIP, the agency issues its findings and conclusions of the adequacy of the plan and provides its expert analysis of the proposed SIP to the Surface Transportation Board (STB or Board). The SIP becomes part of the environmental documentation in the STB’s proceeding, and is considered in the Board’s environmental review process (SEA is the Section of Environmental Analysis, which prepares the STB’s environmental documents and analyses) conducted in accordance with National Environmental Policy Act (NEPA) and the Board’s environmental rules at 49 CFR 1105, 1107, and 1180. The STB incorporates FRA’s comments in its draft environmental documentation, which facilitates public comment on the proposed SIP.

After reviewing the proposed SIP, SEA’s analysis, and comments provided by the interested persons during STB’s environmental review process, the Board then independently evaluates the transaction, and decides whether it is in the public interest to approve it. If the STB approves the transaction and adopts the SIP, it then requires compliance with the SIP as a condition of its approval. FRA then oversees the implementation of the SIP, consults with the Board at all appropriate stages of implementation, and advises the Board when the proposed integration has been safely completed. If either FRA or the Board rejects the proposed SIP, or if a railroad fails to implement the terms of an approved SIP, both FRA and the STB are authorized to exercise their full independent enforcement remedies.

3. Extent of automated information collection.

As it has done for many years now, FRA strongly endorses and highly encourages the use of advanced information technology, wherever possible, to reduce burden on respondents. Railroads have the option of submitting information required by this rule either electronically or on paper, whichever format is more convenient for the railroads. Thus, Safety Integration Plan (SIP) submissions made be made electronically or on paper to FRA. However, since there will be only one or two Safety Integration Plans (SIPs) filed every two years by the railroads with FRA, it should be noted that this collection of information does not lend itself to significant burden reduction through the use of automated, electronic, mechanical, or other technological techniques.

Also, it should be noted that the burden is very minimal (less than 600 hours). Thus, railroads exercising the electronic option available to them concerning the information collection requirements associated with this rule are not likely to reduce the total burden a great deal more because the majority of the estimated time burden for each requirement

entails the time and effort necessary to gather the information called for by that requirement and not the submission/transmission time.

4. Efforts to identify duplication.

A joint rule involving complementary jurisdictions applies here. To eliminate duplication of information, the STB is provided a copy of the proposed SIP required by FRA. As a result, there is no need for the STB to collect this information on its own. FRA provides its expert advice and analysis concerning the proposed SIP to the STB. The STB utilizes the FRA SIP information, its own Section of Environmental Analysis (SEA) report, and comments provided by interested persons during the STB's environmental review process in approving or rejecting the transaction proposed by the railroads.

The information is not available from any other source.

5. Efforts to minimize the burden on small businesses.

The collection of information does not impact small businesses, in this case Class III railroads which generate less than \$20 million per year. Only large, Class I railroads proposing to amalgamate operations with another Class I railroad or with a large scale Class II railroad involving an amalgamation of operations would need to file a SIP and other related information required under this Part.

As mentioned previously, the burden for this collection of information is very minimal (less than 600 hours).

6. Impact of less frequent collection of information.

If this information were not collected or collected less frequently, railroad safety throughout the United States would be seriously jeopardized. "Mega-mergers," consolidations, and acquisitions of a Class I railroad by another Class I railroad present immense challenges and difficulties, including increased exposure to accidents/incidents, as well as increased potential for injuries and fatalities to railroad employees and the public, as two separate and distinct entities attempt to become one unified entity. Without a Safety Integration Plan (SIP), there would be a greater likelihood of these adverse events because critical shortcomings and errors occurred in the planning and implementation of such significant transactions. Recent history of the UP-SP and ATSF-BN mergers, and the Conrail Acquisition illustrates the tremendous implementation challenges presented, and the adverse safety impacts that can occur when such large mergers, consolidations, or acquisitions take place. As noted in the agency's previous submission, after the UP-SP merger, five employees were killed in the Summer of 1997, and employee injuries rose significantly in 1998 (by 9 %).

