

**ROADWAY WORKER PROTECTION**  
**49 CFR 214**  
**OMB No. 2130-0539**

Summary of Submission

- This submission is a request for an **extension with change** to the last approval granted by OMB on **February 6, 2017**, and which expires **July 31, 2019**.
- FRA published the required 60-day **Federal Register** Notice on **May 30, 2019**. See 84 FR 25110. FRA received no comments in response to this Notice.
- Total number of burden **hours previously approved** by OMB for this collection is **864,523 hours** and total number of **responses previously approved** is **25,078,191**.
- Total number of burden **hours requested** is **6,359 hours** and the total number of **responses requested** is **106,482**.
- The total burden for this collection has decreased by **858,164 hours**, and by **24,971,709 responses**.
- **Adjustments decreased** by **858,164 hours**, and by **24,971,709 responses**.
- **\*\*The answer to question number 12 itemizes the hourly burden associated with each information collection requirement associated with this rule (See pp. 13-55).**
- **\*\*The answer to question number 15 itemizes all **adjustments** associated with this rule (See pp. 56-61).**

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

Background

The Federal Railroad Safety Act of 1970, as codified at 49 U.S.C. 20103, provides that, "[t]he Secretary of Transportation, as necessary, shall prescribe regulations and issue orders for every area of railroad safety supplementing laws and regulations in effect on October 16, 1970". The Secretary's responsibility under this provision and the balance of the railroad safety laws have been delegated to the Federal Railroad Administrator (FRA). 49 CFR 1.49(m). In the field of railroad workplace safety, FRA has traditionally pursued a very conservative course of regulation, relying upon the industry to implement suitable railroad safety rules and mandating in the broadest of ways that employees be

“instructed” in the requirements of those rules and that railroads create and administer programs of operational tests and inspections to verify rules compliance. This approach is based on several factors, including recognition of the strong interest of railroads in avoiding costly accidents and personal injuries, the limited resources available to FRA to directly enforce railroad safety rules, and the apparent success of management and employees in accomplishing most work in a safe manner.

Over the years, however, it became necessary to codify certain requirements, either to remedy perceived shortcomings in the railroads' rules to emphasize the importance of compliance, or to provide FRA a more direct means of promoting compliance. These actions, which in many cases were preceded or followed by statutory mandates, included adoption of rules governing:

- Bridge Worker Safety Standards (49 CFR part 214 subpart B);
- Roadway Worker Protection (49 CFR part 214 subpart C); and
- On-Track Roadway Maintenance Machines and Hi-Rail Vehicles (49 CFR part 214 subpart D).

In 1990, FRA received a petition to amend its track safety standards from the Brotherhood of Maintenance of Way Employees Division (BMWED), which included issues pertaining to the hazards faced by roadway workers. Subsequently, in response to the Rail Safety Enforcement and Review Act, Public Law No. 102-365, 106 Stat. 972, enacted September 3, 1992. FRA issued an Advanced Notice of Proposed Rulemaking (ANPRM) on November 16, 1992, announcing the opening of a proceeding to amend the Federal Track Safety Standards to, in part, address hazards faced by roadway workers. 57 FR 54038.

FRA held workshops to solicit the views of the railroad industry and representatives of railroad employees on the need for substantive change in the track regulations. The subject of injury and death to roadway workers was of such great concern that FRA received petitions for emergency orders and requests for rulemaking from both the BMWED and the Brotherhood of Railroad Signalmen (BRS). Finding that no imminent hazards existed that would justify issuance of emergency orders at the time, FRA did not issue any emergency orders in response to those petitions, but instead initiated a separate proceeding to consider regulations to eliminate hazards faced by roadway workers.

On August 17, 1994, FRA published its notice of intent to establish a Federal Advisory Committee (FAC) for regulatory negotiation. 59 FR 42200. The FAC was tasked with submitting a report, including proposed regulatory language, containing the FAC's consensus recommendations. On December 27, 1994, the Office of Management and Budget approved the Charter to establish a Roadway Worker Safety Advisory Committee (Advisory Committee) comprised of twenty-five members. The Advisory Committee held seven multiple-day negotiating sessions. An independent task force, comprised of

representatives of several railroads and labor organizations, had met during the preceding year and independently analyzed on-track safety practices. This task force presented information at the first Advisory Committee meeting. The Advisory Committee reached consensus on eleven specific recommendations and nine general recommendations. These recommendations served as the basis for FRA's first RWP Notice of Proposed Rule Making (NPRM), which was published on March 14, 1996. 61 FR 10528. FRA published a final rule establishing the original RWP regulation on December 16, 1996, which became effective on January 15, 1997 (61 FR 65959). The final rule largely incorporated the Advisory Committee's recommendations.

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

The information required under § 214.336 will be used by roadway work groups to ensure that its members are properly notified in sufficient time to move to places of safety when a train or other on-track equipment is authorized to move on adjacent track at various legal speeds in accordance with the railroad's procedures for adjacent-controlled track movements over 25 miles-per-hour. The required on-track safety must be established through working limits or train approach warning provided by watchmen/lookout warnings and by notifications and communications prescribed in this section. Working limits must not be released until all affected roadway workers have either left the track or have been afforded on-track safety through train approach warning in accordance with § 214.329.

The information required under § 214.336 enables roadway work groups to know when it is safe to resume work. Thus, a component of a roadway work group may resume on-ground work and movement of any roadway maintenance machine or couple equipment on or fouling an occupied track only after the trailing-end of all the trains or other on-track equipment moving on the adjacent controlled (for which a notification or warning has been received) has passed and remains ahead of that component of the roadway work group. If the train or other on-track equipment stops before its trailing-end has passed all of the roadway workers in the roadway work group, the work to be performed on or fouling the occupied track ahead of the trailing-end of the train or other on-track equipment on the adjacent controlled track may resume only if on-track safety through train approach warning (in accordance with § 214.329) has been established on the adjacent controlled track; or after the roadway worker in charge has communicated with the train engineer or equipment operator and established that further movements of the train or other on-track equipment shall be made only as permitted by the roadway worker in charge.

Under § 214.303 and § 214.307, the information collected is used by FRA to ensure that each railroad adopts and implements the required on-track safety program that will afford on-track safety to all roadway worker whose duties are performed on that railroad. Each such program – and any amendments to that program – must provide for the level of

safety specified in this subpart. Each on-track safety program adopted to comply with this part must include procedures to be used by each railroad for monitoring for effectiveness and compliance with the program. When railroads determine that it is necessary to revise their on-track safety program, FRA reviews these program amendments to determine that the required level of safety is maintained.

Under §§ 214.343/345/347/349/353/355, FRA uses the required written records regarding roadway worker qualifications to assist its investigators after an accident or incident resulting in roadway worker casualties. These records are required to contain the type of qualification attained by each roadway worker and the most recent date of qualification. By examining these and other records, FRA can determine whether or not appropriate personnel received necessary training and followed the required on-track safety procedures. Together with railroad management, FRA can then take corrective action, if necessary. The lack of this information would make the rail environment much more dangerous for roadway workers and impede FRA in its goal of reducing roadway worker injuries and deaths.

Under § 214.503, the information collected is used by railroad workers to improve safety and prevent accidents and casualties caused by the operation of on-track roadway maintenance machines and hi-rail vehicles. Employees operating on-track roadway maintenance machines are required to notify their employer whenever they make a good faith determination that the machines do not comply with FRA regulations. For their part, employers must have in place and follow written procedures to assure prompt and equitable resolution of these challenges resulting from the good faith determination made by employees. The employer cannot require an employee challenging the fitness of a machine to operate the machine until the challenge has been resolved. By calling the employer's attention to problems with roadway maintenance machines, roadway workers can ensure that safety deficiencies and other defects are immediately addressed. Under the rule, employers are generally allowed up to seven (7) days to repair a roadway maintenance machine found to be non-compliant.

Under § 214.505, employers are required to maintain a list of new and designated roadway maintenance machines that are equipped with enclosed cabs with operative heating systems, operative air conditioning systems, and operative positive pressurized ventilation systems. The list determines employer responsibilities related to environmental control and protection systems for new and existing on-track roadway maintenance machines with enclosed cabs. New on-track roadway maintenance machines and existing on-track roadway maintenance machines specifically designated by the employer (of the types identified in paragraphs (a)(1) through (a)(5) of this section or functionally equivalent thereto) must be capable of protecting employees in the cabs of the machines from exposure to air contaminants, in accordance with 29 CFR 1910.1000.

