

SUPPORTING JUSTIFICATION
Training, Qualification, and Oversight for Safety-Related RR Employees
OMB No. 2130-0597

Summary of Submission

- This is a revision to the above last approved information collection submission cleared by OMB on **January 23, 2015**, which expires on **January 31, 2018**.
- FRA published the required 60-day **Federal Register** Notice on September 13, 2017. See 82 FR 43097. FRA received **no** comments in response to this Notice.
- FRA is publishing the required 30-Day Notice in the **Federal Register** on **December 11, 2018**. See 82 FR 58267. Although comments by the public or interested parties will be sent directly to the Office of Information and Regulatory Affairs (OIRA), FRA expects that OMB will not receive any.
- Total number of burden **hours requested** for this submission is **282,824 hours**.
- The total number of burden **hours previously approved** was **269,323 hours**.
- Total burden increased by **13,501 hours** from the last submission.
- Total number of **responses requested** for this submission is **78,147**.
- The total number of **responses previously approved** was **78,464**.
- **Adjustments increased** the total burden **13,623 hours** and increase the number of **responses** by 169 from the last approved submission.
- **Program changes decreased** the burden by **122 hours** and **486 responses**.
- ****The answer to question number 12 itemizes the hourly burden associated with each requirement of this rule (See pp.13-56).**
- ****The answer to question number 15 itemizes all **program changes** and **adjustments** (See pp. 17-21).**

1. Circumstances that make collection of the information necessary.

Section 20162 of 49 U.S.C. requires the Secretary of Transportation (Secretary) to establish minimum training standards for safety-related railroad employees and the submission of training plans from railroad carriers, contractors, and subcontractors for the

Secretary's approval. The Secretary delegated this authority to the Federal Railroad Administrator. 49 CFR § 1.89(b).

Section 20162 of 49 U.S.C. (Section 401(a) of the RSIA) provides that:

“(a) In general.--The Secretary of Transportation shall . . . establish—

(1) minimum training standards for each class and craft of safety-related railroad employee (as defined in section 20102) and equivalent railroad carrier contractor and subcontractor employees, which shall require railroad carriers, contractors, and subcontractors to qualify or otherwise document the proficiency of such employees in each such class and craft regarding their knowledge of, and ability to comply with, Federal railroad safety laws and regulations and railroad carrier rules and procedures promulgated to implement those Federal railroad safety laws and regulations;

(2) a requirement that railroad carriers, contractors, and subcontractors develop and submit training and qualification plans to the Secretary for approval, including training programs and information deemed necessary by the Secretary to ensure that all safety-related railroad employees receive appropriate training in a timely manner; and

(3) a minimum training curriculum, and ongoing training criteria, testing, and skills evaluation measures to ensure that safety-related railroad employees, and contractor and subcontractor employees, charged with the inspection of track or railroad equipment are qualified to assess railroad compliance with Federal standards to identify defective conditions and initiate immediate remedial action to correct critical safety defects that are known to contribute to derailments, accidents, incidents, or injuries, and, in implementing the requirements of this paragraph, take into consideration existing training programs of railroad carriers.

(b) Approval.--The Secretary shall review and approve the plans required under subsection (a)(2) utilizing an approval process required for programs to certify the qualification of locomotive engineers pursuant to part 240 of title 49, Code of Federal Regulations.

(c) Exemption.--The Secretary may exempt railroad carriers and railroad carrier contractors and subcontractors from submitting training plans for which the Secretary has issued training regulations before the date of enactment of the Rail Safety Improvement Act of 2008.”

Section 20162(a)(1) contains a citation to the statutory definition of “safety-related railroad employee.” That definition, found in section 20102 of 49 U.S.C. provides that:

(4) “safety-related railroad employee” means--

(A) a railroad employee who is subject to chapter 211;

(B) another operating railroad employee who is not subject to chapter 211;

(C) an employee who maintains the right of way of a railroad;

(D) an employee of a railroad carrier who is a hazmat employee as defined in section 5102(3) of this title;

(E) an employee who inspects, repairs, or maintains locomotives, passenger cars, or freight cars; and

(F) any other employee of a railroad carrier who directly affects railroad safety, as determined by the Secretary.

FRA is establishing minimum training standards for all safety-related railroad employees, as required by the Rail Safety Improvement Act of 2008 (RSIA). The final rule requires each railroad or contractor that employs one or more safety-related railroad employee to develop and submit a training program to FRA for approval and to designate the minimum training qualifications for each occupational category of employee. The rule also requires most employers to conduct periodic oversight of their own employees and annual written reviews of their training programs to close performance gaps. The rule also contains specific training and qualification requirements for operators of roadway maintenance machines that can hoist, lower, and horizontally move a suspended load. Finally, the rule clarifies the existing training requirements for railroad and contractor employees that perform brake system inspections, tests, or maintenance.

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

As noted in the summary above, this is a new collection of information. The information collected will be used by FRA to ensure that each employer – railroad or contractor – conducting operations subject to Part 243 develops, adopts, submits, and complies with a training program for each category and subcategory of safety-related railroad employee. Because FRA has been particularly concerned with those employees charged with the inspection of track or railroad equipment, FRA has modified Part 214 accordingly to include new training requirements in addition to existing training requirements. Under the final rule, each training program must cover Federal safety laws, regulations, and orders that safety-related employees are required to comply with or the railroad rules that cover them and which are, at a minimum, as stringent. Each training program must have training components identified so that FRA will be able to understand how the program works when it reviews the program for approval. It is expected that a failure to include one or more component requirements would result in the disapproval of the program.

Further, FRA will review the required training programs to ensure that they include initial, ongoing, and on-the-job criteria; testing and skills evaluation measures designed to foster continual compliance with Federal standards; and the identification of critical safety defects and plans for immediate remedial actions to correct them.

FRA will also review and approve training programs filed by training organizations or learning institutions. Under this section of the rule, FRA seeks to facilitate the option of using training organizations or learning institutions. If FRA has already approved the training organization or learning institution's program, an employer could reference the approved program in its submission, avoid lengthy duplication, and likely expect a quick review and approval by FRA. This will reduce the time and cost burdens both on railroads and FRA.

Under the rule, railroads are required to serve simultaneously to the president of each labor organization that represents the railroad's employees a copy of any training program submission, resubmission, or informational filing and to send a statement to FRA affirming that this service has been completed and the details of who has been served. The information will be used by FRA to ensure that necessary labor organizations are informed in a timely way regarding required training program submissions/resubmissions/informational filings so that they have an adequate opportunity to provide comment to FRA and can thereby participate in FRA's review and approval process of training program submissions/resubmission/informational filings.

FRA will review records required under section 243.203 to ensure that each employer maintains necessary information that demonstrates the qualification status of each safety-related employee whom it employs. FRA will review these records to verify that they contain the following information: (1) The name of the employee; (2) Occupational category or subcategory designations for which the employee is deemed qualified; (3) The dates that each formal training course was completed; (4) The title of each formal training course successfully completed; (5) An indication of whether the person passed or failed any associated tests; (6) If the safety-related railroad employee attended safety-related training offered by a business, a training organization, or a learning institution with an FRA-approved program, a copy of the transcript or appropriate record from that business, training organization, or learning institution; (7) The employee's OJT performance, which shall include the unique name or identifier of the OJT program component in accordance with § 243.103, the date the OJT program component was successfully completed, and the identification of the person(s) determining that the employee successfully completed all OJT training necessary to be considered qualified to perform the safety-related tasks identified with the occupational categories or subcategories for which the employee is designated in accordance with the program required by this Part; (8) The date that the employee's status is determined to be qualified and the employee is designated to perform the safety-related duties identified with any particular occupational categories or subcategories, in accordance with the program required by this Part; (9) If an employee's qualification status was transferred from

another entity with an approved program, a copy of the training record from that other entity; and (10) Any additional information required by this Part.

As mentioned, FRA will review the information collected to ascertain that railroads/contractors designate the qualifications of their safety-related employees and also to confirm that each railroad or contractor conducts the required periodic oversight of their own employees to determine compliance with Federal railroad safety laws, regulations, and orders applicable to those employees. The periodic oversight information will be used by FRA to conduct audits so that FRA can confirm that the people administering the tests or inspections are qualified to perform the oversight.

Additionally, FRA will review the information collected to verify that railroads conduct annual written reviews of their training programs. Such reviews will be used by railroads – and FRA – to determine any performance gaps and to ensure that such performance gaps are closed to prevent accidents/incidents from occurring and the corresponding injuries, fatalities, and property damage that accompany them.

Finally, FRA will review the required railroad maintained list of contractors utilized in order to have basic information about each contractor engaged by a railroad so that it can determine each contractor's identity and qualifications and have current and accurate information of the employees that work for it. This is critical from an enforcement perspective so that FRA is able to identify which employees work for railroads and which for contractors. When an employee works for a contractor, FRA sometimes finds it an additional burden to figure out basic contact information for the contractor employer. This requirement will alleviate that burden and ensure that all employees are properly trained regarding their duties pertaining to Federal railroad safety laws, regulations, and orders.

In sum, the information collected will further FRA's comprehensive national regulatory safety program that seeks to promote and enhance rail safety throughout the country.

3. Extent of automated information collection.

For many years now, FRA has strongly encouraged and highly endorsed the use of advanced information technology to reduce burden on respondents, wherever possible. In this final rule, section 243.113 mandates that employers with 400,000 total employee work hours or more file by electronic means any program submissions required under this Part in accordance with the requirements of this section. Also, each organization, business, or association that develops an optional model program in accordance with § 243.105 of this Part is required to electronically file the program in accordance with the requirements of this section.

FRA intends to create a secure document submission site and will need basic information from each company before setting up the user's account. The points of contact

information in paragraph (b) of this section will be essential in order to provide secure access. Entities will also have the option to use a CD, DVD, or other electronic storage format to deliver required information to FRA rather than requesting access to upload the documents directly to FRA's secure electronic database.

FRA expects that there are few, if any, employers who do not have internet access and an e-mail address, or who cannot otherwise meet the minimum requirements for electronic submission. To reduce any possible cost burden on smaller entities, employers with less than 400,000 total employee work hours annually are exempt from the electronic submission requirement of § 243.113(a). However, they do have the electronic option for the various submissions required by this Part, if they so choose.

Additionally, it should be noted that records required under § 243.203 may be kept electronically. FRA anticipates that most employers that are not small entities will want to maintain these records electronically so that the records are accessible everywhere there is a company computer loaded with the appropriate software and an internet connection.

Based on the above mandatory and voluntary aspects of this rule's requirements, approximately 34 percent of all responses could be submitted electronically if railroads/contractors/training organizations/learning institutions exercise the encouraged electronic option.

4. Efforts to identify duplication.

The information collection requirements are new and to our knowledge are not duplicated anywhere.

Similar data are not available from any other source.

5. Efforts to minimize the burden on small businesses.

"Small entity" is defined in 5 U.S.C. 601 (Section 601). Section 601(3) defines a "small entity" 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. Section 601(4) likewise includes within the definition of "small entities" not-for-profit enterprises that are independently owned and operated, and are not dominant in their fields of operation. "Additionally, section 601(5) defines "small entities" as governments of cities, counties, towns, townships, villages, school districts, or special districts with populations less than 50,000. The U.S. Small Business Administration (SBA) stipulates in its "Size Standards" that the largest a railroad business firm that is "for-profit" may be, and still be classified as a "small entity," is 1,500 employees for "Line Haul Operating Railroads" and 500 employees for "Switching and Terminal Establishments."

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 policy that formally establishes “small entities” as railroads which meet the line haulage revenue requirements of a Class III railroad. The revenue requirements are currently \$20 million or less in annual operating revenue. The \$20 million limit (which is adjusted by applying the railroad revenue deflator adjustment) is based on the Surface Transportation Board’s (STB) threshold for a Class III carrier. FRA is using the STB’s threshold in its definition of “small entities” for railroads affected by this rule. FRA has also adopted the STB threshold for Class III railroad carriers as the size standard for railroad contractors.

FRA estimates that 720 railroads would be affected by this rule. This number equals the number of railroads that reported to FRA in 2011, minus those railroads that are tourist, scenic, or historic railroads and are not part of the general system (these railroads are exempt from the rule). Of those railroads, 44 are Class I, Class II, commuter, and intercity passenger railroads. The remaining 676 railroads are, therefore, assumed to be small railroads for purposes of this assessment.

The final rule will affect all employers of safety-related railroad employees, which, in addition to railroads of all sizes, includes contractors and subcontractors who are engaged to perform safety-related duties on railroads. FRA assumes in the Regulatory Impact Analysis (RIA) accompanying this rule that approximately 795 railroad contractors and subcontractors exist, based on conversations with industry experts. That figure of 795 includes 155 well-established track and signal maintenance contractors, 500 very small (1 – 4 employees) or relatively new track and signal maintenance contractors, and another 140 contractors who do not perform track or signal maintenance. FRA has previously clarified its definition of small entity with respect to contractors, stating that FRA defines railroad contractors that meet the income level established for Class III railroads as small entities. For purposes of this analysis, FRA conservatively assumes that about 10 of these contractors have annual revenues in excess of \$20 million, leaving 785 contractors that are considered small entities that may be affected by this rule. Thus, the total estimate of the number of small entities that the rule may affect equals 676 Class III railroads plus approximately 785 contractors, totaling approximately 1,461 entities.