After a careful review and investigation, FRA determined that the UP-SP, and ATSF-BN

mergers had faced significant challenges in a wide array of areas. These included harmonizing information systems; training employees responsible for moving trains (i.e., dispatchers); modifying operational practices and procedures; implementing personnel policies directed toward safety; determining appropriate staffing requirements; and providing adequate rail facilities, infrastructure, and rolling stock and equipment. Given the fact that these are railroads transporting large volumes of freight, often hauling hazardous materials and given the size and complexity of such transactions, FRA has concluded that careful safety planning is critical to ensure that safety is maintained and that the transaction is implemented in an orderly and effective manner.

FRA believes the safety challenges described above are best remedied by requiring Safety Integration Plans (SIPs). The SIP information requirements address safety issues unique to the amalgamation of large, complex railroad operations. Each SIP is carefully reviewed by FRA. Once FRA completes its careful review of the proposed SIP, it advises the Surface Transportation Board (STB) as to whether the SIP provides a reasonable assurance of safety for the proposed transaction.

A Class I railroad seeking to merge with, acquire, or consolidate with another Class I railroad, or amalgamate operations with a Class II railroad, could not execute operations over property subject to such a transaction unless it first had an SIP approved by FRA. Upon FRA approval of the proposed SIP and upon approval of the proposed transaction by the STB, FRA then fully monitors implementation of the SIP. If the railroad fails to implement the SIP as approved, FRA can take enforcement action.

In sum, FRA believes the SIP process serves to reduce the number and severity of accident/incidents and the corresponding injuries and fatalities, as well as property damage and potential environmental harm, caused when railroads seek to engage in these large transactions. Integrating cultures and differing work rules, migrating work forces, deploying capital resources, and adopting information systems pose immense challenges. These are initial steps that must be planned before consummation and implemented during integration. The SIP information collection requirements help to facilitate safe railroad operations by fostering a careful and continuing review process both during and after implementation of a proposed regulated transaction.

7. Special circumstances.

The issue of confidentiality is addressed in response to question number ten.

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

8. Compliance with 5 CFR 1320.8.

As required by the Paperwork Reduction Act of 1995, FRA published a notice in the Federal Register on **October 26, 2016**, soliciting comment on this particular information collection. *81 FR 74496*. FRA received **no** comments in response to this notice pertaining to this collection of information.

Background

FRA published a Notice of Proposed Rulemaking (NPRM) in the Federal Register on December 31, 1998, soliciting comment from interested parties. *See 63 FR 72225*. Under the Paperwork Reduction Act section included in that notice, FRA remarked that “... the agency has determined that the rule does not involve a collection of information as defined by the Office of Management and Budget under 5 CFR 1320.3(c) because the information collection requirements will not impact ten or more persons within any twelve month period.”

FRA invited public comment on the rulemaking and on the agency’s view that the information collection requirements would impact less than ten persons (as defined in 5 CFR 1320.3(k)). FRA received no comments on this issue, or on the lack of agency paperwork burden hour estimates and burden cost estimates.

In accord with OMB’s interpretation of its Implementing Guidance of the 1995 Paperwork Reduction Act, specifically its reference to the applicability of 5 CFR 1320.3(4)(i) that “any recordkeeping, reporting, or disclosure requirement contained in a rule of general applicability is deemed to apply to ten or more persons,” FRA originally submitted this information collection for OMB clearance.

Also, on December 31, 1998, FRA and the Surface Transportation Board (STB) issued a joint notice of proposed rulemaking (NPRM) establishing procedures for developing and implementing Safety Integration Plans (SIPs) by railroads proposing to engage in certain specified merger, consolidation, or acquisition of control transactions with another railroad. FRA’s proposed rule required railroads seeking to consummate any mergers, acquisitions, or consolidations of property, involving (i) Class I railroads; (ii) Class II railroads when the railroads would directly interchange freight with each other; (iii) transactions in which the consummation of operations would produce revenue in excess of the Class I threshold; (iv) a passenger railroad (intercity or commuter) with another passenger railroad, a Class I railroad, or a Class II railroad; or (v) start-up operations on a rail line or lines in which the commencement of operations would either involve passenger service or produce revenue in excess of the Class II threshold, to file a proposed SIP for the agency’s review and approval. Concurrently, the STB’s proposed rule required railroads seeking to engage in all transactions addressed in FRA’s NPRM, other than start-up operations, to file a SIP with the Board for its review and approval.