Included among the machines specified in paragraphs (a)(1) through (a)(5) of this section

are the following: ballast regulators, tampers, mechanical brooms, rotary scarifiers, undercutters, or the functional equipment of any of these. The designation is irrevocable, and the designated existing roadway maintenance machine remains subject to the above protection requirement until the machine is retired or sold. If the ventilation system on a new on-track roadway maintenance machine or existing on-track roadway maintenance machine identified in paragraphs (a)(1) through (a)(5) of this section (or functional equivalent thereto) becomes incapable of protecting an employee in the cab of the machine from exposure to air contaminants in accordance with 29 CFR 1910.1000, personal respiratory equipment must be provided for each such employee until the machine is repaired in accordance with § 214.531. The list must be kept current, and made available to FRA and other Federal and State agencies upon request. FRA and other Federal and State inspectors use these rosters to determine which agency has responsibility for inspection and enforcement (compliance) of respiratory safety regulations for each roadway machine in order to assure railroad workers' health and safety are protected.

The information is also used to help protect the health and safety of railroad workers in other ways. Under § 214.511, audible warning devices are required on new on-track roadway maintenance machines. The triggering mechanism for this audible warning device must be clearly identifiable and within easy reach of the machine operator. Additionally, each existing on-track maintenance machine must be equipped with a permanent or audible warning device that produces a sound loud enough to be heard by roadway workers and other machine operators within the immediate work area. Again, the triggering mechanism for the audible warning device must be clearly identifiable and within easy reach of the machine operator. Thus, in critical situations, roadway workers will readily know where the triggering mechanism is located and will be able to sound the warning device before a potential accident/incident occurs and a fellow roadway worker is injured or possibly killed.

The information collected under § 214.515 serves to further enhance roadway workers' safety because their employers are now required to evaluate the feasibility of providing an overhead cover for existing on-track roadway maintenance machines, if requested in writing by the operator assigned to operate that machine or by the operator's designated representative. The employer must provide a written response for each request within 60 days. When the employer finds the addition of an overhead cover is not feasible, the response must include an explanation of the reasoning used by the employer to reach that conclusion. Many older on-track roadway maintenance machines were not designed with overhead covers. Covers or canopies provide important benefits to machine operators, most notably by shielding them from overhead sunlight and from severe weather such as sleet, snow, hail, and rain. Due to these provisions and corresponding information collection requirements, employers are not able to deny roadway workers equipment that will protect their health and safety, unless they have a legitimate reason. Being protected from blinding sun or exposure to inclement weather enhances employee safety by serving

to reduce the number of accidents/incidents and corresponding casualties that typically accompany caused by weather related factors.

Under § 214.517, each existing on-track roadway maintenance machines must have stenciling or documentation on the machine identifying the light weight of the machine clearly displayed on it, and also the location of safe and secure positions for the machine operator and roadway workers to be transported on the machine. Thus, the displayed light weight identifies the machine's proper category and provides essential information to crane operators in the event the machine is lifted on to or loaded off a flat bed truck or rail car for movement from one work site to another. If roadway workers are not permitted on the machine, the prohibition must be noted by the stenciling or documentation on the machine. In both cases, such additional clear markings serve to reduce the likelihood of accidents/incidents and potentially serious injuries to machine operators and other roadway workers, as well to mitigate lost productivity to employers that such serious injuries bring.

Under § 214.523, the operator of a high-rail vehicle must check the vehicle for compliance with this subpart, prior to using the vehicle at the start of the operator's work shift. Non-complying conditions that cannot be immediately repaired must be tagged and dated in a manner determined by the employer and reported to the designated official. This tagging requirement then serves to alert roadway workers to potential hazards and further enhance railroad safety by reducing the likelihood of accidents/incidents involving hi-rail vehicles.

FRA also uses the information collected under § 214.523. Specifically, FRA uses the records required regarding mandatory hi-rail vehicle annual safety inspections to ensure that the safety critical components of these vehicles are adequately maintained and, if necessary, promptly repaired or replaced. In particular, tram, wheel wear and gage measurements must be checked at least annually and adjusted, as warranted, to provide for continued safe operation of these vehicles. Thus, FRA uses these hi-rail inspection records to verify compliance with this subpart.

Finally, FRA inspectors of all five rail safety disciplines use the violation report form (FRA F 6180.119) to cite any violations of the part 214 regulations and to recommend civil penalties for serious infractions to promote and maintain rail safety.

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

In keeping with the requirements of the Paperwork Reduction Act (PRA) and the Government Paperwork Elimination Act (GPEA), FRA has strongly supported and highly encouraged the use of advanced information technology, including electronic recordkeeping, to reduce burden on respondents, wherever possible, for many years. In reference to the requirements involving Subpart D, FRA has explicitly provided railroads

the option of maintaining the required records electronically. For example, under § 214.307, each railroad to which this Part applies is authorized to retain its on-track safety program by electronic recordkeeping in accordance with §§ 217.9 (g) and 217.11(c) of this Subchapter. Also, under § 214.505, railroads are required to maintain a roster of machinery that falls under FRA's jurisdiction for purposes of this regulation. The roster may be maintained on paper or electronically, but it must be accessible and available to FRA, Occupational Safety and Health Administration (OSHA), and other Federal, as well as State, agencies so that inspectors may determine which agency has responsibility for inspection of which machines and for enforcement of respiratory safety regulations relating to each roadway maintenance machine. Also, under § 214.523, compliance records pertaining to hi-rail vehicle annual safety inspections may be kept electronically. The employer must maintain the record of the last inspection of each vehicle until the next inspection is performed. Additionally, under § 214.533, roadway maintenance machine or new hi-rail vehicle records pertaining to compliance with the schedule of repairs may be kept electronically. Moreover, the train dispatcher or control operator in charge of the track may record by electronic means all authorities issued to establish exclusive track occupancy. Each employer may also use electronic recordkeeping to maintain the required records of each roadway worker's current qualification. FRA has provided the option then of using electronic record keeping wherever feasible.

Railroads are always looking for ways to improve their operations and presently have in development technology such as Positive Train Separation (PTS) and personnel warning devices. Once these new technologies are tested and implemented, they may further reduce or eliminate some of the hazards and, therefore, risks for roadway workers, and concomitantly also reduce the paperwork burden by making unnecessary some of the requirements imposed by this rule. This would, of course, further reduce the overall burden.

Finally, Form FRA F 6180.119 is used within FRA's Railroad Inspection System for the Personal Computer (RISPIC system) by agency and state safety inspectors. As a result, the top one-third of the form is automatically filled-in or auto-populated once the inspector fills out the inspection report (Form FRA F 6180.96). This serves to reduce the time necessary to complete the entire form. Also, as a result of this form being in the RISPIC system, it can be easily updated by the safety inspector and can be quickly transmitted to FRA regional office specialists if further action is warranted. Thus, approximately 60 percent of responses may be collected electronically if railroads elect to keep all the required records electronically.

**4. Efforts to identify duplication.**

To our knowledge, this information is not duplicated anywhere.

Similar data is not available from any other source.

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

### Background

“Small entity” is defined in 5 U.S.C. 601. Section 601(3) defines a “small entity” as having the same meaning as “small business concern” under § 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 field of operations.

The U.S. Small Business Administration (SBA) has authority to regulate issues related to small businesses, and stipulates in its size standards that a “small entity” in the railroad industry is a for profit “line-haul railroad” that has fewer than 1,500 employees, a “short line railroad with fewer than 500 employees, or a “commuter rail system” with annual receipts of less than seven million dollars. See “Size Eligibility Provisions and Standards,” 13 CFR part 121 subpart A.

Federal agencies may adopt their own size standards for small entities in consultation with SBA and in conjunction with public comment. Pursuant to that authority, FRA has published a final statement of agency policy that formally establishes “small entities” or “small businesses” as being railroads, contractors and hazardous materials shippers that meet the revenue requirements of a Class III railroad as set forth in 49 CFR § 1201.1-1, which is \$20 million or less in inflation-adjusted annual revenues, and commuter railroads or small governmental jurisdictions that serve populations of 50,000 or less. See 68 FR 24891 (May 9, 2003), codified at Appendix C to 49 CFR part 209. The \$20 million limit is based on the Surface Transportation Board’s revenue threshold for a Class III railroad carrier. Railroad revenue is adjusted for inflation by applying a revenue deflator formula in accordance with 49 CFR part 1201-1. The same dollar limit on revenues is established to determine whether a railroad shipper or contractor is a small entity. FRA is proposing to use this definition for this rulemaking.