In the final rule, FRA is exercising its discretion to provide the greatest flexibility for small entities available under RSIA08. Throughout the development of this rule, FRA met with the entire Working Group on several occasions and often focused discussions on issues specific to short line and regional railroads and contractors. The discussions yielded many insights and this rule takes into account the concerns expressed by small railroads during the deliberations.

Several alternatives were considered in the creation of this final rule in order to attempt to minimize its impact on small entities. FRA and the Working Group recognized very early on in the rulemaking process that small entities probably do not have training

experts on staff. Requiring every small entity to create or revise a unique training program could create a disproportionate, and possibly unnecessary, burden on small entities because it might require the small entities to hire a training expert to perform the task, whereas larger railroads and contractors may already have training experts on staff. As an alternative to requiring every entity to create unique programs, FRA is formalizing a process for entities (including and especially small entities) to adopt a “model program.” FRA envisions a model program to be a state-of-the-art training program reflecting best practices in training program development. Any organization, business, or association may create a model program and submit that model program to FRA for approval. Subsequently, any employer may then choose to use a model program approved by FRA, rather than create its own program. An employer adopting a model program need only inform FRA that the employer plans to use a model program, submit the unique identifier for the program, and include any information reflecting customization or deviation from the model program that the employer has undertaken. This alternative can significantly simplify and consolidate the reporting requirements of this proposed rule for small entities. In the Regulatory Impact Analysis (RIA) accompanying this rule, FRA posits that two Class III railroads would choose to develop their own program, while the remaining 674 Class III railroad adopt model programs. FRA also believes that all 785 small contractors would adopt model programs.

The rule’s requirements with respect to periodic oversight also contain alternatives that were designed by FRA and the Working Group to limit the rule’s impact on small entities. Periodic oversight operational tests and inspections would be required by the proposed rule to determine if safety-related railroad employees comply with Federal railroad safety laws, regulations, and orders particular to FRA-regulated personal and work group safety. FRA and the Working Group considered requiring that periodic oversight tests and inspections be performed by all employers of safety-related railroad employees. However, FRA and the Working Group also recognized that small entities may not employ supervisory employees who are qualified as safety-related railroad employees in some or all categories of employees, and requiring these entities to perform periodic oversight would necessitate that those entities expand their workforce expressly for that purpose. Additionally, one purpose of periodic oversight with respect to this proposed rule is to determine if changes in training programs are necessary to close any proficiency gaps found during oversight assessments. As such, it would make sense if the entity that performs the training of safety-related employees also is the entity that performs the periodic oversight tests and inspections.

As an alternative approach designed to ensure that periodic oversight is useful, and to minimize the burden that would arise if small entities had to expand their workforce just to comply, several provisions are included in the rule that limit the extent to which small contractors will have to conduct periodic oversight. In general, railroads will be responsible for performing oversight for all railroad employees and some oversight for contractors performing safety-related duties on its property. Railroads would not be required to perform operational tests of contractor employees, but railroads would be

required to perform periodic oversight inspections of contractor employees performing safety-related duties on railroad property. However, if a contractor employs more than 15 safety-related railroad employees, trains its own employees, and employs supervisory safety-related railroad employees capable of performing oversight, the contractor, rather than the railroad, would be required to perform periodic oversight on its own employees. Contractors who meet those criteria may not be small entities, and contractors would only perform periodic oversight if it relied on its own training in accordance with its training program and could, therefore, improve the program with the results of the oversight program. In any case, a railroad and contractor may voluntarily agree that the contractor will perform the periodic oversight.

The requirements for periodic oversight also contain provisions designed to limit impact on small railroads. First, if a contractor conducts its own periodic oversight, then the railroad would not be required to also do so. Second, railroads would not be required to perform operational tests of contractor employees in any case, as mentioned above. Third, a railroad would not be required to perform oversight test or inspections for categories of a contractor's safety-related railroad employees if the railroad does not employ supervisory employees who are qualified as safety-related railroad employees in those categories. This final exception is designed mostly with small entities in mind. Small railroads may maintain a very small workforce and hire contractors to perform most safety-related duties. Those small entities which do not have employees on staff who are capable of performing oversight of contractor employees would, therefore, not be required to expand their workforces by hiring a supervisory employee trained in the safety-related duties that the contractor employees perform in order to perform oversight of contractor employees.

FRA and the Working Group also considered alternatives for small entities in the section of the proposed rule requiring annual reviews of safety data. Railroads will be required, under the rule, to conduct an annual review of periodic oversight data, reportable accident/incident data, FRA inspection report data, employee training feedback, and feedback received from labor representatives if available. However, all railroads with less than 400,000 total employee work hours per year would be exempted from this annual review requirement. FRA stated in the NPRM that it is likely that all but six Class III freight railroads would fall below this threshold, and no comments were received challenging this assumption. In § 243.113(a) of this final rule, FRA provided another alternative to decrease the impact on small entities. The final rule exempts any employer with less than 400,000 total employee work hours annually from the requirement to file written program submission requirements electronically. In § 243.101(b), FRA has provided each employer with less than 400,000 total employee work hours annually an additional year to implement its training program. Therefore, instead of having to implement the programs by January 1, 2017, most small entities will not have to implement the programs until January 1, 2018. There should be cost savings from this delayed implementation. Moreover, the small railroads will benefit from being able to observe the implementation of the larger railroads in the industry. The additional time

will permit these small entities to spread out the cost of revising or modifying a model program too.

Additionally, it should be noted that, under the rule, FRA has exempted tourist, scenic, historic, and excursion railroads that are not part of the general railroad system of transportation as well as plant railroads. Excluding these types of operations from this rule is consistent with FRA's jurisdictional policy that excludes these operations from all but a limited number of Federal safety laws, regulations, and orders.

Finally, it should be pointed out that FRA has identified no additional significant alternative to this final rule that satisfies the mandate of the RSIA or meets the agency's objective in promulgating this rule, and that would further reduce the economic impact of the rulemaking on small entities.

6. Impact of less frequent collection of information.

If FRA did not collect this information or collected it less frequently, railroad safety would be directly and adversely impacted. Without the information collected, FRA would have no way of knowing that railroads and contractors are properly and adequately training safety-related employees regarding Federal rail safety laws, regulations, and orders. Without approved and effective training programs, safety-related employees would not receive essential training to do their important jobs safely and effectively. The scientific literature on training in general and FRA's own experience with training in the railroad industry show a clear link between the quality of training programs – including whether training is engaging or “hands-on” – and safety. Even though rail transportation in the United States is generally an extremely safe mode of transportation, and rail safety has been improving, well-designed training programs have the potential to further reduce risk in the railroad environment. FRA believes that better designed training can reduce the number of accidents/incidents caused by human factors.

Without the information collected, FRA would not have an opportunity to carefully review and comment on the training provided by railroads, contractors, and learning institutions. Without review of required training program submissions, resubmissions, and informational filings, FRA staff could not determine whether essential Federal safety laws, regulations, and orders were being addressed in a thorough and systematic way as they relate to the daily tasks of safety-related employees. Without the required training program submissions and the opportunity to closely scrutinize them, FRA would have no way to verify that railroads, contractors, and training/learning institutions are providing necessary and critical on the job (OJT) and hands-on training for their employees. Without the benefit of such training, employees would not be able to do their jobs as effectively, and it is highly likely that there would be increased numbers of accidents/incidents and injuries, fatalities, and property damage that accompany them.

Without the information collected, FRA would not have access to lists of designated safety-related employees by occupational category or subcategory. Without this

information and the required records under this rule, FRA would not know whether employees in a given category or subcategory have undergone formal and informal training and thus have been properly and adequately trained and are thereby qualified to do their jobs. FRA would have no way of knowing whether these employees have passed or failed tests and what actions were taken by railroad, contractors, and learning/training institutions to address any deficiencies found from such testing. Unqualified employees performing critical safety-related tasks could cause major accidents/incidents leading to public/railroad worker injuries, and fatalities as well as damage to railroad equipment likely resulting in substantial dollar losses for their employers.

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

7. **Special circumstances.**

Under § 243.201(a)(1) of the rule, the requirement stipulates that each employer must keep records for former safety-related railroad employees for a six-year period after the employment relationship ends. Those records must be accessible at the employer's system headquarters. By requiring employers to keep former employee records, FRA will have adequate time to obtain records even when an audit and investigation takes places several years after the employment relationship has terminated. This recordkeeping requirement is also intended to aid former employees who want to access their records to prove to a prospective employer that they received prior training. This record retention requirement may be especially helpful to any former employees that may leave the railroading industry for several years, but want to return to safety-related railroad work within the six-year time frame.

Also, under § 243.205 (Periodic Oversight) and § 243.207 (Annual Review), FRA stipulates a three-year record retention requirement for any records that are not employee records. The three-year window for retention would actually be a bit longer than three years because it would be measured as three calendar years after the end of the calendar year to which the event relates. Thus, if a test occurred on March 1, 2015, the record would need to be maintained through December 31, 2018. Having information for the full third calendar year will help FRA in its audits and investigations to determine patterns regarding non-compliance related to Federal safety laws, regulations and orders, and aid railroads/FRA in modifying deficient training programs accordingly.

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

8. Compliance with 5 CFR 1320.8.

In accordance with the Paperwork Reduction Act of 1995, FRA published a Notice in the Federal Register on September 13, 2017, soliciting comment on this particular information collection. See 82 FR 43079.

FRA received **no** comments from the public, interested parties, or from railroad respondents regarding the activities involved in this information collection and **no** comments on the agency hour burden estimates or burden responses contained in the Notice.

As noted in the Summary on page 1 of this document, FRA is publishing the required 30-Day Notice in the **Federal Register** on **December 11, 2018**. See 82 FR 58267. Although comments by the public or interested parties will be sent directly to the Office of Information and Regulatory Affairs (OIRA), FRA expects that OMB will not receive any.

9. Payments or gifts to respondents.

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

10. Assurance of confidentiality.

FRA does not expect the information in a training program submission to be of a confidential or proprietary nature. For instance, each railroad is expected to share the program submission, resubmission, or informational filing with the president of each labor organization that represents the railroad's employees subject to this part. See 243.109(d). It would be expected that information that needed to be kept private would need to be removed prior to sharing that programmatic material with the labor organization. FRA suggests that entities consider this concern when drafting any programmatic material to be submitted to FRA and that each entity takes its own steps not to share such private material with FRA. In that way, FRA may make such programmatic material available to the general public upon request.

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

11. Justification for any questions of a sensitive nature.

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

12. Estimate of burden hours for information collected.

The respondent universe for this collection of information consists of approximately 1,550 railroads/contractors/learning organizations/institutions/organizations (comprising 755 railroads – 7 Class I, 44 Class II, + 704 Class III – and 795 contractors/railroad associations/ learning institutions/learning organizations). FRA states in the Regulatory Impact Analysis (RIA) accompanying this rule that approximately 795 railroad contractors and subcontractors exist, based on conversations with industry experts. That figure of 795 includes 155 well-established track and signal maintenance contractors, 500 very small (1 – 4 employees) or relatively new track and signal maintenance contractors, and another 140 contractors who do not perform track or signal maintenance. FRA has previously clarified its definition of small entity with respect to contractors, stating that FRA defines railroad contractors that meet the income level established for Class III railroads as small entities. For purposes of this analysis, FRA conservatively assumes that about 10 of these contractors have annual revenues in excess of \$20 million, leaving 785 contractors that are considered small entities that may be affected by this rule. Thus, the total estimate of the number of small entities that the rule may affect equals 704 Class III railroads plus approximately 785 contractors, totaling approximately 1,489 entities.

Even though the effective date for employers with more than 400,000 total annual employee work hours is January 1, 2019, and even though the effective date for employers with less than 400,000 total annual employee work hour is May 1, 2020, FRA considers 2015 to be year one for purposes of both the regulatory impact analysis (RIA) and this analysis.

Per OMB’s request, FRA is including the annual cost equivalent of the requested burden hours below. FRA derives this estimate from the 2017 AAR publication Railroad Facts (p. 57), and uses the average annual wages for each employee group as follows: For Executives, Officials, and Staff Assistants, this cost amounts to \$110 per hour. For Professional/Administrative staff, this cost amounts to \$73 per hour. For Maintenance of Way and Structure employees, this cost amounts to \$66 per hour. For Maintenance of Equipment and Stores employees, this cost amounts to \$59 per hour. For Transportation other than Train and Engine employees, this cost amounts to \$72 per hour. For Transportation Train and Engine employees, this cost amounts to \$74 per hour. All cost estimates include 75% overhead.

§ 214.341 – Roadway Maintenance Machines.

(b) * * *

(2) No roadway worker shall operate a roadway maintenance machine without having knowledge of the safety instructions applicable to that machine. For purposes of this paragraph, the safety instructions applicable to that machine means:

(i) The manufacturer's instruction manual for that machine; or

(ii) The safety instructions developed to replace the manufacturer's safety instructions when the machine has been adapted for a specific railroad use. Such instructions shall address all aspects of the safe operation of the crane and shall be as comprehensive as the manufacturer's safety instructions they replace.

The burden for the above requirement is included under training requirement for roadway workers approved under OMB No. 2130-0539 (sections 214.341-214.355). Consequently, there is no additional burden associated with this requirement.

§ 214.357 – Training and qualification for operators of roadway maintenance machines equipped with a crane.

(a) In addition to the general training and qualification requirements for operators of roadway maintenance machines set forth in §§ 214.341 and 214.355 of this Subpart, each employer shall adopt and comply with a training and qualification program for operators of roadway maintenance machines equipped with a crane to ensure the safe operation of such machines.