The proposed rules set out specific procedures governing the development, approval, and

implementation of SIPs, and explained that FRA and the Board are jointly responsible for promoting a safe rail transportation system. Under FRA's proposed rule, railroads seeking to consummate a covered transaction were required to file a proposed SIP with FRA contemporaneously with the filing of the SIP with the STB. FRA would then review the proposed SIP and advise the Board as to whether it provides a reasonable assurance of safety for the transaction. The proposed rule required a railroad to have an approved SIP by FRA before it could execute operations over property subject to the transaction. Where the Board was involved in authorizing the transaction, FRA consulted with the Board at all appropriate stages of implementation.

Similarly, under the STB's proposed rules, rail carriers seeking to carry out a transaction within the Board's jurisdiction that required a SIP would file their SIP with the Board and FRA. FRA would review the SIP and file written comments with the Board's Section of Environmental Analysis (SEA). After reviewing the SIP, SEA's analysis, and comments provided by interested persons during the Board's environmental review process, the Board would then independently evaluate the transaction and decide whether to approve it. If the Board approved the transaction, the railroads would coordinate with FRA in implementing the SIP, including any amendments made to the plan, and FRA would monitor the implementation process and apprise the Board about the railroad's progress in carrying out the plan until FRA advised the Board that the proposed integration had been safely completed. If either FRA or the Board rejected the proposed SIP or if a railroad failed to implement the terms of an approved SIP, both FRA and the Board were authorized to exercise their full independent enforcement remedies.

FRA and the STB received written comments on the proposal from 11 entities. None of these comments pertained to the appropriateness or necessity of filing an information collection submission with OMB, SIP burden hour and burden cost estimates, or the lack of such estimates in the NPRM. Written comments were submitted from various railroads and their representative organizations, labor organizations, and public service organizations. The organizations whose interests were represented by these comments include the following:

Association of American Railroads ("AAR")
American Short Line and Regional Railroad Association ("ASLRRA")
National Railroad Passenger Corporation ("Amtrak")
Guilford Transportation Industries ("GTI")
Wheeling & Lake Erie Railway Company ("W&L").
The American Train Dispatchers Department ("ATDD")
Transportation Trades Department ("TTD"), AFL-CIO
Brotherhood of Railway Carmen ("BRC")
Brotherhood of Maintenance of Way Employee ("BMWE")
The American Public Transportation Association ("APTA")
The Oklahoma Department of Transportation ("OK DOT").
FRA also conducted a joint public hearing at the request of one of the commenters in

Washington, D.C., on May 4, 1999. At this public hearing, two organizations participated: the Transportation and Trades Department, and the Association of American Railroads. The commenters raised questions about the proposal itself; suggested alternative language to some of the proposed rule text; and requested clarification about the meaning and application of certain proposed rules. Based on the comments received, the testimony at the public hearing, and further analysis of the proposed rules, FRA adopted changes which were reflected in the final rule. Most notably, FRA – and the STB – agreed with certain commenters that the final rules should be limited to consolidations, mergers, or acquisitions of control involving either two or more Class I railroads, or a Class I railroad and a Class II railroad with which it proposes to “amalgamate operations.” FRA felt that only the complexity and difficulty of these very large transactions presented sufficient dangers to merit a SIP under these rules. This narrowing of scope from that originally enunciated in the NPRM was intended to reduce the burden time and burden cost necessary to develop Safety Integration Plans (SIPs) by potentially affected railroads.

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.

Under § 244.17(h), FRA provides a procedural mechanism for an applicant to request that advance drafts of a proposed SIP and information filed in support of the proposed or approved plan receive confidential treatment should an outside party submit a request for the documents under the Freedom of Information Act (“FOIA”) (5 U.S.C 552). The regulation directs that the railroad comply with procedures enumerated under 49 CFR 209.11 to petition for such confidential treatment.

In the rule, FRA reminds the regulated community that the agency alone will decide whether to grant or deny a request for confidential treatment, but that it will afford a company whose request was denied an opportunity to respond no less than five days before the agency discloses the information in accordance with 49 CFR 209.11(e).

It should be noted that FRA will not treat a proposed or approved SIP that is filed pursuant to the regulations prescribed under 49 CFR 244.17(a) as confidential because the proposed plan will be incorporated in the Board’s environmental documentation, which will be made available for public review and comment.

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 collection of information.