Included in the entities impacted by the final rule are governmental jurisdictions or transit authorities—most of which are not small for purposes of this certification. There are two commuter railroads that are privately owned and would be considered small entities. However, both of these entities are owned by Class III freight railroads and, therefore, are already considered to be small entities for purposes of this certification. There are approximately 708 small railroads.<sup>1</sup> Class III railroads do not report to the STB, and the precise number of Class III railroads is difficult to ascertain due to

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<sup>1</sup> FRA data for 2010 indicates that there are 754 railroads. Thus, 754 Total Railroads – 7 Class I Railroads – 12 Class II Railroads (Includes Alaska RR) – 27 Commuter/Amtrak (non-small) = 708 Small Railroads.



conflicting definitions, conglomerates, and even seasonal operations. Potentially all small railroads (a substantial number) could be impacted by this proposed regulation. However, because of certain characteristics that these railroads typically have, there should not be very little impact on most, if not all of them. A large number of these small railroads only have single-track operations. Some small railroads, such as the tourist and historic railroads, operate on the lines of other railroads that would bear the burden or impact of the proposed rules requirements. Finally, other small railroads, if they do have more than a single track, typically have operations that are infrequent enough such that the railroads have generally always performed the pertinent trackside work with the track and right-of-way taken out of service, or conducted during hours that the track is not used.

Almost all commuter railroads do not qualify as small entities. This is likely because almost passenger/commuter railroad operations in the United States are part of larger governmental entities whose jurisdictions exceed 50,000 in population. As noted above two of these commuter railroads are privately owned and would be considered small. However, they are already considered to be small because of being owned by a Class III freight railroad. FRA is uncertain as to how many contractor companies would be involved with this issue. FRA is aware that some railroads hire contractors to conduct some of the functions of roadway workers on their properties. However, the costs for the burdens associated with the proposed requirements of this rulemaking would get passed on to the pertinent railroad. Most likely the contracts would be written to reflect that, and the contractor would bear no additional burden for the proposed requirements. Since contractors would not be the entities directly impacted by any burdens, it is not necessary to assess them in the certification.

No other small businesses (non-railroads) are expected to be impacted by this final rule.

The process used to develop most of this final rule provided outreach to small entities in two ways. First, the RSAC Working Group had at least one representative from a small railroad association, the American Short Line and Regional Railroad Association (ASLRRA). Second, members of the RSAC itself include the ASLRRA and other organizations that represent small entities. Thus, it is possible to conclude that small entities had an opportunity for input as part of the process to develop a consensus-based RSAC recommendation made to the FRA Administrator.

The impacts from this regulation are primarily a result of the proposed requirements for certain changes to the existing roadway worker protection regulations, particularly regarding job briefings and training of roadway workers.

The Regulatory Impact Analysis for this rulemaking estimates that for the 20-year period analyzed, the estimated quantified cost that would be imposed on industry totals \$5,840,921, discounted to \$3,103,980 (PV, 7 percent) and \$4,350,537 (PV, 3 percent).

FRA believes nearly all of this cost will fall to railroads other than small railroads. Short line railroads, the vast majority of which are Class III railroads, represent an estimated eight (8) percent of the railroad industry. Since small railroads generally collect carloads in such small numbers and low densities, at low speeds, they require much less track maintenance. Furthermore, generally small railroads have single tracks that are not active around the clock. As such, road work can be done when the track is not active, greatly reducing the burden of having to provide roadway worker protection. As such, the cost of this rulemaking is very minimal to the small railroad segment of the industry. Eight percent of the total 20-year cost is \$467,274. That is an average annual cost of \$33 per small railroad.<sup>2</sup> Although the rule may impact a substantial number of small entities, FRA is confident that this final rule does not impose a significant burden.

This final rule produces benefits (or cost savings) for railroads with the addition of Section 214.324 and the provision of verbal protection. However, most small railroads would not be impacted by these cost savings because of the size of these railroads and the nature of their operations. Most small railroads would already be able to utilize other forms of protection, such as individual train detection, which are in the current regulation. Pursuant to the Regulatory Flexibility Act (5 U.S.C. 605(b)), FRA certifies that this final rule will not have a significant economic impact on a substantial number of small entities.

## **6. Impact of less frequent collection of information.**

If this collection were not conducted or if this collection were conducted less frequently, the risk of injury or death to those working on or about railway tracks would be much greater. Without the requirements stipulated under § 214.336, the rail environment would be much more dangerous and deadly than it is presently. Without these requirements, roadway workers would not know the precise procedures and practices that they must follow for track movements by trains or other on-track equipment operating at speeds both above and below 25 miles per hour. Without the specified watchmen/lookout warnings, notifications, and communications, affected roadway workers would not know when they must stop work and occupy a predetermined place of safety. Also, without this information, roadway workers might not be properly notified in sufficient time to move to places of safety when a train or other on-track equipment is authorized to move on adjacent track at various legal speeds. Consequently, there would likely be a greater number of serious injuries and fatalities to members of these roadway worker groups.

If roadway workers could not challenge the fitness of on-track roadway machines and hi-rail vehicles and if employers were not required to have in place and follow written procedures to assure prompt and equitable resolution of these challenges, these workers might be forced to operate machines with safety defects. This could lead to greater

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<sup>2</sup> \$5,840,921 \* .08 = \$467,274 / 20 years / 708 small railroads = \$33 per year per small railroad.

numbers of accidents/incidents and corresponding increases in roadway worker casualties, resulting in lost productivity to the employer.

Without the requirement that employers maintain a list of new and designated roadway maintenance machines that are enclosed with cabs with operative heating systems, operative air conditioning systems, and operative ventilation systems, FRA and other Federal and State inspectors would not be able to use these rosters to determine which agency has the responsibility for inspection and enforcement of respiratory safety regulations for each roadway machine. The roster is intended to eliminate the possibility that certain machines would be inspected by two Federal agencies while other machines go uninspected altogether. If this were to occur, the health of roadway workers would suffer as a consequence, and also avoidable accident/incidents might take place because a machine was not inspected. Furthermore, without the provision that the triggering mechanism of audible warning devices required on new on-track roadway maintenance machines be clearly identifiable and within easy reach of the machine operator, more railway workers might be injured or killed because they did not know where the mechanism was in a critical situation and were not able to sound it in time.

Without the requirement that employers will now have to evaluate the feasibility of providing an overhead cover for existing on-track roadway maintenance machines if requested in writing by the operator assigned to a particular machine or by the operator's representative, the safety and health of railroad workers would be at increased risk. Employers are now required to provide a written response within 60 days, and have to include an explanation of the reasoning used if it is determined that an overhead cover is not feasible. Unless employers have a valid reason, they cannot deny roadway workers essential equipment. Covers or canopies provide protection from blinding sun and from inclement weather, such as rain, sleet, hail, and snow, and thus serve to improve roadway worker visibility. Overhead covers then could make all the difference in preventing accidents/incidents and the often accompanying injuries experienced by roadway workers.

More accidents/incidents and corresponding casualties might ensue if records were not required to be kept regarding hi-rail vehicle annual safety inspections. In particular, safety-critical components might not be checked at least once annually and adjusted, if necessary. Without this type of oversight, employers might not be as conscientious to check tram, wheel wear, and gage measurements, and FRA would have no way to verify compliance with this subpart. As a result of this information collection, each non-complying condition not immediately repaired following an inspection must be tagged and reported to the employer's designated official, which further protects roadway workers. Non-complying conditions that were left uncorrected could lead to severe consequences, including damaged/unusable machinery, lost productivity, and lost time on-the-job, affecting both railroads and their employees.

Additionally, without this collection of information, there would not be the well-defined procedures for communication and protection now required of roadway workers. As a result, there would likely be greater confusion around railroad tracks and greater uncertainty regarding the correct use of railroad equipment. More roadway worker injuries and fatalities would inevitably follow.

As a result of this information collection, each employer must maintain written or electronic records of each roadway worker's current qualifications, and make these records available to FRA for inspection and copying upon request. Also, roadway workers who provide on-track safety for roadway work groups are required to take a recorded examination as part of the qualification process. These and other required records are very valuable in assisting investigators after an injury or fatality involving a roadway worker or group of roadway workers. Furthermore, should a potential violation or dispute of roadway worker rights and responsibilities occur, FRA can consider all the available evidence, including written records, in making its determination. Without this collection of information, all the required records would be unavailable to FRA.

Finally, without Form FRA F 6180.119, FRA would not have a mechanism to cite serious individual or corporate violations of part 214 that it could use to recommend civil penalties. Such a mechanism – recommending civil penalties – has a deterrent effect and helps prevent similar violations from occurring, thereby improving overall rail workplace safety for roadway workers and other rail employees who perform their various jobs each and every day in a very dangerous and fast paced work environment.