(b) Each employer's training and qualification program for operators of roadway maintenance machines equipped with a crane shall require initial and periodic qualification of each operator of a roadway maintenance machine equipped with a crane and shall include:

(1) Procedures for determining that the operator has the skills to safely operate each machine the person is authorized to operate; and

(2) Procedures for determining that the operator has the knowledge to safely operate each machine the person is authorized to operate. Such procedures shall determine that either:

(i) The operator has knowledge of the safety instructions (i.e., the manufacturer's instruction manual) applicable to that machine; or

(ii) The operator has knowledge of the safety instructions developed to replace the manufacturer's safety instructions when the machine has been adapted for a specific railroad use. Such instructions shall address all aspects of the safe operation of the crane and shall be as comprehensive as the manufacturer's safety instructions they replace.

Each covered railroad already has a training and qualification program for operators of roadway maintenance machines. The burden for this requirement is included under **OMB No. 2130-0539**. However, FRA estimates that approximately 535 railroads/contractors will need to modify their programs to meet the above requirements. It is estimated that it will take approximately four (4) hours for each railroad to modify its training and

qualification program. Total annual burden for this requirement is 2,140 hours.

Respondent Universe:

		535
		Railroads/cont ractors
Burden time per response:	4 hours	
Frequency of Response:	On occasion	
Annual number of Responses:	535 modified programs	
Annual Burden:	2,140 hours	
Annual Cost:	\$156,220	

Calculation: 535 modified programs x 4 hrs. = 2,140 hours

Training for operators of roadway maintenance machines is included under §§ 214.341 and 214.355 (**OMB No. 2130-0539**). In that collection, FRA estimated that there are approximately 50,000 roadway workers. However, only 17,396 roadway workers each year will need the initial additional training on roadway maintenance machines equipped with a crane to ensure the safe operation of such machines. It is estimated that approximately 1,750 roadway workers will be trained regarding cranes and that this training will take approximately 24 hours to complete and that approximately 15,646 roadway workers will be trained regarding boom trucks and that this training will take approximately four (4) hours to complete. Total annual burden for this requirement is 104,584 hours.

Respondents:		17,396
	Roadway Workers	
Burden time per response:	24 hours + 4 hours	
Frequency of Response:	One-time	
Annual Number of responses:	17,396 trained roadway workers	
Annual Burden:	104,584 hours	
Annual Cost:	\$6,170,456	

Calculation: 1,750 trained workers (cranes) x 24 hrs. + 15,646 trained workers (boom trucks) x 4 hours = 104,584 hours

Further, FRA estimates that approximately 17,396 roadway workers will receive the required periodic training on roadway machines equipped with cranes to operate them safely. It is estimated that this additional training will take approximately one (1) hour per employee to complete. Total annual burden for this requirement is 17,396 hours.

Respondents:		17,396
	Roadway Workers	
Burden time per response:	1 hour	

Frequency of Response:	On occasion
Annual Number of responses:	17,396 trained roadway workers
Annual Burden:	17,396 hours
Annual Cost:	\$1,026,364

Calculation: 17,396 trained roadway workers x 1 hr. = 17,396 hours

(c) Each employer shall maintain records that form the basis of the training and qualification determinations of each operator of roadway maintenance machines equipped with a crane that it employs.

Each employer required to maintain records under this Part shall make all records available for inspection and copying/photocopying to representatives of FRA, upon request during normal business hours.

Training conducted by an employer in accordance with operator qualification and certification required by the Department of Labor (29 CFR 1926.1427) may be used to satisfy the training and qualification requirements of this section.

FRA estimates that approximately 17,396 roadway workers records will be amended to reflect the required training and qualification determination. It estimates that it will take approximately 15 minutes to complete each employee record. Total annual burden for this requirement is 4,349 hours.

Respondents:	17,396
	Roadway Workers
Burden time per response:	15 minutes
Frequency of Response:	On occasion
Annual Number of responses:	17,396 roadway worker records
Annual Burden:	4,349 hours
Annual Cost:	\$317,477

Calculation: 17,396 roadway worker records x 15 min = 4,349 hours

Total annual burden for this entire requirement is 128,469 hours (2,140 + 104,584 + 17,396 + 4,349).

§ 232.203 – Training requirements.

(b) * * *

(6) * * *

(iv) Any combination of the training or testing contained in paragraphs (b)(6)(i) through

(b)(6)(iii) of this section and paragraphs (b)(3) through (b)(5) of this section may be used to satisfy the training and testing requirements for an employee in accordance with this paragraph.

The burden for this requirement is included under the collection associated with FRA's Power Brakes regulation (OMB No. 2130-0008). Consequently, there is no additional burden associated with this requirement.

(e) * * *

(6) The tasks required to be performed under this Part which the employee is deemed qualified to perform;

(7) Identification of the person(s) determining that the employee has successfully completed the training necessary to be considered qualified to perform the tasks identified in paragraph (e)(6) of this section; and

(8) The date that the employee's status as qualified to perform the tasks identified in paragraph (e)(6) of this section expires due to the need for refresher training.

The above language solely changes the paragraph specification in items 7 and 8 above. The burden for training records of the Power Brakes regulation is included under OMB No. 2130-0008. Consequently, there is no additional burden associated with the above requirements.

§ 243.101 Employer program required.

(a)(1) Effective January, 1, 2019, each employer conducting operations subject to this Part with 400,000 total work hours annually or more shall submit, adopt, and comply with a training program for its safety-related railroad employees.

Although the effective date of this requirement is approximately one-and-a-half years after the date that this paperwork package is being submitted, FRA believes that some railroads/contractors will submit their programs early. For purposes of this analysis, FRA assumes that all seven (7) Class I railroads will create or revise their own programs rather than use a model program, and that all 31 commuter and the two (2) intercity passenger railroads will also create or revise their own programs. Class II and Class III railroads and contractors are assumed to either create or revise their own programs or to use a model program, depending on which option minimizes costs for each entity. For this analysis, FRA assumes that 10 other entities (5 Class II railroads, 2 Class III railroads, and 3 contractors) will opt to create or revise their own programs, while the remainder of FRA regulated railroads and contractors who employ safety-related railroad employees will choose to customize a model program. Additionally, FRA has assumed that three model programs will be developed by independent entities such as learning organizations

or a consortium of railroads or contractors (two for short line railroads, one for contractors). Therefore, the total number of programs created or revised will be 7 (Class I) + 31 (commuter) + 2 (intercity) + 10 railroads/contractors (5 Class II, 2 Class III, 3 contractors) + 3 (model programs) = 48 programs. However, since these programs will not be submitted until year 3 as noted in the regulatory evaluation accompanying this rule, approximately 18 programs per year will be submitted for purposes of this information collection. It is estimated that it will take approximately 6,480 hours annually to create/revise each training program. Total annual burden for this requirement is 116,640 hours.

Respondent Universe:	56 Railroads/contractors/learning institutions
Burden time per response:	6,480 hours
Frequency of Response:	On occasion
Annual number of Responses:	18 training programs
Annual Burden:	116,640 hours
Annual Cost:	\$8,514,720

Calculation: 18 training programs x 6,480 hrs. = 116,640 hours

(a)(2) Effective May 1, 2020, each employer conducting operations subject to this Part with less than 400,000 total employee work hours annually shall submit, adopt, and comply with a training program for its safety-related railroad employees.

FRA estimates that there are approximately 1,489 entities (railroads/contractors/learning institutions/training organizations/associations) that would be affected by the above requirement. However, since these programs will not be adopted/submitted to FRA until almost three (3) years after this submission to OMB, approximately 496 programs per year will be submitted for purposes of this information collection. It is estimated that it will take approximately 20 hours annually to create/revise each training program. Total annual burden for this requirement is 9,920 hours.

Respondent Universe:	1,489 railroads/contractors/learning institutions/learning organizations/associations
Burden time per response:	20 hours
Frequency of Response:	On occasion
Annual number of Responses:	496 training programs
Annual Burden:	9,920 hours
Annual Cost:	\$724,160

Calculation: 496 training programs x 20 hrs. = 9,920 hours

(b) Except for an employer subject to the requirement in paragraph (a)(2) of this section, an employer commencing operations subject to this Part after January 1, 2019, shall submit a training program for its safety-related railroad employees prior to commencing operations. Upon commencing operations, the employer shall adopt and comply with the training program.

FRA estimates that approximately five (5) railroads will commence operations each year and need to submit a training program for its safety-related employees to FRA. It is estimated that it will take approximately 40 hours to adopt and comply with a training program. Total annual burden for this requirement is 200 hours.

Respondent Universe:	5 new railroads
Burden time per response:	40 hours
Frequency of Response:	On occasion
Annual number of Responses:	5 training programs
Annual Burden:	200 hours
Annual Cost:	\$22,000

Calculation: 5 training programs x 40 hrs. = 200 hours

(c) In the program required by this Part, the employer shall:

(1) Classify its safety-related railroad employees in occupational categories or subcategories by craft, class, task, or other suitable terminology;

(2) Define the occupational categories or subcategories of safety-related railroad employees. The definition of each category or subcategory shall include a list of the Federal railroad safety laws, regulations, and orders that the employee is required to comply with, based on the employee's assignments and duties, broken down at a minimum to the applicable part of the Code of Federal Regulations, section of the United States Code, or citation to an order. The listing of the Federal requirements shall contain the descriptive title of each law, regulation, or order;

(3) Create tables or utilize other suitable formats which summarize the information required in paragraphs (c)(1) and (c)(2) of this section, segregated by major railroad departments (e.g., Operations, Maintenance of Way, Maintenance of Equipment, Signal and Communications). After listing the major departments, the tables or other formats should list the categories and subcategories of safety-related railroad employees within those departments;

(4) Develop procedures to design and develop key learning points for any task-based or knowledge-based training; and

(5) Determine how training shall be structured, developed, and delivered, including an appropriate combination of classroom, simulator, computer-based, correspondence, OJT, or other formal training. The curriculum shall be designed to impart knowledge of, and ability to comply with applicable Federal railroad safety laws, regulations, and orders, as well as any relevant railroad rules and procedures promulgated to implement those applicable Federal railroad safety laws, regulations, and orders.

The burden for this requirement is included above under § 243.101(a) and § 243.101(b). Consequently, there is no burden associated with this requirement.

(d) *On-the-job (OJT) training requirements.* (1) If a training program has OJT, the OJT portion of the training program shall consist of the following three key components:

(i) A brief statement describing the tasks and related steps the employee learning the job shall be able to perform;

(ii) A statement of the conditions (prerequisites, tools, equipment, documentation, briefings, demonstrations, and practice) necessary for learning transfer; and

(iii) A statement of the standards by which proficiency is measured through a combination of task/step accuracy, completeness, and repetition.

(2) Prior to beginning the initial safety-related tasks associated with OJT exercises, employers shall make any relevant information or materials, such as operating rules, safety rules, or other rules available to employees involved for referencing.

(3) The tasks and related steps associated with OJT exercises for a particular category or subcategory of employee shall be maintained together in one manual, checklist, or similar document. This reference shall be made available to all employees involved in those OJT exercises.

The burden for this requirement is included above under § 243.101(a) and § 243.101(b). Consequently, there is no burden associated with this requirement.

(e) *Contractor's responsibility to validate approved program to a railroad.* A contractor that chooses to train its own safety-related railroad employees shall provide each railroad that utilizes it with a document indicating that the contractor's program of training was approved by FRA. A contractor is being utilized by a railroad when any of the contractor's employees conduct safety-related duties on behalf of the railroad and the railroad does not otherwise qualify those employees of the contractor that are allowed to perform those duties.

FRA estimates that approximately 750 contractors will choose to train their own safety-related railroad employees. However, only 50 railroads will utilize their training

programs and thus contractors will provide approximately 50 documents to these railroads with the required document indicating that the contractor’s program of training was approved by FRA. It is estimated that it will take approximately 15 minutes to provide each railroad with the validation document. Total annual burden for this requirement is 13 hours.

Respondent Universe:	795 Railroad contractors/ subcontractors
Burden time per response:	15 minutes
Frequency of Response:	On occasion
Annual number of Responses:	50 validation documents
Annual Burden:	13 hours
Annual Cost:	\$949

Calculation: 50 validation documents x 15 min. = 13 hours

(f) *Railroad’s responsibility to retain contractor’s validation of program.* A railroad that chooses to utilize contractor employees to perform safety-related duties and relies on contractor-provided training as the basis for those employees’ qualification to perform those duties shall retain a document from the contractor indicating that the contractor’s program was approved by FRA. A copy of the document required in paragraph (e) of this section satisfies this requirement.

FRA estimates that approximately 50 railroads will choose to utilize contractor employees to perform safety-related duties and will rely on contractor-provided training as the basis for those employees’ qualification to perform those duties. Thus, approximately 50 copies of the FRA approved training document (validation document) will be kept by railroads under the above requirement. It is estimated that it will take approximately 10 minutes for the contractor to copy the validation document and send it to each railroad. Total annual burden for this requirement is eight (8) hours.

Respondent Universe:	795 Railroad contractors/ subcontractors
Burden time per response:	10 minutes
Frequency of Response:	On occasion
Annual number of Responses:	50 validation document copies
Annual Burden:	8 hours
Annual Cost:	\$584

Calculation: 50 validation document copies x 10 min. = 8 hours

Total annual burden for this entire requirement is 126,781 hours (116,640 + 9,920 + 200 + 13 + 8).

§ 243.103 Training components identified in program.