12. Estimate of burden hours for information collected.

Note: Respondent universe is estimated to be the current eight (8) Class I railroads.

§ 244.1 Scope, application, and purpose.

This part prescribes requirements for filing and implementing a Safety Integration Plan with FRA whenever a Class I railroad proposes to consolidate with, merge with, or acquire control of another Class I railroad, or with a Class II railroad where there is a proposed amalgamation of operations.

The burden for this requirement is included under § 244.13. Consequently, there is no additional burden associated with it.

The requirements prescribed under this part apply only to FRA's disposition of a regulated transaction filed by an applicant. The transactions covered by this part also require separate filing with and approval by the Surface Transportation Board.

The burden for this requirement and any other information collection requirements relating to 49 CFR 1106 are covered separately by the Surface Transportation Board in a submission for that part.

§ 244.5 Penalties.

Any person who knowingly and willfully makes a false entry in a record or report required by this part shall be subject to criminal penalties under 49 U.S.C. 21311.

Based on its FRA quarterly meetings with railroad representatives regarding any filed Safety Integration Plan (SIP) and its implementation, the agency believes that there will be zero (0) falsified entries knowingly and willfully made in the SIP. Consequently, there is no burden associated with this information collection requirement.

§ 244.7 Waivers.

A person subject to a requirement of this part may petition the Administrator for a waiver of compliance with any requirement of this part. The filing of such a petition does not affect that person's responsibility for compliance with that requirement pending action on such a petition.

Each petition for waiver under this section must be filed in the manner and contain the

information required by part 211 of this chapter.

The procedures governing a petition for a waiver that are prescribed under this part apply only to FRA's disposition of such a petition. A person seeking a waiver of Surface Transportation Board regulation would need to file a petition for a waiver with the Board.

FRA estimates that it will receive zero (0) waivers pertaining to any Safety Integration Plan (SIP). Consequently, there is no burden associated with this information collection requirement.

§ 244.11 Contents of a Safety Integration Plan.

Each Safety Integration Plan must contain the following information for each subject matter identified in § 244.13 or § 244.15: (a) A detailed description of how the applicant differs from each railroad it proposes to acquire or with which the applicant proposes to consolidate or merge, including the rules or instructions governing railroad operations of these railroads; (b) A detailed description of the proposed manner of operations of the resulting railroad, including a reconciliation of the differing rules or instructions governing railroad operations of the railroads involved in the transaction; (c) The measures to be taken to comply with the applicable Federal railroad safety laws and regulations; (d) The proposed specific measures, expressed step-by-step, for each relevant subject matter that the applicant believes will result in safe implementation of the proposed transaction consistent with the requirements of this part; (e) The allocation of resources, expressed as human and capital resources within designated operating budgets, directed to complete safety-relevant operations subject to the transaction; and (f) The timetable, targeted in specific terms from commencement to completion, for implementing paragraphs (c), (d), and (e) of this section.

The burden for this requirement is included under §§ 244.13 and 244.15. Consequently, there is no additional burden associated with this requirement.

§ 244.13 Subjects to be addressed in a Safety Integration Plan involving an amalgamation of operations.

Each Safety Integration Plan involving an amalgamation of operations must address the following subjects for railroad operations conducted on property subject to the transaction:

(a) Corporate culture. Each applicant must:

- (1) Identify and describe differences for each safety-related area between the corporate cultures of the railroads involved in the transaction;
- (2) Describe how these cultures lead to different practices governing rail operations; and

(3) Describe, in step-by-step measures, the integration of these corporate cultures and the manner in which it will produce a system of “best practices” when the transaction is implemented.

(b) Training. Each applicant must identify classroom and field courses, lectures, tests, and other educational or instructional forums designed to ensure the proficiency, qualification, and familiarity with the operating rules and operating tasks of territory assigned of the following employees, either when these employees are assigned to a new territory or the operating rules on a given territory are changed:

- (1) Employees who perform train and engine service;
- (2) Employees who inspect and maintain track and bridges;
- (3) Employees who inspect, maintain and repair any type of on-track equipment, including locomotives, passenger cars, and freight cars of all types;
- (4) Dispatchers or operators;
- (5) Employees who inspect and maintain signal and train control devices and systems;
- (6) Hazardous materials personnel, including information technology personnel who affect the transportation of hazardous materials;
- (7) Employees who maintain or upgrade communication systems affecting rail operations; and
- (8) Supervisors of employees enumerated in paragraphs (b)(1) through (b)(7) of this section.