In summary, the net result of not collecting this information or collecting it less frequently would be to permit a more dangerous rail environment for roadway workers, as well as a costlier operational environment for rail employers because of lost productivity due to roadway workers injured or killed on the job. Moreover, FRA would be denied another important tool to promote and indeed enhance national rail safety. This information collection then is essential, and assists FRA in carrying out and accomplishing its core agency mission and the core mission of DOT as well.

**7. Special circumstances.**

All information collection requirements contained in this rule are in compliance with this section.

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

FRA published the required 60-day **Federal Register** Notice on **May 30, 2019**. See 84 FR 25110. FRA received no comments in response to this Notice.

**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 rulemaking.

**10. Assurance of confidentiality.**

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

**11. Justification for any questions of a sensitive nature.**

No sensitive information is requested.

**12. Estimate of burden hours for information collected.**

*Note: Based on the latest FRA data, respondent universe affected by this rule is estimated at 741 railroads. The total number of roadway workers is estimated to be approximately 50,000. This includes employees of railroads and contractors to railroads.*

*Per OMB's request, FRA is including the annual dollar cost equivalent of the requested burden hours below. FRA derives these estimates from the Surface Transportation Board Website for 2018 wage data, and uses the average annual wages for each employee group as follows: For Executives, Officials, and Staff Assistants, this cost amounts to \$115 per hour. For Professional/Administrative staff, this cost amounts to \$76 per hour. For Maintenance of Way and Structure employees, this cost amounts to \$57 per hour. For Maintenance of Equipment and Stores employees, this cost amounts to \$57 per hour. For Transportation other than Train and Engine employees, this cost amounts to \$68 per hour. For Transportation Train and Engine employees, this cost amounts to \$58 per hour. All cost estimates include 75% overhead. (Please see the STB website at: <https://www.stb.gov/econdata.nsf/dc81d49e325f550a852566210062addf/ae2a5421ba51ba62852583b3006c009f?OpenDocument>)*

**Form FRA F 6180. 119 - Part 214 Railroad Workplace Safety Violation Report Form**

As part of their responsibilities, FRA Federal and State inspectors enforce compliance with part 214. In order to do this, they obtain information from the railroads and railroad workers. Violations of workplace safety are reported on the above form. FRA estimates that approximately 129 of these forms will be completed each year by State inspectors. It is estimated that it will take approximately four (4) hours to complete each violation report form. Total annual burden for this requirement is 516 hours.

Respondents Universe:	350 Safety Inspectors
Burden time per response:	4 hours
Frequency of Response:	On occasion
Annual Number of responses:	129 report forms
Total Annual Burden:	516 hours
Annual Cost:	\$29,412 (516 hrs. x \$76 p/hr.)

**Calculation:** 129 report forms x 4 hours = 516 hours

**SUBPART C**

**A. RAILROAD ON-TRACK SAFETY PROGRAMS**

**(3) On-track Safety Programs (214.307)**

(a) Each railroad subject to this Part shall maintain and have in effect an on-track safety program which complies with the requirements of this subpart. New railroads must have an on-track safety program in effect by the date on which operations commence. The on-track safety program shall be retained at a railroad’s system headquarters and division headquarters, and shall be made available to representatives of the FRA for inspection and copying during normal business hours. Each railroad to which this Part applies is authorized to retain its program by electronic recordkeeping in accordance with §§ 217.9(g) and 217.11(c) of this Subchapter.

FRA estimates that approximately 276 on-track safety programs which comply with the requirements of this Subpart will be developed/revised and approximately 325 on-track safety program copies will be retained by railroads under the above requirement. It is estimated that it will take approximately two (2) hours to develop each on-track safety program and approximately two (2) minutes to retain the on-track safety program at the railroad’s system headquarters and division headquarters. Total annual burden for this requirement is 563 hours.

Respondents Universe:	741 Railroads
Burden time per response:	2 hours + 2 minutes
Frequency of Response:	On occasion
Annual Number of responses:	276 new/revised on-track safety programs + 325 on-track safety program copies
Total Annual Year Burden:	563 hours
Annual Cost:	\$42,788 (563 hrs. x \$76 p/hr.)

\$76 p/hr.)

**Calculation:** 276 new/revised on-track safety programs x 2 hrs. + 325 on-track safety programs copies x 2 min. = 563 hours

(b) Each railroad shall notify, in writing, the Associate Administrator for Safety, and Chief Safety Officer, Federal Railroad Administration, RRS-15, 1200 New Jersey Avenue, SE, Washington, DC 20590, not less than one month before its on-track safety program becomes effective. The notification shall include the effective date of the program and the name, title, address and telephone number of the primary person to be contacted with regard to review of the program. This notification procedure shall also apply to subsequent changes to a railroad's on-track safety program.

FRA estimates that approximately 276 notifications will be sent to the FRA Associate Administrator for Safety by railroads under the above requirement. It is estimated that it will take approximately 20 minutes to complete each notification and send it to FRA. Total annual burden for this requirement is 92 hours.

Respondents Universe:	741 Railroads
Burden time per response:	20 minutes
Frequency of Response:	On occasion
Annual Number of responses:	276 notifications
Total Annual Burden:	92 hours
Annual Cost:	\$6,922 (92 hrs. x \$76 p/hr.)

**Calculation:** 276 notifications x 20 min. = 92 hours

(c) Upon review of a railroad's on-track safety program, the FRA Associate Administrator for Railroad Safety and Chief Safety Officer may, for cause stated, disapprove the program. Notification of such disapproval shall be made in writing and specify the basis for the disapproval decision. If the Associate Administrator for Railroad Safety and Chief Safety Officer disapproves the program,

(1) The railroad has 35 days from the date of the written notification of such disapproval to:

(i) Amend its program and submit it to the Associate Administrator for Railroad Safety and Chief Safety Officer for approval; or

(ii) Provide a written response in support of its program to the Associate Administrator for Railroad Safety and Chief Safety Officer.

(2) FRA’s Associate Administrator for Railroad Safety and Chief Safety Officer will subsequently issue a written decision either approving or disapproving the railroad’s program.

(3) Failure to submit to FRA an amended program or provide a written response in accordance with this paragraph will be considered a failure to implement an on-track safety program under this Subpart.

FRA estimates that approximately one (1) on-track safety programs will be disapproved by the FRA Associate Administrator for Safety/Chief Safety Officer and will need to be amended under the above requirement. It is estimated that it will take approximately four (4) hours to amend each on-track safety program and send it to FRA. Total annual burden for this requirement is four (4) hours.

Respondents Universe:	741 Railroads
Burden time per response:	4 hours
Frequency of Response:	On occasion
Annual Number of responses:	1 amended on-track safety programs
Total Annual Burden	4 hours
Annual Cost:	\$304 (4 hrs. x \$76 p/hr.)

**Calculation:** 1 amended on-track safety programs x 4 hrs. = 4hours

Additionally, FRA estimates that approximately one (1) written response in support of their programs will be submitted by railroads to the FRA Associate Administrator for Safety/Chief Safety Officer under the above requirement. It is estimated that it will take each railroad approximately 20 hours to complete the written response in support of its program and send it to FRA. Total annual burden for this requirement is 20 hours.

Respondents Universe:	741 Railroads
Burden time per response:	40 hours
Frequency of Response:	On occasion
Annual Number of responses:	1 written response
Total Annual Burden	20 hours
Annual Cost:	\$1,520 (20 hrs. x \$76 p/hr.)

**Calculation:** 1 written responses x 20 hrs. = 20 hours



Total annual burden for this entire requirement is 679 hours (563 + 92 + 4 + 20).

(4) **On-Track Safety Manual** (214.309)

(a) The applicable on track safety manual (as defined by § 214.7) shall be readily available to all roadway workers. Each roadway worker in charge responsible for the on-track safety of others, and each lone worker, shall be provided with and shall maintain a copy of the on-track safety manual.

*Railroads are already doing this. It is a usual and customary procedure for them. Consequently, there is no burden associated with this requirement.*

(b) When it is impracticable for the on-track safety manual to be readily available to a lone worker, the employer shall establish provisions for such worker to have alternative access to the information in the manual

FRA estimates that approximately 741 provisions for alternative access to the information in the on track safety manual will be established by railroads under the above requirement. This will usually take the form of a special instruction or special order to the on-track safety manual. It is estimated that it will take approximately 60 minutes to establish/develop each provision. Total annual burden for this requirement is 741 hours.

Respondents Universe:	741 Railroads
Burden time per response:	60 minutes
Frequency of Response:	On occasion
Annual Number of responses:	741 provisions
Total Annual Burden:	741 hours
Annual Cost:	\$56,316 (741 hrs. x \$76 p/hr.)