(a) Each employer's program shall include the following components:

(1) A unique name and identifier for each formal course of study;

(2) A course outline for each course that includes the following:

(i) Any prerequisites to course attendance;

(ii) A brief description of the course, including the terminal learning objectives;

(iii) A brief description of the target audience, e.g., a list of the occupational categories and subcategories of employees the course will be delivered to;

(iv) The method(s) of course delivery, which may include, but are not limited to, classroom, computer-based, on-the-job, simulator, laboratory, correspondence courses, or any combination thereof;

(v) The anticipated course duration;

(vi) A syllabus of the course to include any applicable U.S.C. Chapters, 49 CFR Parts, or FRA Orders covered in the training; and

(vii) The kind of assessment (written test, performance test, verbal test, OJT standard, etc.) performed to demonstrate employee competency.

(3) A document for each OJT program component that includes the following:

(i) The roles and responsibilities of each category of person involved in the administration and implementation, guidelines for program coordination, and the progression and application of the OJT;

(ii) A listing of the occupational categories and subcategories of employees for which the OJT program applies; and

(iii) Details of the safety-related tasks and subtasks, conditions, and standards covered by the program components.

(4) The job title and telephone number of the employer's primary training point(s) of contact, listed separately by major department or employee occupational category, if applicable.

(5) If any training organization or learning institution developed and will deliver all or any part of the training, the employer must include the following:

(i) A narrative, text table, or other suitable format which describes those portions of the training that fit into this category;

(ii) The business name of the organization that developed and will deliver the training; and

(iii) The job title and telephone number of the training organization or learning institution's primary training point of contact.

The burden for this requirement is included above in § 243.101(a) and § 243.101(b) above. Consequently, there is no burden associated with this requirement.

(b) An employer that is required to submit similar training programs or plans pursuant to other regulatory requirements contained elsewhere in this Chapter may elect to cross-reference these other programs or plans in the program required by this Part rather than resubmitting that similar program or plan. When any such similar program or plan did not include the OJT components specified in paragraph (a)(3) of this section, the employer shall supplement its program in accordance with this Part by providing that additional information.

Similar training programs, such as those for locomotive engineers and conductors already have OJT components in them (and are approved under OMB No. 2130-0533 and OMB No. 2130-0596). Thus, FRA estimates that it will receive zero (0) supplementary documents under the above requirement. Consequently, there is no burden associated with it.

(c) If an employer arranges job-related practice and practice related feedback sessions to supplement classroom, laboratory, simulator training, or OJT, the program shall include a description of the supplemental training.

The burden for this requirement is included above in § 243.101(a) and § 243.101(b) above. Consequently, there is no burden associated with this requirement.

(d) FRA may require modifications to any programs, including those programs referenced in paragraph (b) of this section, if it determines essential program components, such as OJT, or arranged practice and feedback, are missing or inadequate.

FRA estimates that approximately 73 training programs will be deemed inadequate by FRA and require modification under the above requirement. It is estimated that it will take approximately 10 hours to modify each training program and send it to FRA. Total annual burden for this requirement is 730 hours.

Respondent Universe:	1,489 railroads/contractors/learning institutions/training organizations/associations
Burden time per response:	10 hours
Frequency of Response:	On occasion
Annual number of Responses:	73 modified training programs
Annual Burden:	730 hours
Annual Cost:	\$53,290

Calculation: 73 training programs x 10 hrs. = 730 hours

Total annual burden for this entire requirement is 730 hours.

§ 243.105 Optional model program development.

(a) Any organization, business, or association may develop and submit one or more model training programs to FRA for review and approval so that the model program(s) may be used by multiple employers.

(1) Any such model program should be submitted with a unique identifier associated with the program, or FRA will assign a unique identifier.

(2) The program associated with the organization’s unique identifier shall include all information required by § 243.103.

(3) Each model training program submitted to FRA prior to May 1, 2018, is considered approved and may be implemented 180 days after the date of submission unless the Associate Administrator advises the organization, business, or association that developed and submitted the program that all or part of the program does not conform.

The burden for this requirement is already included above under that of § 243.101(a) and § 243.101 (b) above. Consequently, there is no additional burden associated with this requirement.

Further, FRA estimates that approximately four (4) model training programs will be customized and submitted to FRA under the above requirement. It is estimated that it will take approximately eight (8) hours to modify each training program and send it to FRA. Total annual burden for this requirement is 32 hours.

Respondent Universe:	1,489 railroads/contractors/learning institutions/learning
----------------------	------------------------------------------------------------------

	organizations/associations
Burden time per response:	8 hours
Frequency of Response:	On occasion
Annual number of Responses:	4 modified training programs
Annual Burden:	32 hours
Annual Cost:	\$2,336

Calculation: 4 training programs x 8 hrs. = 32 hours

Additionally, FRA estimates that approximately 113 subsidiary railroads of one of the large railroads developing these four (4) model programs will customize that model program for their railroad before adopting and implementing it. It is estimated that it will take approximately four (4) hours to customize the original model program. Total burden for this requirement is 452 hours.

Respondent Universe:	755 railroads
Burden time per response:	4 hours
Frequency of Response:	On occasion
Annual number of Responses:	113 customized training programs
Annual Burden:	452 hours
Annual Cost:	\$32,996

Calculation: 113 customized training programs x 4 hrs. = 452 hours

(b) An employer that chooses to use a model program approved by FRA is not required to submit the entire program to FRA. Instead, the employer must submit only the unique identifier, and all other information that is specific to that employer or deviates from the model program.

The burden for this requirement is already included above under that of § 243.101(a), § 243.101(b), and § 243.105(a). Consequently, there is no additional burden associated with this requirement.

Total burden for this entire requirement is 484 hours (32 + 452).

§ 243.107 Training program submission, introductory information required.

(a) An employer who provides or is responsible for the training of safety-related railroad employees shall submit its training program to FRA for review and approval. Each employer shall state in its submission whether, at the time of filing, it:

- (1) Primarily conducts the training program of its own safety-related railroad employees, utilizing its own resources;
- (2) Conducts any training for other than its own safety-related railroad employees;

- (3) Implements any training programs conducted by some other entity on its behalf but adopted by that employer;
- (4) Qualifies safety-related railroad employees previously qualified by other employers;
- (5) Qualifies safety-related railroad employees previously trained by training organizations or learning institutions; or
- (6) Any combination of paragraph (a)(1) through (a)(5) of this section.

The burden for this requirement is included above in § 243.101(a) and § 243.101(b) above. Consequently, there is no burden associated with this requirement.

(b) An employer who utilizes any of the options specified in paragraphs (a)(2) through (a)(5) of this section shall provide the following information in its submission:

- (1) The categories of safety-related railroad employees who, at the time of filing, will receive training utilizing one or more of these options; and
- (2) Whether the training delivered, utilizing one or more of these options, composes all or part of the overall training program regimen for that category of employee at the time of filing.

The burden for this requirement is included above in § 243.101(a) and § 243.101 (b) above. Consequently, there is no burden associated with this requirement.

(c) An employer that elects to use training organizations or learning institutions to train some or all of its safety-related railroad employees, or to hire new safety-related railroad employees that have previously received training from any training organizations or learning institutions, shall include the full name of the training organization or learning institution in its submission.

The burden for this requirement is included above in § 243.101(a) and § 243.101 (b) above. Consequently, there is no burden associated with this requirement.

§ 243.109 Training program submission, review, and approval process.

(a) *Initial programs.* (1) Apprenticeship or similar intern programs, that began prior to submission of the employer's initial program filed in accordance with this Part, shall be described in the employer's initial program. Any such apprenticeship or similar intern programs may continue, but, if the Associate Administrator advises the employer of specific deficiencies, the employer shall resubmit that portion of its program, as revised to address specific deficiencies, within 90 days after the date of any notice of deficiencies from the Associate Administrator. A failure to resubmit the program with the necessary

revisions shall be considered a failure to implement a program under this Part. The Associate Administrator may extend this 90-day period upon written request.

(2) An employer's initial program, as required by § 243.101(a) or § 243.101(b), must be submitted to the Associate Administrator and is considered approved, and may be implemented immediately upon submission. Following submission, the Associate Administrator will review the program and inform the employer as to whether the initial program conforms to this Part. If the Associate Administrator determines that all or part of the program does not conform, the Associate Administrator will inform the employer of the specific deficiencies. The deficient portions of the non-conforming program may remain in effect until approval of the revised program, unless FRA provides notification otherwise. An employer shall resubmit the portion of its program, as revised to address specific deficiencies, within 90 days after the date of any notice of deficiencies from the Associate Administrator. A failure to resubmit the program with the necessary revisions shall be considered a failure to implement a program under this Part. The Associate Administrator may extend this 90-day period upon written request.

FRA estimates that approximately seven (7) of the initial training programs submitted will be found non-conforming to this Part by FRA under the above requirement and will need to be revised. It is estimated that it will take each employer/railroad approximately 10 hours to revise its training program and send the updated document to FRA. Total annual burden for this requirement is 70 hours.

Respondent Universe:	56 RRs/contractors /associations/learning institutions/training organizations
Burden time per response:	10 hours
Frequency of Response:	On occasion
Annual number of Responses:	7 revised training programs
Annual Burden:	70 hours
Annual Cost:	\$5,110

Calculation: 7 revised training programs x 10 hrs. = 70 hours

Additionally, FRA estimates that it will receive approximately one (1) written request to extend the 90-day resubmission deadline under the above requirement. It is estimated that it will take the employer/railroad approximately 15 minutes to complete its written extension request and send it to FRA. Total annual burden for this requirement is .25 hour.

Respondent Universe:	56 RRs/contractors /associations/learning institutions/training organizations
Burden time per response:	15 minutes

Frequency of Response:	On occasion
Annual number of Responses:	1 written extension request
Annual Burden:	.25 hour
Annual Cost:	\$18

Calculation: 1 written extension request x 15 min. = .25 hour

(b) *Previously approved programs require an informational filing when modified.* The employer must review its previously approved training program and modify it accordingly when new safety-related Federal railroad laws, regulations, or orders are issued, or new safety-related technologies, procedures, or equipment are introduced into the workplace and result in new knowledge requirements, safety-related tasks, or modification of existing safety-related duties. An employer that modifies its training program for these described reasons shall submit an **informational filing** to the Associate Administrator not later than 30 days after the end of the calendar year in which the modification occurred, unless FRA advises otherwise to individual employers, one or more group of employers, or the general public. Programs modified in accordance with this paragraph, after the initial FRA approval, are considered approved upon being modified and may be implemented immediately. Any program deficiencies noted by the Associate Administrator shall be addressed in the same manner as paragraph (a)(2) of this section. The filing shall contain a summary description of sufficient detail that FRA can associate the changes with the employer's previously approved program, and shall include:

- (1) Descriptions of all new or refresher training courses developed since the previous FRA approval, using the same criteria required for an initial filing;
- (2) Explanations whenever OJT or arranged practice is added to, or discontinued from, a program;
- (3) Explanations as to how the methods of delivering training, or qualifying employees has changed; and
- (4) A statement from an organization, business, or association that has submitted a model program pursuant to this Part, that the organization, business, or association has informed each employer who requested the right to use the effected training program of the changes and the need for the employer to comply with those changes that apply to the employer's operation.

FRA estimates that approximately eight (8) informational filings relating to previously approved training programs will be completed under the above requirement. It is estimated that it will take each employer/railroad approximately 432 hours to complete its informational filing and send it to FRA. Total annual burden for this requirement is 3,456 hours.

Respondent Universe:	56 RRs/contractors /associations/learning institutions/training organizations
Burden time per response:	432 hours
Frequency of Response:	On occasion
Annual number of Responses:	8 informational filings
Annual Burden:	3,456 hours
Annual Cost:	\$252,288

Calculation: 8 informational filings x 432 hrs. = 3,456 hours

(c) *New portions or revisions to an approved program.* Substantial additions or revisions to a previously approved program, that are not described as informational filings in accordance with paragraph (b) of this section, shall be considered approved and may be implemented immediately upon submission. Following submission, the Associate Administrator will review the new portions or revisions to the previously approved program and inform the employer as to whether the modifications conform to this Part. Any program deficiencies noted by the Associate Administrator shall be addressed in the same manner as paragraph (a)(2) of this section. The Associate Administrator will inform the employer as to whether a new portion or revision to an approved program conforms to this Part. If the Associate Administrator has determined that the changes do not conform to this Part, the employer shall resubmit the portion of its program, as revised to address specific deficiencies, within 90 days after the date of any notice of deficiencies from the Associate Administrator. Failure to resubmit the program with the necessary revisions shall be considered a failure to implement a program under this Part. The Associate Administrator may extend this 90-day period upon written request.

FRA estimates that approximately 25 training programs with new portions or substantial revisions to an approved program will be submitted to FRA under the above requirement. It is estimated that it will take approximately 16 hours for the employer to revise its training program and send the updated document to FRA. Total annual burden for this requirement is 400 hours.

Respondent Universe:	56 RRs/contractors /associations/learning institutions/training organizations
Burden time per response:	16 hours
Frequency of Response:	On occasion
Annual number of Responses:	25 revised training programs
Annual Burden:	400 hours
Annual Cost:	\$29,200

Calculation: 25 revised training programs x 16 hrs. = 400 hours

Additionally, FRA estimates that approximately 12 training programs with new portions or substantial revisions to an approved program will be found to be non-conforming to this Part by FRA and will need to be revised and resubmitted under the above requirement. It is estimated that it will take approximately 16 hours to complete the revision and resubmission to FRA. Total annual burden for this requirement is 192 hours.