(c.) Operating Practices.

(1) Operating rules. Each applicant must identify the operating rules, timetables, and timetable special instructions to govern railroad operations, including yard or terminal operations and freight or passenger service.

(2) Alcohol and drug. Each applicant must identify the post-accident toxicological testing, reasonable cause testing, and random alcohol and drug testing programs as required under 49 CFR part 219.

(3) Qualification and certification of locomotive engineers. Each applicant must identify the program for qualifying and certifying locomotive engineers under 49 CFR part 240.

(4) Hours of service laws. Each applicant must identify the procedures for complying

with the Federal hours of service laws and related measures to minimize fatigue of employees covered by 49 U.S.C. Chapter 211.

(d) Motive power and equipment. Each applicant must identify the qualification standards for employees who inspect, maintain, or repair railroad freight or passenger cars and locomotives, and the designated facilities used, or to be used, to repair such equipment.

(e) Signal and train control. Each applicant must identify the signal and train control systems governing railroad operations and maintenance, and any planned amendments or modifications to capital improvement and research and development projects for signal and train control operations.

(f) Track Safety Standards and bridge structures. Each applicant must identify the maintenance and inspection programs for track and bridges, and the qualification standards for roadway workers.(g) Hazardous Materials. Each applicant must identify an inspection program covering the following areas:

- (1) Field inspection practices;
- (2) Hazardous materials communication standards;
- (3) Emergency response procedures; and
- (4) Information technology systems and personnel employed for transmitting or receiving information accompanying hazardous materials shipments. The inspection program should identify preventive measures that will be employed to respond to potential information technology integration and hazardous materials documentation deficiencies.

(h) Dispatching operations. Each applicant must identify:

- (1) The railroad dispatching system to be adopted;
- (2) The migration of the existing dispatching systems to the adopted system, if applicable; and
- (3) The criteria used to determine workload and duties performed by operators or dispatchers employed to execute operations.

(i) Highway-rail grade crossing systems. Each applicant must identify a program, including its development and implementation, covering the following:

- (1) Identification of the highway-rail grade crossings at which there will be an increase in rail traffic resulting from the transaction;
- (2) An applicant's existing grade-crossing programs as they apply to grade crossings

identified in subsection (i)(1) of this section;

(3) Integration of the grade crossing programs of the railroads subject to the transaction to the extent the programs may be different;

(4) Emergency response actions;

(5) Avoidance of blocked or obstructed highway-rail crossing systems by trains, locomotives, railroad cars, or other pieces of rolling equipment; and

(6) Signs employed for changes in rail traffic patterns.

(j) Personnel staffing.

Each applicant must identify the number of employees by job category, currently and proposed, to perform each of the following types of function when there is a projected change of operations that will impact workforce duties or responsibilities for employees of that job category:

(1) Train and engine service;

(2) Yard and terminal service;

(3) Dispatching operations;

(4) Roadway maintenance;

(5) Freight car and locomotive maintenance;

(6) Maintenance of signal and train control systems, devices, and appliances;

(7) Hazardous materials operations; and

(8) Managers responsible for oversight of safety programs.

(k) Capital investment. Each applicant must identify the capital investment program, clearly displaying planned investments in track and structures, signals and train control, and locomotives and equipment. The program must describe any differences from the program currently in place on each of the railroads involved in the transaction.

(l) Information systems compatibility. Each applicant must identify measures providing for a seamless interchange of information relating to the following subject matters:

(1) Train consists;

- (2) Movements and movement history of locomotives and railroad freight cars;
- (3) Dispatching operations;
- (4) Emergency termination of operations; and
- (5) Transportation of hazardous materials.