**Calculation:** 741 provisions x 60 min. = 741 hours

(c) Changes to the on-track safety manual may be temporarily published in bulletins or notices. Such publications shall be retained along with the on-track safety manual until fully incorporated into the manual.

FRA estimates that approximately 100 bulletins or notices relaying changes to the on track safety manual will be published under the above requirement. It is estimated that it will take approximately 60 minutes to complete each bulletin/notice and provide it to affected roadway workers. Total annual burden for this requirement is 100 hours.

Respondents Universe:	60 Railroads
Burden time per response:	60 minutes
Frequency of Response:	On occasion
Annual Number of responses:	100 bulletins/notices
Total Annual Burden:	100 hours
Annual Cost:	\$7,600 (100 hrs. x \$76 p/hr.)

**Calculation:** 100 bulletins/notices x 60 min. = 100 hours

Total annual burden for this entire requirement is 841 hours (741 + 100).

(5) **Written Procedure for Resolution of Challenges Made to On-Track Safety Procedures** (214.311)

Each employer must have in place a written procedure to achieve prompt and equitable resolution of challenges made in accordance with §§ 214.311(b) and 214.313(d)). These procedures will be written and become part of the on-track safety program.

*Any burden associated with the above information collection requirements has been included in the earlier one-time burden associated with the development of the roadway worker safety program, or is included in the burden below which accounts for new railroads that come into operation.*

FRA estimates that approximately five (5) new railroads will come into operation each year and thus five (5) new on-track safety programs with the required written procedure will be developed by railroads under the above requirements. These railroads will no longer be required to submit their plans to FRA, but only show them upon request of a FRA representative. Also, FRA estimates that these new railroads will – in all probability – be short line railroads, and will use the generic plan developed by the American Short Line and Regional Railroad Association (ASLRRA) and modify it accordingly. It is estimated that it will take each new short line railroad approximately two (2) hours to modify the generic plan. Total annual burden for this requirement is 10 hours.

Respondents Universe:	5 New Railroads
Burden time per response:	2 hours
Frequency of Response:	One-time
Annual Number of responses:	5 on-track safety programs
Total Annual Burden:	10 hours
Annual Cost:	\$760 (10 hrs. x \$76 p/hr.)

**Calculation:** 5 on-track safety programs x 2 hrs. = 10 hours

**B. Responsibility of Individual Roadway Workers (214.313)**

Each roadway worker may refuse any directive to violate an on-track safety rule, and must inform the employer in accordance with § 214.311 whenever the roadway worker makes a good faith determination that on-track safety provisions to be applied at the job location do not comply with the rules of the operating railroad.

*There is no record required under this provision. Consequently, there is no burden associated with it.*

**C. Supervision and Communication (214.315; 214.335)**

(a) When an employer assigns a duty to a roadway worker that calls for that employee to foul a track, the employer must provide the employee with an on-track safety job briefing that, at a minimum, includes the following:

(1) Information on the means by which on-track safety is to be provided for each track identified to be fouled;

(2) Instruction on each on-track safety procedure to be followed;

(3) Information about any adjacent tracks, on-track safety for such tracks, if required by this Subpart or deemed necessary by the roadway worker in charge, and identification of any roadway maintenance machines that will foul such tracks;

(4) A discussion of the nature of the work to be performed and the characteristics of the work location to ensure compliance with this Subpart; and

(5) Information on the accessibility of the roadway worker in charge and alternative procedures in the event the roadway worker in charge is no longer accessible to the members of the roadway work group.

(b) A job briefing for on-track safety shall be deemed complete only after the roadway worker(s) has acknowledged understanding of the on-track safety procedures and instructions presented.

(c) Every roadway work group whose duties include fouling a track shall have one roadway worker in charge designated by the employer to provide on-track safety for all members of the group. The designated person must be qualified under the rules of the railroad that conducts train operations on those tracks to provide the protection necessary for on-track safety of each individual in the group. The responsible person may be

designated generally, or specifically for a particular work situation.

(d) Before any member of a roadway work group fouls a track, the roadway worker in charge designated under paragraph (c) of this section shall inform each roadway worker of the on-track safety procedures to be used and followed during the performance of the work at that time and location. Each roadway worker must again be so informed at any time the on-track safety procedures change during the work period. Such information must be given to all roadway workers affected before the change is effective, except in cases of emergency. Any roadway workers who, because of an emergency, cannot be notified in advance must be immediately warned to leave the fouling space and must not return to the fouling space until on-track safety is re-established.

(e) Each lone worker shall communicate at the beginning of each duty period with a supervisor or another designated employee to receive an on-track safety job briefing and to advise of his or her planned itinerary and the procedures that he or she intends to use for on-track safety. When communication channels are disabled, the job briefing must be conducted as soon as possible after the beginning of the work period when communications are restored.

*Job briefings are a usual and customary practice. Consequently, there is no burden associated with this requirement.*

**D. On-Track Safety Procedures, Generally (214.317)**

(a.) Each employer subject to the provisions of this Part shall provide on-track safety for roadway workers by adopting a program that contains specific rules for protecting roadway workers that comply with the provisions of §§214.319 through 214.337.

*The burden for on-track safety programs is included under that of §214.307 above. Consequently, there is no additional burden associated with this requirement.*

(b.) Roadway workers may walk across any track provided that they can safely be across and clear of the track before a train or other on-track equipment would arrive at the crossing point under the following circumstances:

(1) Employers shall adopt, and roadway workers shall comply with, applicable railroad safety rules governing how to determine that it is safe to cross the track before starting across; [*Note: Railroads are already doing this. It is part of their usual and customary procedure. Consequently, there is no burden associated with this requirement.*]

(2) Roadway workers shall move directly and promptly across the track; and

(3) On-track safety protection is in place for all roadway workers who are actually engaged in work, including inspection, construction, maintenance or repair, and extending to carrying tools or material that restricts motion, impairs sight or hearing, or prevents an employee from detecting and moving rapidly away from an approaching train or other on-track equipment.

(c) On non-controlled track, on-track roadway maintenance machines engaged in weed spraying or snow removal may proceed under the provisions of § 214.301(c), under the following conditions:

(1) Each railroad must establish and comply with an operating procedure for on-track snow removal and weed spray equipment to ensure that:

(i) All on-track movements in the affected area are informed of such operations,

(ii) All on-track movements shall operate at restricted speed as defined in §214.7, except on other than yard tracks and yard switching leads, where all on-track movements shall operate prepared to stop within one-half the range of vision but not exceeding 25 mph,

(iii) A means for communication between the on-track equipment and other on-track movements is provided, and

(iv) Remotely controlled hump yard facility operations are not in effect, and kicking of cars is prohibited unless agreed to by the roadway worker in charge.

The other requirement in § 214.317(c) above will affect about five (5) new railroads regarding an operating procedure for snow removal and weed spray equipment. Thus, FRA estimates that approximately five (5) operating procedures for on-track snow removal and weed spray equipment on non-controlled track will be developed/established under the above requirement. It is estimated that it will take approximately two (2) hours to develop each operating procedure. Total annual burden for this requirement is 10 hours.

Respondents Universe:	5 Railroads
Burden time per response:	2 hours
Frequency of Response:	On occasion
Annual Number of responses:	5 snow removal operating procedures
Total Annual Burden:	10 hours
Annual Cost:	\$760 (10 hrs. x \$76 p/hr.)

**Calculation:** 5 snow removal operating procedures x 60 min. = 10 hours

(d) Tunnel niches or clearing bays in existence prior to April 1, 2017, that are designed to permit roadway workers to occupy a place of safety when trains or other on-track equipment pass the niche or clearing bay, but are less than four feet from the field side of the nearest rail, may continue to be used as a place of safety provided that:

(1) Such niches or clearing bays are visually inspected by the roadway worker in charge or lone worker prior to making the determination that the niche or clearing bay is suitable for use as a place of safety

*This is the usual and customary procedure. Consequently, there is no burden associated with this requirement.*

(2) There is adequate sight distance to permit a roadway worker or lone worker to occupy the place of safety in the niche or clearing bay at least 15 seconds prior to the arrival of a train or other on-track equipment at the work location in accordance with §§ 214.329 and 337; and

(3) The roadway worker in charge or lone worker shall have the absolute right to designate a place of safety as a location other than that of a tunnel niche or clearing bay described by this paragraph, or to establish working limits.

*This is the usual and customary procedure. Consequently, there is no burden associated with this requirement.*

Total annual burden for this entire requirement is 10 hours.