Respondent Universe:	56
	RRs/contractors/associations/learning institutions
Burden time per response:	16 hours
Frequency of Response:	On occasion
Annual number of Responses:	12 revised/resubmitted training programs
Annual Burden:	192 hours
Annual Cost:	\$11,826

Calculation: 12 revised/resubmitted training programs x 16 hrs. = 192 hours

FRA estimates it will receive zero (0) written requests to extend this 90-day deadline period under the above requirement. Consequently, there is no additional burden associated with it.

(d) *Additional submission, resubmission, or informational filing requirement for railroads.* (1) Each railroad shall:

(i) Simultaneous with its filing with the FRA, serve a copy of any submission, resubmission, or informational filing required pursuant to this section, to the president of each labor organization that represents the railroad’s employees subject to this Part; and

(ii) Include in its submission, resubmission, or informational filing required pursuant to this section a statement affirming that the railroad has served a copy to the president of each labor organization that represents the railroad’s employees subject to this Part, together with a list of the names and addresses of persons served. *(Note: The burden for the first part of this requirement is already included above. Consequently, there is no additional burden associated with this part of the requirement.)*

FRA estimates that approximately 225 copies of submissions, resubmissions, and informational filings will be sent to the presidents of relevant labor organizations under the above requirement. It is estimated that it will take each railroad approximately 15 minutes to complete each copy and send it to the presidents of the relevant labor organizations. Total annual burden for this requirement is 56 hours.

Respondent Universe:	56 RRs/contractors /associations/learning institutions/training organizations
Burden time per response:	15 minutes
Frequency of Response:	On occasion
Annual number of Responses:	225 copies of submissions/ resubmissions/info. filings
Annual Burden:	56 hours
Annual Cost:	\$4,088

Calculation: 225 copies of submissions/resubmissions/info. filings x 15 min. = 56 hours

Additionally, FRA estimates that approximately 25 affirming statements (with the required list of names and addresses) that the railroad has sent a copy of the submission, resubmission, and informational filing to the presidents of relevant labor organizations will be included in the original documents sent to FRA under the above requirement. It is estimated that it will take each railroad approximately 60 minutes to complete each copy and send it to the presidents of the relevant labor organizations. Total annual burden for this requirement is 25 hours.

Respondent Universe:	56 RRs/contractors /associations/learning institutions/training organizations
Burden time per response:	60 minutes
Frequency of Response:	On occasion
Annual number of Responses:	25 affirming statements
Annual Burden:	25 hours
Annual Cost:	\$1,825

Calculation: 25 affirming statements x 60 min. = 25 hours

(2) Not later than 90 days from the date a railroad files its submission, resubmission, or informational filing required pursuant to this section, a representative designated by the president of each labor organization that represents railroad employees subject to this part, may file a comment on the submission, resubmission, or informational filing:

(i) Each comment shall be submitted to the Associate Administrator for Railroad Safety/Chief Safety Officer, Federal Railroad Administration, 1200 New Jersey Avenue, SE, Washington, DC 20590; and

(ii) The commenter shall certify that a copy of the comment was served on the railroad.

FRA estimates that three (3) comments (with the required certification) will be made by labor organizations under the above requirement. It is estimated that it will take each labor organization approximately four (4) hours to complete its comment and send it to FRA. Total annual burden for this requirement is 12 hours.

Respondent Universe:	5 RR labor organizations
Burden time per response:	4 hours
Frequency of Response:	On occasion
Annual number of Responses:	3 comments
Annual Burden:	12 hours
Annual Cost:	\$876

Calculation: 3 comments x 4 hrs. = 12 hours

Total annual burden for this requirement is 4,211 hours (70 + .25 + 3,456 + 400 + 192 + 56 + 25 + 12).

§ 243.111 Approval of programs filed by training organizations or learning institutions.

(a) A training organization or learning institution that provides training services for safety-related railroad employees, including providing such training services to independent students who enroll with such training organization or learning institution and who will rely on the training services provided to qualify to become safety-related railroad employees, must submit its program to FRA for review and approval.

The burden for training organizations or learning institutions regarding training program submissions is already included under that of § 243.101(a) and § 243.101(b) above. Consequently, there is no additional burden associated with this requirement.

(b) A training organization or learning institution that has provided training services to employers covered by this Part prior to January 1, 2018, may continue to offer such training services without FRA approval until January 1, 2019. The Associate Administrator may extend this period at any time based on a written request. Such written requests for an extension of time to submit a program should contain any factors the training organization or learning institution wants the Associate Administrator to consider prior to approving or disapproving the extension.

FRA estimates that approximately three (3) written requests for an extension of time to continue to provide training services to employers after Jan. 1, 2019, will be sent to FRA by training organizations or learning institutions under the above requirement. It is estimated that it will take each training organization or learning institution approximately 60 minutes to complete its written extension request and send the document to FRA. Total annual burden for this requirement is three (3) hours.

Respondent Universe:	50 training organizations/learning institutions
Burden time per response:	60 minutes
Frequency of Response:	On occasion
Annual number of Responses:	3 written extension requests
Annual Burden:	3 hours
Annual Cost:	\$219

Calculation: 3 written extension requests x 60 min. = 3 hours

(c) A program submitted by a training organization or learning institution must include all information required for an employer's program in accordance with this Part, unless the requirement could only apply to an employer's program. The submitted program for a training organization or learning institution must also include the following information:

- (1) The full corporate or business name of the training organization or learning institution;
- (2) The training organization or learning institution's primary business and email address;
- (3) The training organization or learning institution's primary telephone number and point of contact;
- (4) A listing of the training organization or learning institution's designated instructors;
- (5) A resume for each designated instructor, showing how the instructor achieved the subject-matter and training expertise necessary to develop and deliver training to safety-related railroad employees, unless the designated instructors are currently employed by a railroad;
- (6) A list of references of employer customers the learning organization or training institution has provided services to in the past; and
- (7) A brief summary statement indicating how the training organization or learning institution determined the knowledge, skills, and abilities necessary to develop the training courses it provides to employers and independent students who enroll with such training organization or learning institution in order to become safety-related railroad employees. This brief summary should be of sufficient detail so that FRA can ascertain the methodologies the training organization or learning institution used during training development.

As noted earlier, the burden for training organizations or learning institutions regarding training program submissions is already included under that of § 243.101(a) and § 243.101(b) above. Consequently, there is no additional burden associated with this requirement.

(d) Except as specified in paragraph (b) of this section, prior approval by the Associate Administrator is required before FRA will accept such training as sufficient to meet the requirements of this Part. The Associate Administrator will advise the training organization or learning institution in writing whether FRA has approved the program. If all or part of the program is not approved by FRA, the Associate Administrator will inform the training organization or learning institution of specific deficiencies. At the time that the Associate Administrator informs of any deficiencies, the Associate Administrator will clarify whether any particular training courses shall be considered approved.

FRA estimates that approximately two (2) training programs submitted by training organizations/learning institutions will be found deficient by FRA and will need to be revised under the above requirement. It is estimated that it will take each training organization or learning institution approximately 20 hours to complete its training program revision and submit it to FRA. Total annual burden for this requirement is one 40 hours.

Respondent Universe:	50 training organizations/learning institutions
Burden time per response:	20 hours
Frequency of Response:	On occasion
Annual number of Responses:	2 revised training programs
Annual Burden:	40 hours
Annual Cost:	\$2,920

Calculation: 2 revised training programs x 20 hrs. = 40 hours

(e) *Previously approved programs require an informational filing when modified.* The training organization or learning institution shall review its previously approved training program and modify it accordingly when new safety-related Federal railroad laws, regulations, or orders are issued, or new safety-related technologies, procedures, or equipment are introduced into the workplace and result in new knowledge requirements, safety-related tasks, or in modifications of existing safety-related duties. A training organization or learning institution that modifies its training program for these described reasons shall submit an informational filing to the Associate Administrator not later than 30 days after the end of the calendar year in which the modification occurred, unless FRA advises otherwise. Programs modified in accordance with this paragraph are considered approved upon modification and may be implemented immediately. Any program

deficiencies noted by the Associate Administrator shall be addressed as specified in this section. The filing shall contain a summary description of sufficient detail so that FRA can associate the changes with the training organization's or learning institution's previously approved program, and shall include:

- (1) Descriptions of all new or refresher training courses developed after the previous FRA approval, using the same criteria required for an initial filing;
- (2) Explanations whenever OJT or arranged practice is added to, or discontinued from, a program; and
- (3) Explanations as to how the methods of delivering training, or qualifying employees has changed.

FRA estimates that approximately one (1) informational filing will be completed under the above requirement. It is estimated that it will take each employer/railroad approximately 432 hours to complete its informational filing and send it to FRA. Total annual burden for this requirement is 432 hours.

Respondent Universe:	50 training organizations/learning institutions
Burden time per response:	432 hours
Frequency of Response:	On occasion
Annual number of Responses:	1 informational filing
Annual Burden:	432 hours
Annual Cost:	\$31,536

Calculation: 1 informational filing x 432 hrs. = 432 hours

(f) *New portions or revisions to an approved program.* Substantial additions or revisions to a previously approved program, that are not described as informational filings in accordance with paragraph (e) of this section, shall require prior approval by the Associate Administrator before FRA will accept such training as sufficient to meet the requirements of this Part. The Associate Administrator will advise the training organization or learning institution in writing whether FRA has approved the new or revised program. If all or part of the program is not approved by FRA, the Associate Administrator will inform the training organization or learning institution of specific deficiencies. At the time that the Associate Administrator informs the training organization or learning institution of any deficiencies, the Associate Administrator will clarify whether any particular new or revised training courses shall be considered approved.

FRA estimates that approximately two (2) training programs submitted with new portions or revisions will be found deficient by FRA and will need to be further revised under the above requirement. It is estimated that it will take approximately 20 hours to complete the necessary training program revision and submit it to FRA. Total annual burden for this requirement is one 40 hours.

Respondent Universe:	50 training organizations/learning institutions
Burden time per response:	20 hours
Frequency of Response:	On occasion
Annual number of Responses:	2 revised training programs
Annual Burden:	40 hours
Annual Cost:	\$2,920

Calculation: 2 revised training programs x 20 hrs. = 40 hours

(g) Training organizations and learning institutions subject to this Part are required to maintain records for each safety-related railroad employee that attends the training, in accordance with the recordkeeping requirements of this Part.

FRA estimates that approximately 1,600 safety-related employees will attend training and approximately 1,600 records will be kept by training organizations and learning institutions under the above requirement. It is estimated that it will take approximately eight (8) hours to train each employee and approximately five (5) minutes to complete each record. Total annual burden for this requirement is 12,933 hours.

Respondent Universe:	50 training organizations/learning institutions
Burden time per response:	8 hours + 5 minutes
Frequency of Response:	On occasion
Annual number of Responses:	1,600 tr. employees + 1,600 records
Annual Burden:	12,933 hours
Annual Cost:	\$879,444 (\$68 p/hr. avg. for all employees)

Calculation: 1,600 tr. employees x 8 hrs. + 1,600 tr. records x 5 min. = 12,933 hours

(h) Training organizations and learning institutions subject to this Part shall provide a student's training transcript or training record to any employer upon request by the student.

FRA estimates that approximately 200 requests for training transcripts or training records will be made by students and thus 200 records will be provided by training organizations and learning institutions under the above requirement. It is estimated that it will take each student approximately five (5) minutes to complete his/her record request and that it will take each training organization/learning institution approximately five (5) minutes to provide each record. Total annual burden for this requirement is 34 hours.

Respondent Universe:	50 training organizations/learning institutions
Burden time per response:	5 minutes + 5 minutes
Frequency of Response:	On occasion
Annual number of Responses:	200 record requests + 200 records
Annual Burden:	34 hours
Annual Cost:	\$2,482

Calculation: 200 record requests x 5 min. + 200 records x 5 min. = 34 hours

Total annual burden for this entire requirement is 13,482 (3 + 40 + 432 + 40 + 12,933 + 34).

§ 243.113 Electronic and written program submission requirements.

(a) Except for an employer with less than 400,000 total employee work hours annually, each employer, training organization, or learning institution to which this Part applies is required to file by electronic means any program submissions required under this Part in accordance with the requirements of this section. Each organization, business, or association that develops an optional model program in accordance with § 243.105 of this Part is required to electronically file the program in accordance with the requirements of this section.

(b) Prior to any person’s first program submission electronically, the person shall provide the Associate Administrator with the following information in writing:

- (1) The name of the employer, organization, learning institution, business, or association;
- (2) The names of two individuals, including job titles, who will be the person’s points of contact and will be the only individuals allowed access to FRA’s secure document submission site;
- (3) The mailing addresses for the person’s points of contact;

- (4) The person's system or main headquarters address located in the United States;
- (5) The e-mail addresses for the person's points of contact; and
- (6) The daytime telephone numbers for the person's points of contact.

FRA estimates that approximately 60 letters with the required written information will be sent by training organizations and learning institutions to FRA under the above requirement. It is estimated that it will take each training organizations/learning institutions approximately 15 minutes to complete its letter and send it to FRA. Total annual burden for this requirement is 15 hours.

Respondent Universe:	106 railroads/contractors/ associations/learning institutions /training organizations
Burden time per response:	15 minutes
Frequency of Response:	On occasion
Annual number of Responses:	60 letters
Annual Burden:	15 hours
Annual Cost:	\$1,095

Calculation: 60 letters x 15 min. = 15 hours

(c) A person that electronically submits an initial program, informational filing, or new portions or revisions to an approved program required by this Part shall be considered to have provided its consent to receive approval or disapproval notices from FRA by e-mail.