Over the next three years, FRA believes that it will receive a maximum of two (2) SIPs. For burden purposes here, FRA has rounded this number off, and is estimating that it will receive approximately one (1) SIP a year. Based on information filed with the agency from earlier SIPs (in particular, the UP-SP and ATSF-BN mergers, the Conrail Acquisition, and the Canadian National-Illinois Central (CN/IC) and the Canadian National/Wisconsin Central Acquisitions), a comprehensive Safety Integration Plan (SIP) addressing all of the above requirement will include the following:

I. SIP Development. A one-time effort by the railroads to prepare a SIP that will take place over a period of two (2) years. FRA calculates the following personnel will participate in the development of a SIP: (i) Two railroad technical officers for a full workday (8 hours) over a period of 10 days; (ii) One outside attorney for a full workday (8 hours) over a period of five (5) days; (iii) One railroad mechanical supervisor for a full workday (8 hours) over a period of five (5) days; (iv) One track/maintenance of structures supervisor for a full workday (8 hours) over a period of 5 days; (v) One communications and signal supervisor for a full workday (8 hours) over a period of five (5) days; (vi) One information technology supervisor for a full workday (8 hours) over a period of five (5) days; (vii) One general transportation/operating practices supervisor for a full workday (8 hours) over a period of five (5) days; (viii) One hazardous materials supervisor for a full workday (8 hours) over a period of five (5) days; (ix) One training supervisor for a full workday (8 hours) over a period of five (5) days; and (x) One highway-grade crossing supervisor for a full workday (8 hours) over a period of five (5) days. Thus, it will take approximately 520 hours over a two year period – 260 hours per year – to develop the SIP.

II. Quarterly Meetings. These will take place approximately every four months between railroad representatives and FRA officials to review and update/amend the SIP to ensure a smooth and complete implementation of the SIP. FRA calculates the following personnel will be involved in the quarterly review process: (i) Four railroad officials at each quarterly meeting for a full workday (8 hours), and (ii) One outside attorney at each quarterly meeting for a full workday (8 hours). Moreover, FRA calculates that it will take an additional 160 hours over a two-year period – 80 hours per year – to amend and implement the SIP.

A breakdown of the burden hours for the above would appear as follows:

I. One-time SIP

- 1.) 2 technical officers x 10 days x 8 hours = 160 hours
- 2.) 1 attorney x 5 days x 8 hours = 40 hours
- 3.) 1 mechanical supervisor x 5 days x 8 hours = 40 hours
- 4.) 1 track/structures supervisor x 5 days x 8 hours = 40 hours
- 5.) 1 communications/signal supervisor x 5 days x 8 hours = 40 hours
- 6.) 1 info. technology supervisor x 5 days x 8 hours = 40 hours
- 7.) 1 general transportation supervisor x 5 days x 8 hours = 40 hours
- 8.) 1 hazardous materials supervisor x 5 days x 8 hours = 40 hours
- 9.) 1 training supervisor x 5 days x 8 hours = 40 hours
- 10.) 1 highway-grade crossing supervisor x 5 days x 8 hours = 40 hours

Again, the burden hour estimate for this part of the SIP amounts to 520 hours. However, since this burden is incurred over a period of two years, the burden hour total per year for this part of a SIP amounts to *260 hours*.

II. Quarterly SIP Meetings/Reviews/Updates/Amendments - Breakdown

- 1.) 4 RR officials x 4 meetings x 8 hours = 128 hours
- 2.) 1 attorney x 4 meetings x 8 hours = 32 hours

The total for this part of a SIP burden amounts to 160 hours. Again, since this burden is incurred over a period of two years, the burden hour estimate for this part of a SIP amounts to 80 hours per year. Overall, the total burden time for a SIP amounts to *340 hours* (260 hours + 80 hours).

Given the Surface Transportation Board's (STB) replacement of 49 CFR 1180 and as just noted above, FRA believes that it will receive approximately one (1) Safety Integration Plan (SIP) a year. FRA estimates that it will take approximately 340 hours to develop each Safety Integration Plan (SIP) and conduct the necessary quarterly meetings which encompass reviews, updates, and amendments to the SIP. Total annual burden for this entire requirement then is 340 hours.

Respondent Universe:	8 Railroads
Burden time per response:	340 hours
Frequency of Response:	Initial filing/quarterly updates
Annual number of Responses:	1 Safety Integration Plans (SIP)
Annual Burden:	340 hours

Calculation: 1 Safety Integration Plan x 340 hrs. = 340 hours.

§ 244.15 Subjects to be addressed in a Safety Integration Plan not involving an amalgamation of operations.

If an applicant does not propose an amalgamation of operations conducted on properties subject to the transaction, the applicant shall not be required to file a Safety Integration Plan (SIP) unless directed to do so by FRA.