**E. Locomotive Servicing and Car Shop Repair Track Areas (214.318)**

(a) In lieu of the requirements of this Subpart, workers (as defined by § 218.5 of this Chapter) within the limits of locomotive servicing and car shop repair track areas (as both defined by § 218.5 of this Chapter) may utilize procedures established by a railroad in accordance with Subpart B of Part 218 of this Chapter (Blue Signal Protection) to perform duties incidental to inspecting, testing, servicing, or repairing rolling equipment when those incidental duties involve fouling a track that is protected by Blue Signal Protection. A railroad utilizing Blue Signal Protection in lieu of the requirements of this Subpart must have rules in effect governing the applicability of those protections to the incidental duties being performed.

FRA estimates that approximately 19 railroads will develop and have in effect rules governing the applicability of Subpart B of Part 218 to the aforementioned incidental duties under the above requirement. It is estimated that it will take approximately two (2) hours to develop the required rules. Total annual burden for this requirement is 38 hours.

Respondents Universe:	741 Railroads
Burden time per response:	2 hours
Frequency of Response:	On occasion
Annual Number of responses:	19 railroad rules
Total Annual Burden	38 hours
Annual Cost:	\$2,888 (38 hrs. x \$76 p/hr.)

**Calculation:** 19 railroad rules x 2 hrs. = 38 hours

**E. Working Limits, Generally (214.319)**

Working limits established on controlled track shall conform to the provisions of §214.321 Exclusive track occupancy, § 214.323 Foul time, or § 214.325 Train coordination. Working limits established on non-controlled track shall conform to the provision of § 214.327 Inaccessible track.

(a) Working limits established under any procedure shall, in addition, conform to the following provisions:

(1) Only a roadway worker in charge who is qualified in accordance with § 214.353 of this part shall establish or have control over working limits for the purpose of establishing on-track safety.

(2) Only one roadway worker in charge who is qualified in accordance with § 214.353 of this Part shall have control over working limits on any one segment of track.

(3) All affected roadway workers shall be notified before working limits are released for the operation of trains. Working limits shall not be released until all affected roadway workers have either left the track or have been afforded on-track safety through train approach warning in accordance with § 214.329.

*Notification of all affected roadway workers is the usual and customary procedure carried out by railroads as part of their normal operations. Consequently, there is no additional burden associated with this requirement.*

(b) Each Class I or Class II railroad or each railroad providing regularly scheduled intercity or commuter rail passenger transportation that utilizes controlled track working limits as a form of on-track safety (under §§214.321- §214.323) in signalized territory shall:

(1) By July 1, 2017, evaluate its on-track safety program and identify an appropriate method(s) of providing redundant signal protections for roadway work groups who depend on a train dispatcher or control operator to provide signal protection in establishing controlled track working limits. For purposes of this section, redundant signal protections mean risk mitigation measures or safety redundancies adopted to ensure the proper establishment and maintenance of signal protections for controlled track working limits until such working limits are released by a roadway worker in charge. Appropriate redundant protections could include the use of various risk mitigation measures (or a combination of risk mitigation measures) such as technology, training, supervision, or operating-based procedures; or could include use of redundant signal protection, such as shunting, designed to prevent signal system-related incursions into established controlled track working limits; and

*This requirement has already been fulfilled by railroads. Consequently, there is no burden associated with it.*

(2) By January 1, 2018, specifically identify, implement, and comply with the method(s) of providing redundant protections in its on-track safety program.

*This requirement has already been fulfilled by railroads. Consequently, there is no burden associated with it.*

(c) Upon a railroad 's request, FRA will consider an exemption from the requirements of paragraph (b) of this section for each segment of track(s) for which operations are governed by a positive train control system under Part 236, subpart I of this Chapter. A request for approval to exempt a segment of track must be submitted in writing to the FRA Associate Administrator for Railroad Safety and Chief Safety Officer. The FRA Associate Administrator for Railroad Safety and Chief Safety Officer will review a railroad's submission and will notify a railroad of its approval or disapproval in writing within 90 days of FRA's receipt of a railroad's written request, and shall specify the basis for any disapproval decision.

*FRA estimates that approximately that there will be zero (0) requests sent to FRA under the above requirement. Consequently, there is no burden associated with it.*

**F. Roadway Maintenance Machine Movements Over Signalized Non-Controlled Track (214.320)**

Working limits must be established for roadway maintenance machine movements on non-controlled track equipped with automatic block signal systems over which trains are permitted to exceed restricted speed (for purposes of this section, on-track movements prepared to stop within one-half the range of vision but not exceeding 25 mph). This section applies unless the railroad's operating rules protect the movements of roadway



maintenance machines in a manner equivalent to that provided for by limiting all train and locomotive movements to restricted speed, and such equivalent level of protection is first approved in writing by FRA's Associate Administrator for Railroad Safety and Chief Safety Officer

FRA estimates that approximately five (5) requests for approval of railroad operating rules providing an equivalent level of protection to that of working limits will be submitted to the FRA Associate Administrator for Safety/Chief Safety Officer under the above requirement. It is estimated that it will take approximately four (4) hours to complete each request for approval and send it to FRA. Total annual burden for this requirement is 20 hours.

Respondents Universe:	741 Railroads
Burden time per response:	4 hours
Frequency of Response:	On occasion
Annual Number of responses:	5 approval requests
Total Annual Burden	20 hours
Annual Cost:	\$1,520 (20 hrs. x \$76 p/hr.)

**Calculation:** 5 approval requests x 4 hrs. = 20 hours

**G. Exclusive Track Occupancy - Working Limits (214.321)**

An authority for exclusive track occupancy given to the roadway worker in charge of the working limits must be transmitted on a written or printed document directly, by relay through a designated employee, in a data transmission, or by oral communication, to the roadway worker in charge by the train dispatcher or control operator in charge of the track.

- Where authority for exclusive track occupancy is transmitted orally, the authority must be written as received by the roadway worker in charge and repeated to the issuing employee for verification.
- The roadway worker in charge of the working limits must maintain possession of the written or printed authority for exclusive track occupancy while the authority for the working limits is in effect. A data transmission of an authority displayed on an electronic screen may be used as a substitute for a written or printed document required under this paragraph. Electronic displays of authority must comply with the requirements of § 214.322.
- The train dispatcher or control operator in charge of the track must make a written or electronic record of all authorities issued to establish exclusive track occupancy.

- An authority shall specify a unique roadway work group number, an employee name, or a unique identifier. A railroad shall adopt procedures that require precise communication between trains and other on-track equipment and the roadway worker in charge or lone worker controlling the working limits in accordance with § 214.319. The procedures may permit communications to be made directly between a train or other on-track equipment and a roadway worker in charge or lone worker, or through a train dispatcher or control operator.
- The extent of working limits established through exclusive track occupancy shall be defined by one of the following physical features clearly identifiable to a locomotive engineer or other person operating a train or railroad equipment:
  - \* A flagman with instructions and capability to hold all trains and equipment clear of the working limits;
  - \* A fixed signal that displays an aspect indicating “Stop”;
  - \* A station shown in the time-table, and identified by name with a sign, beyond which train movement is prohibited by train movement authority or the provisions of a direct train control system.
  - \* A clearly identifiable milepost sign beyond which train movement is prohibited by train movement authority or the provisions of a direct train control system; or
  - \* A clearly identifiable physical location prescribed by the operating rules of the railroad that trains may not pass without proper authority.
- Movements of trains and roadway maintenance machines within working limits established through exclusive track occupancy shall be made only under the direction of the roadway worker in charge of the working limits. Such movements shall be restricted speed unless a higher authorized speed has been specifically authorized by the roadway worker in charge of the working limits.
- Working limits established by exclusive track occupancy authority may occur behind designated trains moving through the same limits in accordance with the following provisions:
  - \* The authority establishing working limits will only be considered to be in effect after it is confirmed by the roadway worker in charge or lone worker that the affected train(s) have passed the point to be occupied or fouled by:
    - \*\* Visually identifying the affected trains(s), or
    - \*\* Direct radio contact with a crew member of the affected train(s), or

\*\* Receiving information about the affected train from the train dispatcher or control operator.

\* When utilizing the provisions of paragraph (e)(1)(i) of this section, a railroad's operating rules shall include procedures to prohibit the affected train(s) from making a reverse movement into the limits being fouled or occupied.

\* After the roadway worker in charge or lone worker has confirmed that the affected trains(s) have passed the point to be occupied or fouled, the roadway worker in charge shall record on the authority the time of passage and engine number(s) of the affected trains(s). If the confirmation is by direct communication with the train(s), or through confirmation by the train dispatcher or control operator, the roadway worker in charge shall record the time of such confirmation and the engine number(s) of the affected trains on the authority.