(d) A request for FRA review of written materials shall be addressed to the Associate Administrator for Railroad Safety/Chief Safety Officer, Federal Railroad Administration, 1200 New Jersey Avenue, SE, Washington, DC 20590.

FRA estimates that it will receive zero (0) requests for agency review of written materials under the above requirement. Consequently, there is no additional burden associated with it.

(e) FRA may electronically store any materials required by this Part regardless of whether the person that submits the materials does so by delivering the written materials to the Associate Administrator and opts not to submit the materials electronically.

(f) A person that opts not to submit the materials required by this Part electronically, but provides one or more email addresses in its submission, shall be considered to have provided its consent to receive approval or disapproval notices from FRA by e-mail or mail.

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

Total annual burden for this entire requirement is four (4) hours.

Subpart C – Program Implementation and Oversight Requirements

§ 243.201 Employee qualification requirements.

(a) *Designating existing employees.* By no later than September 1, 2019, each employer with 400,000 total employee work hours annually or more in operation as of January 1, 2019, shall declare the designation of each of its existing safety-related railroad employees by occupational category or subcategory, and only permit designated employees to perform safety-related service in that occupational category or subcategory. The Associate Administrator may extend this period based on a written request.

FRA estimates that approximately 13 lists containing employee designations will be made by employers/railroads under the above requirement. It is estimated that it will take each employer/railroad approximately 15 minutes to complete its designation list and send it to FRA. Total annual burden for this requirement is three (3) hours.

Respondent Universe:	106 railroads/contractors
Burden time per response:	15 minutes
Frequency of Response:	On occasion
Annual number of Responses:	13 designation lists
Annual Burden:	3 hours
Annual Cost:	\$219

Calculation: 13 designation lists x 15 min = 3 hours

Additionally, FRA estimates that approximately three (3) written requests for an extension of time to submit the designation list will be sent to FRA by employers/railroads under the above requirement. It is estimated that it will take each employer/railroad approximately 60 minutes to complete its written extension request and send the document to FRA. Total annual burden for this requirement is three (3) hours.

Respondent Universe:	106 railroads/contractors
Burden time per response:	60 minutes
Frequency of Response:	On occasion
Annual number of Responses:	3 written extension requests
Annual Burden:	3 hours

Annual Cost: \$219

Calculation: 3 written extension requests x 60 min. = 3 hours

FRA estimates it will receive zero (0) written requests to extend this deadline period under the above requirement. Consequently, there is no additional burden associated with it.

(a)(2) *Designating existing employees.* By no later than September 1, 2021, each employer with less than 400,000 total employee work hours annually in operation as of May 1, 2020, shall declare the designation of each of its existing safety-related railroad employees by occupational category or subcategory, and only permit designated employees to perform safety-related service in that occupational category or subcategory. The Associate Administrator may extend this period based on a written request.

This requirement does not take effect for more than three years and thus falls outside the scope of the normal OMB approval period for agency information collection submissions. Consequently, there is no burden associated with it.

(b) Except for an employer subject to the requirement in paragraph (a)(2) of this section, an employer commencing operations after January 1, 2019, shall declare the designation of each of its existing safety-related railroad employees by occupational category or subcategory prior to beginning operations, and only permit designated employees to perform safety-related service in that category or subcategory. Any person designated shall have met the requirements for newly hired employees or those assigned new safety-related duties in accordance with paragraph (c) of this section.

FRA estimates that approximately five (5) railroads will commence operations each year after Jan. 1, 2019, and thus approximately five (5) lists containing employee designations will be made by employers/railroads under the above requirement. It is estimated that it will take each employer/railroad approximately 15 minutes to complete its designation list and send it to FRA. Total annual burden for this requirement is one (1) hour.

Respondent Universe:	5 new railroads
Burden time per response:	15 minutes
Frequency of Response:	On occasion
Annual number of Responses:	5 designation lists
Annual Burden:	1 hour
Annual Cost:	\$73

Calculation: 5 designation lists x 15 min = 1hour

(c) *Newly hired employees or those assigned new safety-related duties.* The following requirements apply to qualifying a safety-related railroad employee who, subsequent to

the employer's designation in accordance with paragraphs (a) and (b) of this section, is newly hired or is to engage in a safety-related task not associated with the employee's previous training.

(1) Prior to an employee becoming a qualified member of an occupational category or subcategory, the employer shall require a safety-related railroad employee who is newly hired or is to engage in safety-related duties not associated with the employee's previous training to successfully complete the formal training curriculum for that category or subcategory of safety-related railroad employee. Successful completion of the formal training curriculum includes passing any required examinations covering the skills and knowledge the employee will need to possess in order to perform the safety-related duties necessary to be a member of the occupational category or subcategory.

(2) If the training curriculum includes OJT, the employee shall demonstrate, to the satisfaction of a designated instructor, OJT proficiency by successfully completing the safety-related tasks necessary to become a qualified member of the occupational category or subcategory. However, as part of the OJT process and prior to completing such training and passing the field evaluation, a person may perform such tasks under the direct onsite observation of any qualified person, provided the qualified person has been advised of the circumstances and is capable of intervening if an unsafe act or non-compliance with Federal railroad safety laws, regulations, or orders is observed. An employee designated to provide formal training to other employees, and who is not a designated instructor, shall be qualified on the safety-related topics or tasks in accordance with the employer's training program and the requirements of this Part.

FRA estimates that approximately 114 newly hired employees or employees assigned new safety duties will successfully complete the formal training curriculum/OJT safety-related tasks/field tests and correspondingly 114 training records of these employees will be kept under the above requirement. It is estimated that it will take approximately eight (8) hours to complete the necessary training and approximately 15 minutes to complete each record. Total annual burden for this requirement is 941 hours.

Respondent Universe:	106 railroads/contractors
Burden time per response:	8 hours + 15 minutes
Frequency of Response:	On occasion
Annual number of Responses:	114 trained employees + 114 records
Annual Burden:	941 hours
Annual Cost:	\$63,988 (\$68p/hr. avg. for all employee groups)

Calculation: 114 trained employees x 8 hrs. + 114 records x 15 min. =
941 hours

(d) *Employees previously qualified or trained, but not by the current employer.* If an employee has received relevant qualification or training for a particular occupational

category or subcategory through participation in a FRA-approved training program submitted by an entity other than the employee's current employer, that training shall satisfy the requirements of this Part:

(1) Provided that:

(i) a current record of training is obtained from that other entity; or

FRA estimates that approximately 11 requests for records and 11 records of relevant qualification or training of previously qualified employees will be made under the above requirement. It is estimated that it will take approximately five (5) minutes to complete each record request to the current employer and approximately five (5) minutes to provide the necessary record. Total annual burden for this requirement is two (2) hours.

Respondent Universe:	106 railroads/contractors
Burden time per response:	5 minutes + 5 minutes
Frequency of Response:	On occasion
Annual number of Responses:	11 record requests + 11 records
Annual Burden:	2 hours
Annual Cost:	\$146

Calculation: 11 record requests x 5 min. + 11 records x 5 min. = 2 hours

(ii) when a current record of training is unavailable from that other entity, an employer performs testing to ensure the employee has the knowledge necessary to be a member of that category or subcategory of safety-related railroad employee; and

FRA estimates that approximately 68 employees per year will be tested and correspondingly 68 records will be kept each year under the above requirement. It is estimated that it will take approximately eight (8) hours to test that each employee has the knowledge necessary to be a member of that category or subcategory of safety-related railroad employee and approximately 30 minutes to complete each record. Total annual burden for this requirement is 578 hours.

Respondent Universe:	106 railroads/contractors
Burden time per response:	8 hours + 30 minutes
Frequency of Response:	On occasion
Annual number of Responses:	68 employee tests + 68 records
Annual Burden:	578 hours
Annual Cost:	\$39,304 (\$68p/hr. avg. for all employee groups)

Calculation: 68 employee tests x 8 hrs. + 68 records x 30 min. =
578 hours

(2) When the employee, in the previous 180 days, has either not performed the safety-related duties or not received initial or periodic training for an occupational category or subcategory, the employer shall perform testing to ensure the employee has retained the knowledge necessary to remain a member of that occupational category or subcategory. In the situation where an employee's records are unavailable and the employee is subject to testing under paragraph (d)(1)(ii) of this section, no additional testing is required.

FRA estimates that approximately 68 employees per year will need to be tested and correspondingly 68 records each year will be kept under the above scenario. It is estimated that it will take approximately eight (8) hours to test that each employee has the knowledge necessary to be a member of that category or subcategory of safety-related railroad employee and approximately 30 minutes to complete each record. Total annual burden for this requirement is 578 hours.

Respondent Universe:	106 railroads/contractors
Burden time per response:	8 hours + 30 minutes
Frequency of Response:	On occasion
Annual number of Responses:	68 employee tests + 68 records
Annual Burden:	578 hours
Annual Cost:	\$39,304 (\$68p/hr. avg. for all employee groups)

Calculation: 68 employee tests x 8 hrs. + 68 records x 30 min. =
578 hours

(e) *Refresher training requirements and options.* (1) Beginning January 1, 2021, each employer with 400,000 total employee work hours annually or more shall deliver refresher training at an interval not to exceed three (3) calendar years from the date of an employee's last training event, except where refresher training is specifically required more frequently in accordance with this Chapter. If the last training event occurs prior to FRA's approval of the employer's training program, the employer shall provide refresher training either within three (3) calendar years from that prior training event or no later than December 31, 2023. Each employer shall ensure that, as part of each employee's refresher training, the employee is trained and qualified on the application of any Federal railroad safety laws, regulations, and orders the person is required to comply with, as well as any relevant railroad rules and procedures promulgated to implement those Federal railroad safety laws, regulations, and orders.

This requirement does not take effect for more than three years and thus falls outside the scope of the normal OMB approval period for agency information collection submissions. Consequently, there is no burden associated with it.

(2) Beginning May 1, 2022, each employer with less than 400,000 total employee work hours annually shall deliver refresher training at an interval not to exceed three (3) calendar years from the date of an employee's last training event, except where refresher training is specifically required more frequently in accordance with this chapter. If the last training event occurs prior to FRA's approval of the employer's training program, the employer shall provide refresher training either within three (3) calendar years from that prior training event or no later than December 31, 2023. Each employer shall ensure that, as part of each employee's refresher training, the employee is trained and qualified on the application of any Federal railroad safety laws, regulations, and orders the person is required to comply with, as well as any relevant railroad rules and procedures promulgated to implement those Federal railroad safety laws, regulations, and orders.

This requirement does not take effect for almost five years and thus falls outside the scope of the normal OMB approval period for agency information collection submissions. Consequently, there is no burden associated with it.

Total annual burden for this entire requirement is 2,106 hours (3 + 3 + 1 + 941 + 2 + 578 + 578).

§ 243.203 Records.

(a) *General requirements for qualification status records; accessibility.* Each employer shall maintain records to demonstrate the qualification status of each safety-related railroad employee whom it employs.

(1) The records for former safety-related railroad employees shall be accessible for six (6) years at the employer's system headquarters after the employment relationship ends.

(2) Current employee records shall be accessible at the employer's system headquarters.

(b) The records shall include the following information concerning each such employee:

(1) The name of the employee;

(2) Occupational category or subcategory designations for which the employee is deemed qualified;

(3) The dates that each formal training course was completed;

(4) The title of each formal training course successfully completed;

(5) If the safety-related railroad employee attended safety-related training offered by a business, a training organization, or a learning institution with an FRA-approved program, a copy of the transcript or appropriate record from that business, training

organization, or learning institution;

(6) The employee's OJT performance, which shall include the unique name or identifier of the OJT program component in accordance with § 243.103, the date the OJT program component was successfully completed, and the identification of the person(s) determining that the employee successfully completed all OJT training necessary to be considered qualified to perform the safety-related tasks identified with the occupational categories or subcategories for which the employee is designated in accordance with the program required by this Part;

(7) The date that the employee's status is determined to be qualified and the employee is designated to perform the safety-related duties identified with any particular occupational categories or subcategories, in accordance with the program required by this Part;

(8) If an employee's qualification status was transferred from another entity with an approved program, a copy of the training record from that other entity; and

(9) Any additional information required by this Part.

The burden for the above requirements is included under that of § 243.111 and §243.201 above. Consequently, there is no additional burden associated with these requirements.

(c) *Record accessibility for other than individual employee records.* Except for records demonstrating the qualification status of each safety-related railroad employee as described in paragraph (b) of this section or otherwise specified in this Part, each test, inspection, annual review, or other event record required by this Part shall be accessible for three (3) calendar years after the end of the calendar year to which the event relates. Each employer shall make these records accessible at one headquarters location within the United States, including, but not limited to, a railroad's system headquarters, a holding company's headquarters, a joint venture's headquarters, a contractor's principal place of business or other headquarters located where the contractor is incorporated. This requirement does not prohibit an employer with divisions from also maintaining any of these records at any division headquarters.

(d) *Availability of records.* Each employer, training organization, or learning institution required to maintain records under this Part shall:

(1) Make all records available for inspection and copying/photocopying to representatives of FRA, upon request during normal business hours; and

(2) Make an employee's records available for inspection and copying/photocopying to that employee, former employee, or such person's representative upon written authorization by such employee during normal business hours.