At the present time, FRA does not anticipate any circumstances where it would request an applicant (railroads) to file a SIP concerning a non-amalgamation of railroad operations. Consequently, there is no burden associated with this requirement.

§ 244.17 Procedures.

- A. Each applicant must file one original of a proposed Safety Integration Plan with the Associate Administrator for Safety, FRA, 1200 New Jersey Avenue, SE., Mail Stop 25, Washington, D.C., 20590, no later than 60 days after the date it files its application or exemption with the Surface Transportation Board. The applicant must submit such additional information necessary to support its proposed Safety Integration Plan as FRA may require to satisfy the requirements of this part.

FRA estimates that the two (2) railroads involved in the one (1) estimated SIP transaction a year will submit approximately 50 reports (including performance data, assessments, graphs/charts, etc.) to support their proposed SIP. These reports will be submitted over a two-year period (25 reports per year). It is estimated that it will take approximately 40 hours for each railroad to gather the additional necessary information for its first report for the SIP, and two (2) hours to gather the additional necessary information for the remaining (24) reports, and send these reports to FRA. Total annual burden for this requirement is 88 hours.

Respondent Universe:	8 Railroads
Burden time per response:	40 hours and 2 hours
Frequency of Response:	On occasion
Annual number of Responses:	25 reports
Annual Burden:	88 hours

Calculation: 1 SIP first report x 40 hrs. + 24 reports x 2 hrs. = 88 hours

Additionally, FRA estimates that it will make approximately six (6) special inquiries per year regarding SIP information and that railroads will send a corresponding number of written responses (letters) to address the concerns raised by these inquiries. It is estimated that each written response by the railroads will take approximately eight (8) hours to complete. Total annual burden for this requirement is 48 hours.

Respondent Universe:	8 Railroads
Burden time per response:	8 hours
Frequency of Response:	On occasion
Annual number of Responses:	6 written responses
Annual Burden:	48 hours

Calculation: 6 written responses x 8 hrs. = 48 hours

- B. The applicant must coordinate with FRA to resolve FRA's comments on the proposed Safety Integration Plan until such plan is approved. Assuming FRA approves the proposed Safety Integration Plan (SIP) and the Surface Transportation Board (STB) approves the transaction and adopts the Plan, each applicant involved in the transaction must coordinate with FRA in implementing the approved Safety Integration Plan.

FRA estimates that approximately 50 phone calls relating to a SIP will be made (over a two-year period) to the agency to resolve FRA's comments on the proposed Safety Integration Plan (SIP) until such plan is approved by the agency. Thus, 25 calls a year will be made to the agency. It is estimated that it will take approximately 10 minutes to make each call/compose each letter. Total annual burden for this requirement is four (4) hours.

Respondent Universe:	8 Railroads
Burden time per response:	10 minutes
Frequency of Response:	On occasion
Annual number of Responses:	25 phone calls
Annual Burden:	4 hours

Calculation: 25 phone calls x 10 min. = 4 hours.

- C. **Request for Confidential Treatment.** Each applicant requesting that advanced drafts of the proposed Safety Integration Plan and information in support of the proposed and approved plan that are filed with FRA receive confidential treatment must comply with the procedures enumerated at 49 CFR 209.11.

FRA estimates that it will receive approximately two (2) requests every two years (or one

request a year) for confidential treatment regarding a SIP and information submitted in support of a SIP filed with the agency. It is estimated that it will take approximately 16 hours to prepare each confidentiality request and submit it to FRA. Total annual burden for this requirement is 16 hours.

Respondent Universe:	8 Railroads
Burden time per response:	16 hours
Frequency of Response:	On occasion
Annual number of Responses:	1 confidentiality request
Annual Burden:	16 hours

Calculation: 1 confidentiality request x 16 hrs. = 16 hours

Total annual burden for this entire requirement is 156 hours (88 + 48 + 4 + 16).

§ 244.19 Disposition

Amendment.

(1) By the applicant. The applicant may amend its Safety Integration Plan, from time to time, provided it explains the need for the proposed amendment in writing to FRA. Any amendment shall take effect no earlier than 30 days after its submission to FRA, unless it is either approved or disapproved by FRA within that period. Any disapproval of an amendment shall be in accordance with the requirements prescribed in paragraph (b) of this section.