\* A separate roadway work group afforded on-track safety by the roadway worker in charge of authority limits, and that is located away from the roadway worker in charge of authority limits, shall:

\*\* Occupy or foul the track only after receiving permission from the roadway worker in charge to occupy the working limits after the roadway worker in charge has fulfilled the provisions of paragraph (e)(1) of this section, and

\*\* Be accompanied by an employee qualified to the level of a roadway worker in charge who shall also have a copy of the authority and who shall independently execute the required communication requirements of paragraphs (e)(1) and (e)(3) of this section.

\* Any subsequent train or on-track equipment movements within working limits after the passage of the affected train(s) shall be governed by paragraph (d) of this section.

*According to FRA's roadway worker program specialist, railroads are already doing all this. It is part of their usual and customary procedure. Consequently, there is no burden associated with this requirement.*

**h. Exclusive Track Occupancy, Electronic Display (214.322)**

(a) While it is in effect, all the contents of an authority electronically displayed shall be readily viewable by the roadway worker in charge that is using the authority to provide on-track safety for a roadway work group.

(b) If the electronic display device malfunctions, fails, or cannot display an authority while it is in effect, the roadway worker in charge shall either obtain a written or printed copy of the authority in accordance with § 214.321 (except that on-track roadway maintenance machine movements and hi-rail movements must stop), or establish another form of on-track safety without delay. In the event that a written or printed copy of the authority cannot be obtained or another form of on-track safety cannot be established after failure of an electronic display device, the roadway worker in charge shall instruct all roadway workers to stop work and occupy a place of safety and conduct an on-track safety job briefing to determine the safe course of action with the roadway work group.

There are three (3) railroads that currently use electronically displayed authorities. FRA estimates that approximately 1,000 times a year the electronic display will malfunction, fail, or be unable display an authority. It is estimated that it will take approximately 10 minutes to receive either a written or printed copy of the authority. Total annual burden for this requirement is 167 hours.

Respondents Universe:	3 Class I Railroads
Burden time per response:	10 minutes
Frequency of Response:	On occasion
Annual Number of responses:	1,000 written authorities/printed authority copy
Total Annual Burden:	167 hours
Annual Cost:	\$9,519 (167 hrs. x \$57 p/hr.)

**Calculation:** 1,000 written authorities/printed authority copies x 10 min.  
= 83 hours

*As far as the second part of the above requirement and as noted previously, briefings are a usual and customary practice for railroads. Consequently, there is no burden associated with briefings.*

(c) All authorized users of an electronic display system shall be uniquely identified to support individual accountability. A user may be a person, a process, or some other system that accesses or attempts to access an electronic display system to perform tasks or process an authority.

(d) All authorized users of an electronic display system must be authenticated prior to being granted access to such system. The system shall ensure the confidentiality and integrity of all internally stored authentication data and protect it from access by unauthorized users. The authentication scheme shall utilize algorithms approved by the National Institute of Standards and Technology (NIST), or any similarly recognized and FRA approved standards body.

*Railroads are already doing (c) and (d) above. It is part of their usual and customary procedure. Consequently, there is no burden associated with this requirement.*

(e) The integrity of all data must be ensured during transmission/reception, processing, and storage. All new electronic display systems implemented on or after July 1, 2017, shall utilize a Message Authentication Code (MAC) to ensure that all data are error free. The MAC shall utilize algorithms approved by NIST, or any similarly recognized and FRA approved standards body. Systems implemented prior to July 1, 2017, may utilize a Cyclical Redundancy Code (CRC) to ensure that all data are error free provided:

(1) The collision rate for the CRC check utilized shall be less than or equal to 1 in  $2^{32}$ . Systems implemented prior to July 1, 2017, that do not utilize a CRC with a collision rate less than or equal to 1 in  $2^{32}$  must be retired or updated to utilize a MAC no later than July 1, 2018.

(2) MAC and CRC checks shall only be used to verify the accuracy of an electronic authority data message and shall not be used in an error correction reconstruction of the data. An authority must fail if the MAC or CRC checks do not match.

(f) Authorities transmitted to each electronic display device shall be retained in the device's non-volatile memory for not less than 72 hours.

(g) If any electronic display device used to obtain an authority is involved in an accident/incident that is required to be reported to FRA under Part 225 of this Chapter, the railroad or employer that was using the device at the time of the accident shall, to the extent possible, and to the extent consistent with the safety of life and property, preserve the data recorded by each such device for analysis by FRA. This preservation requirement permits the railroad or employer to extract and analyze such data, provided the original downloaded data file, or an unanalyzed exact copy of it, shall be retained in secure custody and shall not be utilized for analysis or any other purpose except by direction of FRA or the National Transportation Safety Board. This preservation requirement shall expire one (1) year after the date of the accident unless FRA or the National Transportation Safety Board notifies the railroad in writing that the data are desired for analysis.

*Railroads do this automatically as their usual and customary practice. Consequently, there is no burden associated with it.*

(h) New electronic display systems implemented after July 1, 2017, shall provide Level 3 assurance as defined by NIST Special Publication 800-63-2, Electronic Authentication Guideline, "Computer Security," August 2013. Systems implemented prior to July 1, 2017, shall provide Level 2 assurance. Systems implemented prior to July 1, 2017, that

do not provide Level 2 or higher assurance must be retired, or updated to provide Level 2 assurance, no later than July 1, 2018. The incorporation by reference of this NIST Special Publication was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. You may obtain a copy of the incorporated document from the National Institute of Standards and Technology, 100 Bureau Drive, Stop 8930, Gaithersburg, MD 20899-8930.

<http://nvlpubs.nist.gov/nistpubs/SpecialPublications/NIST.SP.800-63-2.pdf>. You may inspect a copy of the document at the Federal Railroad Administration, Docket Clerk, 1200 New Jersey Avenue, SE, Washington, DC, or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741-6030, or go to:  
[http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html)

*FRA estimates that approximately zero (0) requests to inspect copies of the NIST publication at FRA or NARA will be made under this requirement. Consequently, there is no burden associated with it.*

#### **H. Foul Time Working Limit Procedures (214.323)**

Working limits established on controlled track through the use of foul time procedures must comply with the following requirements:

(a) Foul time may be given orally or in writing by the train dispatcher or control operator only after that employee has withheld the authority of all trains or other on-track equipment to move into the working limits during the foul time period.

(b) Each roadway worker in charge to whom foul time is transmitted orally must repeat the track number or identifier, track limits and time limits of the foul time to the issuing employee for verification before the foul time becomes effective.

(c) The train dispatcher or control operator must not permit the movement of trains or other on-track equipment onto the working limits protected by foul time until the roadway worker in charge who obtained the foul time has reported clear of the track.

(d) The roadway worker in charge shall not permit the movement of trains or other on-track equipment into or within working limits protected by foul time.

*This requirement corresponds with current practice in the railroad industry, and is not considered an additional requirement of this regulation. The notification will be given verbally in nearly all cases. Since this is the usual and customary procedure, there is no additional burden associated with this provision.*

#### **I. Train Coordination (214.325)**

Working limits established on controlled track by a roadway worker in charge through the use of train coordination must comply with the following requirements:

(a) Working limits established by train coordination must be within the segments of track or tracks upon which only one train holds exclusive track authority to move.

(b) The roadway worker who establishes working limits by train coordination must communicate with a member of the crew of the train holding the exclusive authority to move, and must determine that:

- (1) The train is visible to the roadway worker who is establishing the working limits;
- (2) The train is stopped;
- (3) Further movements of the train will be made only as permitted by the roadway worker in charge of the working limits while the working limits remain in effect; and
- (4) The crew of the train will not give up its exclusive authority until the working limits have been released to the train crew by the roadway worker in charge of the working limits.

*Communications between the roadway worker in charge and members of the train crew is a usual and customary practice. Consequently, there is no burden associated with this requirement.*

**J. Inaccessible Track (214.327)**

Working limits on non-controlled track shall be established by rendering the track within working limits physically inaccessible to trains at each possible point of entry by one of the following features:

- (1) A flagman with instructions and capability to hold all trains and equipment clear of the working limits;
- (2) A switch or derail aligned to prevent access to the working limits and secured with an effective securing device by the roadway worker in charge of the working limits;
- (3) A discontinuity in the rail that precludes passage of trains or engines into the working limits;
- (4) Working limits on controlled track that connects directly with the inaccessible

track, established by the roadway worker in charge of the working limits on the inaccessible track; or

- (5) A remotely controlled switch aligned to prevent access to the working limits and secured by the control operator of such remotely controlled switch by application of a locking or blocking device to the control of that switch, when:
  - (i) The control operator has secured the remotely controlled switch by applying a locking or blocking device to the control of the switch, and
  - (ii) The control operator has notified the roadway worker who has established the working limits that the requested protection has been provided, and
  - (iii) The control operator is not permitted to remove the locking or blocking device from the control of the switch until receiving permission to do so from the roadway worker who established the working limits.
  