(e) *Electronic recordkeeping.* Nothing in this section precludes an employer, a training organization, or a learning institution from maintaining the information required to be retained under this Part in an electronic format provided that:

(1) The employer, training organization, or learning institution maintains an information technology security program adequate to ensure the integrity of the electronic data storage system, including the prevention of unauthorized access to the program logic or individual records;

(2) The program and data storage system must be protected by a security system that utilizes an employee identification number and password, or a comparable method, to establish appropriate levels of program access meeting all of the following standards:

(i) No two individuals have the same electronic identity; and

(ii) A record cannot be deleted or altered by any individual after the record is certified by the employee who created the record;

(3) Any amendment to a record is either:

(i) Electronically stored apart from the record that it amends; or

(ii) Electronically attached to the record as information without changing the original record;

(4) Each amendment to a record uniquely identifies the person making the amendment;

(5) The system employed by the employer, training organization, or learning institution for data storage permits reasonable access and retrieval of the information in usable format when requested to furnish data by FRA representatives; and

(6) Information retrieved from the system can be easily produced in a printed format which can be readily provided to FRA representatives in a timely manner and authenticated by a designated representative of the railroad as a true and accurate copy of the railroad's records if requested to do so by FRA representatives.

FRA estimates that approximately 20 new electronic recordkeeping systems will be set up in the next three years that meet the above requirements. It is estimated that it will take approximately 120 hours to set up the electronic recordkeeping system. Total annual burden for this requirement is 2,400 hours.

Respondent Universe:

106

RRs/contractors/associations/learning organizations

Burden time per response:	120 hours
Frequency of Response:	On occasion
Annual number of Responses:	20 recordkeeping systems
Annual Burden:	2,400 hours
Annual Cost:	\$175,200

Calculation: 20 recordkeeping systems x 120 hrs. = 2,400 hours

(f) *Transfer of records.* If an employer ceases to do business and its assets will be transferred to a successor employer, it shall transfer to the successor employer all records required to be maintained under this Part, and the successor employer shall retain them for the remainder of the period prescribed in this Part.

FRA estimates that approximately 20 records will be transferred as a result of an employer ceasing to do business. It is estimated that it will take approximately 15 minutes to transfer each record to the new employer. Total annual burden for this requirement is five (5) hours.

Respondent Universe:	106 railroads/contractors
Burden time per response:	15 minutes
Frequency of Response:	On occasion
Annual number of Responses:	20 transfer records
Annual Burden:	5 hours
Annual Cost:	\$365

Calculation: 20 transfer records x 15 min. = 5 hours

Total annual burden for this entire requirement is 2,405 hours (2,400 + 5).

§ 243.205 Periodic oversight.

(a) As part of the program required in accordance with this Part, an employer shall adopt and comply with a program to conduct periodic oversight tests and inspections to determine if safety-related railroad employees comply with Federal railroad safety laws, regulations, and orders particular to FRA-regulated personal and work group safety. The program of periodic oversight shall commence on the day the employer files its program with FRA pursuant to § 243.101(a) or on the day the employer commences operations pursuant to § 243.101(b). The data gathered through the testing and inspection components of the program shall be used to determine whether systemic performance gaps exist, and to determine if modifications to the training component of the program are appropriate to close those gaps.

The burden for adopting and complying with a program of periodic oversight tests and inspections is included above under the training program requirements in § 243.101(a). Consequently, there is no additional burden associated with this part of the requirement.

Further, FRA estimates that approximately one (1) training program will be modified as a result of the data gathered under the above requirement. It is estimated that it will take approximately 40 hours to modify each training program. Total annual burden for this requirement is 40 hours.

Respondent Universe:	106 railroads/contractors
Burden time per response:	40 hours
Frequency of Response:	On occasion
Annual number of Responses:	1 modified training programs
Annual Burden:	40 hours
Annual Cost:	\$2,920

Calculation: 1 modified training programs x 40 hrs. = 40 hours

Additionally, FRA estimates that approximately 8,600 periodic tests and inspections of safety-related railroad employees will be conducted each year under the above requirement. It is estimated that it will take approximately 10 minutes to conduct each test/inspection. Total annual burden for this requirement is 1,433 hours.

Respondent Universe:	106 railroads/contractors
Burden time per response:	10 minutes
Frequency of Response:	On occasion
Annual number of Responses:	8,600 periodic tests/inspections
Annual Burden:	1,433 hours
Annual Cost:	\$97,444 (\$68p/hr. avg. for all employee groups)

Calculation: 8,600 periodic tests/inspections x 10 min. = 1,433 hours

(b) Periodic oversight specified in this section is not required for employees covered by Parts 240 and 242 of this Chapter, but a railroad shall use results of the assessments required by those Parts to determine if changes in its training programs are necessary to close any proficiency gaps found during those assessments.

In the next three years, FRA estimates that zero (0) training programs will be changed as the result of Parts 240 and 242 assessments. Consequently, there is no additional burden associated with this requirement.

(c) *Railroad oversight.* Each railroad shall identify supervisory employees, by category or subcategory, responsible for conducting periodic oversight tests and inspections for the safety-related railroad employees that it authorizes to perform safety-related duties on its property, except a railroad is not required to:

(1) Provide oversight for a contractor’s safety-related railroad employees if that contractor is required to conduct its own periodic oversight because it meets the criteria specified in paragraph (g) of this section;

(2) Provide oversight for categories or subcategories of a contractor’s safety-related railroad employees if the railroad does not employ supervisory employees who are qualified as safety-related railroad employees in those categories or subcategories; or

(3) Provide oversight for any supervisory employee identified by the railroad as responsible for conducting oversight in accordance with this section.

FRA estimates that approximately 10 identifications of supervisory employees by category or subcategory will be made by railroads under the above requirement. It is estimated that it will take approximately five (5) minutes to record each supervisory employee. Total annual burden for this requirement is one (1) hour.

Respondent Universe:	106 railroads/contractors
Burden time per response:	5 minutes
Frequency of Response:	On occasion
Annual number of Responses:	10 identifications
Annual Burden:	1 hour
Annual Cost:	\$73

Calculation: 10 identifications x 5 min. = 1 hour

(d) A railroad is not required to perform operational tests of safety-related railroad employees employed by a contractor.

(e) A railroad may choose to require supervisory employees to perform oversight of safety-related railroad employees employed by a contractor either:

(1) When oversight test and inspection sessions are scheduled specifically to determine if safety-related employees are in compliance with Federal railroad safety laws, regulations, and orders particular to FRA-regulated personal and work group safety; or

(2) When a qualified railroad supervisory employee’s duties place this person in the vicinity of one or more safety-related railroad employees employed by a contractor and performing the oversight would result in minimal disruption of this person’s other assigned duties.

FRA estimates that approximately 4,695 periodic tests and inspections of safety-related contractor railroad employees will be conducted by railroad supervisory employees each year under the above requirement. It is estimated that it will take approximately 20

minutes to conduct each test/inspection. Total annual burden for this requirement is 1,565 hours.

Respondent Universe:	106 railroads
Burden time per response:	20 minutes
Frequency of Response:	On occasion
Annual number of Responses:	4,695 contractor periodic tests/inspections
Annual Burden:	1,565 hours
Annual Cost:	\$106,420 (\$68p/hr. avg. for all employee groups)

Calculation: 4,695 contractor periodic tests/inspections x 20 min. =
1,565 hours

(f) A railroad that finds evidence of contractor employee non-compliance with Federal railroad safety laws, regulations, and orders particular to FRA-regulated personal and work group safety during the periodic oversight shall provide that employee and that employee's employer with details of the non-compliance.

FRA estimates that approximately 175 cases of non-compliance by contractor employees will be found by railroads under the above circumstances. Thus, a total of 175 notifications will be made both to the affected employees and to their employers (a total of 350) under the above requirement. It is estimated that it will take approximately five (5) minutes to complete each notification. Total annual burden for this requirement is 30 hours.

Respondent Universe:	755 railroads
Burden time per response:	5 minutes + 5 minutes
Frequency of Response:	On occasion
Annual number of Responses:	175 employee notifications + 175 employer notifications
Annual Burden:	30 hours
Annual Cost:	\$2,190

Calculation: 175 employee notifications x 5 min. + 175 employer notifications
x 5 min = 30 hours

(g) *Contractor oversight.* Each contractor shall conduct periodic oversight tests and inspections of its safety-related railroad employees provided:

- (1) A contractor employs more than 15 safety-related railroad employees;
- (2) A contractor relies on training it directly provides to its own employees as the basis for qualifying those employees to perform safety-related duties on a railroad; and

(3) A contractor employs supervisory safety-related railroad employees capable of performing oversight.

FRA estimates that approximately 795 periodic tests and inspection of contractor safety-related contractor railroad employees will be conducted by the contractors themselves under the above requirement. It is estimated that it will take approximately 10 minutes to conduct each test/inspection. Total annual burden for this requirement is 133 hours.

Respondent Universe:	795 contractors
Burden time per response:	10 minutes
Frequency of Response:	On occasion
Annual number of Responses:	795 contractor employee periodic tests/inspections
Annual Burden:	133 hours
Annual Cost:	\$9,044 (\$68p/hr. avg. for all employee groups)

Calculation: 795 contractor empl. periodic tests/inspections x 10 min. = 133 hours

Further, FRA estimates that 45 contractor employees will be directly trained by the contractor to perform safety-related duties on a railroad. It is estimated that it will take approximately eight (8) hours to train each contractor employee. Total annual burden for this requirement is 360 hours.

Respondent Universe:	795 contractors
Burden time per response:	8 hours
Frequency of Response:	On occasion
Annual number of Responses:	45 trained contractor employees
Annual Burden:	360 hours
Annual Cost:	\$24,480 (\$68p/hr. avg. for all employee groups)

Calculation: 45 trained contractor employee x 8 hrs. = 360 hours

(h) Notwithstanding the requirements of paragraphs (c) and (g) of this section, a railroad and a contractor may agree that the contractor will provide the oversight by specifying in the program that the railroad has trained the contractor employees responsible for training and oversight.

The burden for this requirement is included above under the training program requirements in § 243.101(b) above. Consequently, there is no additional burden associated with this part of the requirement.

(i) Each employer that conducts periodic oversight in accordance with this section must keep a record of the date, time, place, and result of each test or inspection. The records shall specify each person administering tests and inspections, and each person tested. The record shall also provide a method to record whether the employee complied with the monitored duties, and any interventions used to remediate non-compliance. Modifications of the program required by § 217.9 of this chapter may be used in lieu of this oversight program, provided a railroad specifies it has done so in its program submitted in accordance with this Part.

(j) Records required under this section are subject to the requirements of § 243.203.

FRA estimates that approximately 5,490 records of periodic oversight with the necessary information will be kept by employers under the above requirement. It is estimated that it will take approximately five (5) minutes to complete each record. Total annual burden for this requirement is 458 hours.

Respondent Universe:	56 railroads/contractors
Burden time per response:	5 minutes
Frequency of Response:	On occasion
Annual number of Responses:	5,490 periodic oversight records
Annual Burden:	458 hours
Annual Cost:	\$33,434

Calculation: 5,490 periodic oversight records x 5 min. = 458 hours

Total annual burden for this entire requirement is 4,020 hours (40 + 1,433 + 1 + 1,565 + 30 + 133 + 360 + 458).

§ 243.207 Annual review.

(a) *Review of safety data and adjustments to required training programs.* The purpose of this review is to determine if knowledge or performance gaps exist in the application of Federal railroad safety laws, regulations, and orders. This section shall apply to each railroad once a program has been approved by FRA in accordance with this Part. This section does not apply to a railroad with less than 400,000 total employee work hours annually. This section does not apply to employers other than railroads except as specified in paragraph (f) of this section.

(b) Except as provided for in paragraph (a) of this section, each railroad that is required to conduct periodic oversight in accordance with §243.205 is also required to conduct an annual review, as provided in this section, and shall retain, at its system headquarters, one copy of the written annual review.

FRA estimates that there are approximately 11 railroads with 400,000 or more total employee labor hours annually that will use model programs and need to conduct the required annual reviews. Approximately four (4) annual reviews will be conducted by railroads under the above requirement. It is estimated that it will take approximately 20 hours to complete each annual review. Total annual burden for this requirement is 80 hours.

Respondent Universe:	18 railroads
Burden time per response:	20 hours
Frequency of Response:	On occasion
Annual number of Responses:	4 annual reviews
Annual Burden:	80 hours
Annual Cost:	\$5,840

Calculation: 4 annual reviews x 20 hrs. = 80 hours

Additionally, FRA estimates that approximately four (4) copies of their written annual reviews will be kept by railroads at their system headquarters under the above requirement. It is estimated that it will take approximately 20 minutes to complete each copy of the written annual review (1 hour divided by three since they will not occur until year 3 as noted in the accompanying regulatory evaluation for this final rule). Total annual burden for this requirement is one (1) hour.

Respondent Universe:	18 railroads
Burden time per response:	20 minutes
Frequency of Response:	On occasion
Annual number of Responses:	4 copies of written annual reviews
Annual Burden:	1 hour
Annual Cost:	\$73

Calculation: 4 copies of written annual reviews x 20 min. = 1 hour

(c) Each railroad shall designate a person(s) who shall conduct a written annual review. The annual review shall be designed to identify knowledge or performance gaps in occupational categories and determine whether adjustments to the training component of the program are the appropriate intervention to close those gaps or otherwise improve the effectiveness of the program. Such review shall include analysis of the following data:

- (1) Periodic oversight data required by § 243.205;
- (2) Reportable accident/incident data as defined in Part 225 of this Chapter;
- (3) FRA inspection report data;

(4) Employee training feedback received through a course evaluation process, if such feedback is available; and

(5) Feedback received from labor representatives, if such feedback is available.