The burden for the SIP requirement is included under 244.13 above. Consequently, there is no additional burden related to the SIP requirement.

Most likely, there will be a closeout report to the SIP submitted by the two railroads to FRA to explain the need for the proposed amendment in writing. Consequently, FRA estimates that it will receive approximately two (2) communications/reports annually from the railroads per SIP to resolve FRA comments on proposed amendments before they are approved by the agency. It is estimated that it will take approximately 16 hours to complete each communication/report and send it to FRA. Total annual burden for these requirements is 32 hours.

Respondent Universe:	8 Railroads
Burden time per response:	16 hours
Frequency of Response:	On occasion
Annual number of Responses:	2 communications/reports
Annual Burden:	32 hours

Calculation: 2 communications/reports x 16 hours = 32 hours

(2) By FRA. FRA may request an applicant to amend its approved Safety Integration Plan from time to time should circumstances warrant.

Because FRA will be working closely with the railroad regarding its SIP and a railroad will make amendments to its SIP in conjunction with the expected Quarterly Meetings, the agency does not foresee any circumstances where it would request an applicant to amend its SIP. Consequently, there is no burden associated with this information collection requirement.

Total annual burden for this requirement is 32 hours.

Total annual burden for this entire information collection is 528 hours.

13. Estimate of total annual costs to respondents.

Additional respondent costs are as follows:

\$1,000.00 Production and Mailing Costs (includes mailing quarterly reports/reviews to FRA and also document copying charges)

14. Estimate of Cost to Federal Government.

COST TO FEDERAL GOVERNMENT

Besides utilizing a variety of FRA staff – in the course of their routine duties – to oversee the implementation of a proposed Safety Integration Plan (SIP), FRA estimates that there will be additional costs to the Federal government (FRA). Based on FRA's experience with the Conrail Acquisition, FRA believes that there will be consultant fees that it will pay to perform the report writing which will be sent by the agency to the Surface Transportation Board (STB). FRA estimates the total cost for these services to be approximately \$50,000.

\$50,000.00 Consulting Fees

The total cost to the Federal Government is \$50,000.

15. Explanation of program changes and adjustments.

This submission is a request for a three-year extension without change of the previously approved burden.

FRA is requesting a total burden of 528 hours and 60 responses. The current inventory shows a total burden of 528 hours and 60 responses. Hence, there is no change in burden

from the last approved submission.

There is also no change in cost to respondents from the previously approved submission.

16. Publication of results of data collection.

There are no plans for publication of the results of this submission.

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

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

18. Exception to certification statement.

No exceptions are taken at this time.

Meeting Department of Transportation (DOT) Strategic Goals

This information collection supports the top DOT strategic goal, namely transportation safety. Without this collection of information, there might be an increased number of accidents/incidents and corresponding injuries and fatalities to both train crews and the public because of the unique and immense challenges presented when there are “mega-mergers,” consolidations, and acquisitions of a Class I or Class II railroad by another Class I railroad. Integrating cultures and differing work rules, migrating work forces, deploying capital resources, and adopting information systems are initial steps that must be planned before consummation and implemented during integration. All of these tasks are difficult, and can very easily result in increased numbers of derailments and collisions, and worker casualties if not done properly. A Safety Integration Plan (SIP) reduces critical shortcomings and errors that may occur in the planning and implementation of such significant transactions by railroads. FRA will review the proposed SIP, and will then advise the Surface Transportation Board (STB) as to whether the SIP provides a reasonable assurance of safety for the proposed transaction. Upon STB approval of the transaction and FRA approval of the SIP, FRA will closely monitor the railroads throughout the entire integration process to ensure that the SIP is fully implemented as approved by the agency. FRA can take enforcement action if a SIP is not approved or if the railroads fail to implement the SIP. Thus, this information collection serves to facilitate safe railroad operations both during and after implementation of such important mergers, acquisitions, and consolidations.

In summary, this collection of information enhances railroad safety by providing an another tool through which FRA can monitor railroad developments and the operations of railroads nationwide. It furthers DOT’s and FRA’s main mission of promoting a safe and reliable transportation system by working toward the elimination of rail-related accidents/incidents and corresponding deaths, injuries, and property damage.

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