The burden for annual review is included above. Consequently, there is no additional burden associated with this requirement.

FRA estimates that approximately 48 designations of person(s) who shall conduct a written annual review will be made by railroads under the above requirement. It is estimated that it will take approximately 15 minutes to complete each designation. Total annual burden for this requirement is 12 hours.

Respondent Universe:	18 railroads
Burden time per response:	15 minutes
Frequency of Response:	On occasion
Annual number of Responses:	48 designations
Annual Burden:	12 hours
Annual Cost:	\$876

Calculation: 48 designations x 15 min. = 12 hours

(d) Based upon the results of the annual review, the designated person(s) shall coordinate any necessary adjustments to the initial and refresher training programs. At the railroad's option, the annual review required under this section may be conducted in conjunction with any periodic review required under Part 217 of this chapter.

FRA estimates that approximately one (1) adjustment to the initial and refresher training programs will be made by railroads under the above requirement. It is estimated that it will take approximately one (1) hour to adjust the railroad program. Total annual burden for this requirement is one (1) hour.

Respondent Universe:	18 railroads
Burden time per response:	1 hour
Frequency of Response:	On occasion
Annual number of Responses:	1 adjusted initial/refresher training programs
Annual Burden:	1 hour
Annual Cost:	\$73

Calculation: 1 adjusted initial and refresher training programs x 1 hr. = 1 hour

(e) If a railroad utilizes a contractor that directly trains its own safety-related railroad employees, the railroad shall notify the contractor of the relevant training program adjustments made to the railroad's program in accordance with paragraph (d) of this section.

The burden for contractors training their own employees is included under § 243.205 above. Consequently, there is no additional burden associated with this requirement.

FRA estimates that approximately two (2) notifications will be made by railroads to contractors of the relevant railroad training program adjustments under the above requirement. It is estimated that it will take approximately 15 minutes to complete each notification. Total annual burden for this requirement is one (1) hour.

Respondent Universe:	18 railroads
Burden time per response:	15 minutes
Frequency of Response:	On occasion
Annual number of Responses:	2 notifications
Annual Burden:	1 hour
Annual Cost:	\$73

Calculation: 2 notifications x 15 min. = 1 hour

(f) A contractor shall use any information provided by a railroad to adjust its training specific to the Federal railroad safety laws, regulations, and orders particular to FRA-regulated personal and work group safety.

FRA estimates that approximately one (1) contractor training program will be adjusted based on the information provided by railroads. It is estimated that it will take each contractor approximately 20 hours to adjust its training program. Total annual burden for this requirement is 20 hours.

Respondent Universe:	38 contractors
Burden time per response:	20 hours
Frequency of Response:	On occasion
Annual number of Responses:	1 adjusted contractor training program
Annual Burden:	20 hours
Annual Cost:	\$1,460

Calculation: 1 adjusted contractor training programs x 20 hrs. = 20 hours

(g) Prior to September 1 of each calendar year, each railroad to which this section applies shall complete its annual review for the previous calendar year.

The burden for this requirement is included under § 243.207(a) above. Consequently, there is no additional burden associated with this requirement.

Total annual burden for this entire requirement is 115 hours (80 + 1 + 12 + 1 + 1+ 20).

§ 243.209 Railroad maintained list of contractors utilized.

(a) Each railroad utilizing contractors to supply the railroad with safety-related railroad employees shall maintain a list, at its system headquarters, with information regarding each contractor utilized unless:

(1) The railroad qualifies each of the contractor's safety-related railroad employees utilized; and

(2) The railroad maintains the training records for each of the contractor's safety-related railroad employees utilized.

(b) The listing required by paragraph (a) of this section shall include:

(1) The full corporate or business name of the contractor;

(2) The contractor's primary business and email address; and

(3) The contractor's primary telephone number.

FRA estimates that approximately 11 lists with the required information will be made by railroads at their system headquarters under the above requirement. It is estimated that it will take approximately 30 minutes to complete each list. Total annual burden for this requirement is six (6) hours.

Respondent Universe:	56 railroads
Burden time per response:	30 minutes
Frequency of Response:	On occasion
Annual number of Responses:	11 lists
Annual Burden:	6 hours
Annual Cost:	\$438

Calculation: 11 lists x 30 min. = 6 hours

(c) The information required by this section shall be continuously updated as additional contractors are utilized, and no contractor information shall be deleted from the list unless the contractor has not been utilized for at least three (3) years from the end of the calendar year the contractor was last utilized.

FRA estimates that approximately one (1) list will be updated continuously under the above requirement. It is estimated that it will take approximately 15 minutes to complete each list. Total annual burden for this requirement is .25 hour.

Respondent Universe:	56 railroads
Burden time per response:	15 minutes

Frequency of Response:	On occasion
Annual number of Responses:	1 updated list
Annual Burden:	.25 hour
Annual Cost:	\$18

Calculation: 1 updated lists x 15 min. = .25 hour

Total annual burden for this entire requirement is six (6) hours (6 + .25).

Total annual burden for this entire collection of information is **282,824 hours**, and the total dollar equivalent cost for these hours is **\$18,851,073**.

13. Estimate of total annual costs to respondents.

Besides the costs fully itemize in answer to question number 12, there are no other costs to respondents associated with this collection of information.

14. Estimate of Cost to Federal Government.

The costs to the Federal Government are as follows:

- I. FRA staff review of Class I Railroad Training Program
Submissions/Resubmissions/Informational Filings – 1 GS-15 staff x 40 hrs. x \$118 p/hr. x 7 railroads + 4 GS-14 staff x 40 hrs. x \$100 p/hr. x 7 railroads = **\$145,040**
- II. FRA staff review of Class II/Commuter Railroad Training Program
Submissions/Resubmissions/Informational Filings – 1 GS-15 staff x 32 hrs. x \$118 p/hr. x 25 railroads + 4 GS-14 staff x 32 hrs. x \$100 p/hr. x 25 railroads = **\$414,400**
- III. FRA staff review of Other Class II Railroad Training Program
Submissions/Resubmissions/Informational Filings – 1 GS-15 staff x 24 hrs. x \$118 p/hr. x 8 railroads + 4 GS-14 staff x 24 hrs. x \$100 p/hr. x 8 railroads = **\$99,456**
- IV. FRA staff review of Class II Railroad Model Training Program
Submissions/Resubmissions/Informational Filings – 4 GS-14 staff x 8 hrs. x \$100 p/hr. x 4 railroads/contractors/etc. = **\$12,800**
- V. FRA staff review of Class III Railroad Training Program
Submissions/Resubmissions/Informational Filings – 4 GS-14 staff x 4 hrs. x \$100 p/hr. x 676 railroads = **\$1,081,600**

VI. FRA staff review of Contractor/Learning Institution Training Program Submissions/Resubmissions/Informational Filings – 1 GS-15 staff x 24 hrs. x \$118 p/hr. x 580 contractors/learning institutions + 4 GS-14 staff x 24 hrs. x \$100 p/hr. x 580 contractors/learning institutions = **\$5,732,256**

SUBTOTAL = \$7,485,552

Implementation Audits (Note: Audit costs below are calculated for the first two years. In the second and third years, only 12 remaining Class II railroads will need to undergo implementation audits. As a result, the implementation audit costs for the third year will drop substantially and will amount to a total of **\$271,872**).

VII. Class I Railroad Audits – 1 GS-15 FRA staff x 40 hrs. x \$118 p/hr. x 7 railroads + 4 GS-14 staff x 40 hrs. x \$100 p/hr. x 7 railroads + 8 GS-12 staff x 40 hrs. x \$71p/hr. x 7 railroads = **\$304,080**

VIII. Class II/Commuter Railroad Audits – 1 GS-15 FRA staff x 24 hrs x \$118 p/hr. x 25 railroads + 4 GS-14 x 24 hrs. x \$100 p/hr. x 25 railroads + 4 GS-12 staff x 24 hrs. x \$71 p/hr. x 25 railroads = **\$481,200**

IX. Class III Railroad Audits –1 GS-14 staff x 8 hrs. x \$100 p/hr. x 676 railroads + 1 GS-12 staff x 8 hrs. x \$71 p/hr. x 676 railroads = **\$924,768**

X. Contractor/Learning Institution Audits – 1 GS-15 FRA staff x 8 hrs. x \$118 p/hr. x 580 contractors/learning institutions + 4 GS-14 x 8 hrs. x \$100 p/hr. x 580 contractors/learning institutions = **\$2,403,520**

SUBTOTAL = \$4,113,568

GRANDTOTAL = \$11,599,120

15. Explanation of program changes and adjustments.

This is a revision to the previously approved collection of information. The burden has increased by **13,501 hours** and decreased by **317 responses** from the last submission. There is one (1) **program change** and **four (4) adjustments**, which are shown in the following tables:

Please note for program changes: Part 217 and Part 218 Provisions do not go into effect until Sept. 1, 2021, which is outside scope of this submission and therefore decreases burden hours by 122., as shown in below table.

Please note for adjustments: The main general adjustment was due to the estimated # of employer training programs increasing; thus increasing the estimated number of total hours under Parts 217 & Part 218, as shown in below table.

TABLE FOR PROGRAM CHANGE

Part 217Sec./ Part 218 Sec.	Responses & Avg. Time (Previous Submission)	Responses & Avg. Time (This Submission)	Burden Hours (Previous Submission)	Burden Hours (This Submission)	Difference (plus/minus)
243.201(a)(2) – RR Designation of Safety-related employees by occupational category or subcategory	486 lists 15 minutes	<i>Provision now does not go into effect until Sept. 1, 2021, which is outside scope of this submission</i>	122 hours	0 hours	-- 122 hours -- 486 resp.

Program change above decreased the burden by 122 hours and 486 responses.

TABLE FOR ADJUSTMENTS

Part 217Sec./ Part 218 Sec.	Responses & Avg. Time (Previous Submission)	Responses & Avg. Time (This Submission)	Burden Hours (Previous Submission)	Burden Hours (This Submission)	Difference (plus/minus)
243.101 – Training Programs for employers with 400,000 total work hours or more annually	16 programs 6,480 hours	18 programs 6,480 hours	103,680 hours	116,640 hours	+ 12,960 hours + 2 responses
- Training programs for employers with less than 400,000 total employee work hours annually	486 programs 20 hours	496 programs 20 hours	9,720 hours	9,920 hours	+ 200 hours + 10 responses
243.105 (a) – Customized Training Programs	0 programs 0 hours	113 customized programs 4 hours	0 hours	452 hours	+ 452 hours + 113 resp.
243.113 – RR Letter to FRA for Electronic filing of submissions	16 letters 15 minutes	60 letters 15 minutes	4 hours	15 hours	+ 11 hours + 44 responses

Total adjustments above increased the burden by 13,623 hours and 169 responses.

The current inventory for this information collection exhibits a total of **269,323 hours** and **78,464 responses**, while the present submission shows a total **282,824 hours** and **78,147 responses**. Hence, there is a total burden increase of **13,501 hours** and a total

burden decrease of **317 responses**.

There is no change in costs to respondents.

16. Publication of results of data collection.

FRA has no plans to publish this information.

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

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

18. Exception to certification statement.

No exceptions are taken at this time.

Meeting Department of Transportation (DOT) Strategic Goals

This information collection supports the top DOT strategic goal, namely transportation safety. Without the information collected, FRA would have no way to know that railroads and contractors are properly and adequately training safety-related employees regarding Federal rail safety laws, regulations, and orders. Without approved and effective training programs, safety-related employees would not receive essential training to do their important jobs safely and effectively.

The scientific literature on training in general and FRA's own experience with training in the railroad industry show a clear link between the quality of training programs – including whether training is engaging or “hands-on” – and safety. Even though rail transportation in the United States is generally an extremely safe mode of transportation, and rail safety has been improving, well-designed training programs have the potential to further reduce risk in the railroad environment. FRA believes that better designed training can reduce the number of accidents/incidents caused by human factors.

Without the information collected, FRA would not have an opportunity to carefully review and comment on the training provided by railroads, contractors, and learning institutions. Without review of required training program submissions, resubmissions, and informational filings, FRA staff could not determine whether essential Federal safety laws, regulations, and orders were being addressed in a thorough and systematic way as they relate to the daily tasks of safety-related employees. Without the required training program submissions and the opportunity to closely scrutinize them, FRA would have no way to verify that railroads, contractors, and training/learning institutions are providing necessary and critical on the job (OJT) and hands-on training for their employees. Without the benefit of such training, employees would not be able to do their jobs as effectively, and it is highly likely that there would be increased numbers of accidents/incidents and injuries, fatalities, and property damage that accompany them.

Without the information collected, FRA would not have access to lists of designated safety-related employees by occupational category or subcategory. Without this information and the required records under this rule, FRA would not know whether employees in a given category or subcategory have undergone formal and informal training and thus have been properly and adequately trained and are thereby qualified to do their jobs. FRA would have no way of knowing whether these employees have passed or failed tests, and what actions were taken by railroad, contractors, and learning/training institutions to address any deficiencies found from such testing. Unqualified employee performing critical safety-related tasks could cause major accidents/incidents leading to public/ worker injuries, fatalities, and damage to railroad equipment resulting in high dollar losses for their employers.

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

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