- (6) A locomotive with or without cars placed to prevent access to the working limits at one or more points of entry to the working limits, provided the following conditions are met:
  - 
  - (i) The roadway worker in charge who is responsible for establishing working limits communicates with a member of the crew assigned to the locomotive and determines that:
    - (A) The locomotive is visible to the roadway worker in charge who is establishing the working limits, and
    - (B) The locomotive is stopped.
  - (ii) Further movements of the locomotive shall be made only as permitted by the roadway worker in charge controlling the working limits;
  - (iii) The crew of the locomotive shall not leave the locomotive unattended or go off-duty unless communication occurs with the roadway worker in charge and an alternate means of on-track safety protection has been established by the roadway worker in charge; and
  - (iv) Cars coupled to the locomotive on the same end and on the same track as the roadway workers shall be connected to the train line air brake and such system shall be charged with compressed air to initiate an emergency brake application in case of unintended uncoupling. Cars coupled to the locomotive on the same track on the opposite end of the roadway workers shall have sufficient braking capability to control their movement.



*As noted previously, communications between the roadway worker in charge and members of the train crew is a usual and customary practice. Consequently, there is no burden associated with this requirement.*

(7) A railroad's procedure governing block register territory that prevents trains and other on-track equipment from occupying the track when the territory is under the control of a lone worker or roadway worker in charge. The roadway worker in charge or lone worker shall have the absolute right to render such block register territory inaccessible under the other provisions of paragraph (a) of this section.

*Railroads already have such a procedure under their operating rules. It is a usual and customary practice for them. Consequently, there is no burden associated with the above requirement.*

(8) Railroad operating rules that prohibit train or engine or other on-track equipment movements on a main track within yard limits or restricted limits until the train or engine receives notification of any working limits in effect and prohibit the train or engine or on-track equipment from entering working limits until permission is received by the roadway worker in charge. Such working limits shall be delineated with stop signs (flags), and where speeds are in excess of restricted speed and physical characteristics permit, also with advance signs (flags).

*This is a usual and customary practice. Consequently, there is no burden associated with this requirement.*

(b) Trains and roadway maintenance machines within working limits established by means of inaccessible track shall move only under the direction of the roadway worker in charge of the working limits, and shall move at restricted speed.

*This is a usual and customary practice. Consequently, there is no burden associated with this requirement.*

**K. Train Approach Warning Provided by Watchmen/Lookouts (214.329)**

Roadway workers in a roadway work group who foul any track outside of working limits shall be given warning of approaching trains by one or more watchmen/lookouts in accordance with the following provisions:

(a) Train approach warning shall be given in sufficient time to enable each roadway worker to move to and occupy a previously arranged place of safety not less than 15 seconds before a train moving at the maximum speed authorized on that track can pass the location of the roadway worker. The place of safety to be occupied upon the

approach of a train may not be on a track, unless working limits are established on that track.

(b) Watchmen/lookouts assigned to provide train approach warning shall devote full attention to detecting the approach of trains and communicating a warning thereof, and shall not be assigned any other duties while functioning as watchmen/lookouts.

(c) The means used by a watchman/lookout to communicate a train approach warning shall be distinctive and shall clearly signify to all recipients of the warning that a train or other on-track equipment is approaching.

(d) Every roadway worker who depends upon train approach warning for on-track safety shall maintain a position that will enable him or her to receive a train approach warning communicated by a watchman/lookout at any time while on-track safety is provided by train approach warning.

(e) Watchmen/lookouts shall communicate train approach warnings by a means that does not require a warned employee to be looking in any particular direction at the time of the warning, and that can be detected by the warned employee regardless of noise or distraction of work.

*This is a usual and customary practice. Consequently, there is no burden associated with this requirement.*

(f) Every roadway worker who is assigned the duties of a watchman/lookout shall first be trained, qualified and designated in writing by the employer to do so in accordance with the provisions of §214.349.

FRA estimates that approximately 26,250 written designations will be made under the above requirement. It is estimated that each written designation will take approximately 30 seconds to complete. Total annual burden for this requirement is 219 hours.

Respondents:	741 Railroads
Burden time per response:	30 seconds
Frequency of Response:	On occasion
Annual Number of responses:	26,250 written designations
Total Annual Burden:	219 hours
Annual Cost:	\$16,644 (219 hrs. x \$76 p/hr.)

**Calculation:** 26,250 written designations x 30 sec. = 219 hours

Total annual burden for this requirement is 7,065 hours (6,846 + 219).

**L. Definite Train Location Information (214.331)**

A roadway worker may establish on-track safety by using definite train location

information only where permitted by and in accordance with the provisions stipulated in paragraphs (a), (b), and (c) of this section and with the provisions listed in this section.

(d) Definite train location information must only be used to establish on-track safety according to the following provisions: (1) Definite train location information shall be issued only by the one train dispatcher who is designated to authorize train movements over the track for which the information is provided. (2) A definite train location list must indicate all trains to be operated on the track for which the list is provided during the time for which the list is effective. (3) Trains not shown on the definite train location list must not be operated on the track for which the list is provided, during the time for which the list is effective, until each roadway worker to whom the list has been issued has been notified of the train movement, has acknowledged the notification to the train dispatcher, and has canceled the list. A list thus canceled will then be invalid for on-track safety. (4) Definite train location must not be used to establish on-track safety within the limits of a manual interlocking, or on track over which train movements are governed by a Traffic Control System or by a Manual Block System. (5) Roadway workers using definite train location for on-track safety must not foul a track within 10 minutes before the earliest time that a train is due to depart the last station at which time is shown in approach to the roadway worker's location nor until that train has passed the location of the roadway worker. (6) A railroad must not permit a train to depart a location designated in a definite train location list before the time shown therein. (7) Each roadway worker who uses definite train location to establish on-track safety must be qualified on the relevant physical characteristics of the territory for which the train location information is provided.

(e) Each on track safety program that provides for the use of definite train location shall discontinue such use by June 12, 2017.

*Previously, the only determinable burden from this section of the rule was for the establishment of a schedule for phase-out. This affected only two or three Class I railroads and the task can reasonably be performed in four to five hours per railroad. This burden was accounted for in the previous burden of developing on track safety programs. The final rule stipulates that definite train location must be discontinued one year after this revised final rule is published in the Federal Register. With this new requirement, there will no longer be any burden for any of the railroads.*

**M. Informational Line-Ups of Trains (214.333)**

(a) A railroad is permitted to include informational line-ups of trains in its on-track safety program for use only on subdivisions of that railroad upon which such procedure was in effect on March 14, 1996.

(b) Each procedure for the use of informational line-ups of trains found in an on-track safety program shall include all provisions necessary to protect roadway workers using the procedure against being struck by trains or other on-track equipment.

(c) Each on track safety program that provides for the use of informational line-ups shall discontinue such use by June 12, 2017.

*The burden for on-track safety programs is included above under that of § 214.305. There is no additional burden associated with this requirement.*

**L. On-Track Safety Procedures for Roadway Work Groups** (214.335)

No roadway worker who is a member of a roadway work group shall foul a track without having been informed by the roadway worker in charge of the roadway work group that on-track safety is provided.

*The burden for this requirement is addressed in § 214.315, Supervision and Communication. Consequently, there is no additional burden associated with this requirement.*

**N. On-Track Safety Procedures for Certain Roadway Work Groups and Adjacent Tracks** (214.336)

(a) Procedures; general. (1) Except as provided in paragraph (e) of this section, on-track safety is required for each adjacent controlled track when a roadway work group with at least one of the roadway workers on the ground is engaged in a common task with on-track, self-propelled equipment or coupled equipment on an occupied track. The required on-track safety must be established through § 214.319 (Working limits, generally) or § 214.329 (Train approach warning provided by watchmen/lookouts) and as more specifically described in this section.

(2) Special circumstances arising in territories with at least three tracks, if an occupied track is between two adjacent tracks, at least one of which is an adjacent controlled track. If an occupied track has two adjacent controlled tracks, and one of these adjacent controlled tracks has one or more train or other on-track equipment movements authorized or permitted at a speed of 25 mph or less, and the other adjacent controlled track has one or more concurrent train or other on-track equipment movements authorized or permitted at a speed over 25 mph, the more restrictive procedures in paragraph (b) of this section apply. (ii) If an occupied track has an adjacent controlled track on one side (Side X), and a non-controlled track whose track center is spaced 19 feet or less from the track center of the occupied track on the other side (Side Y), the

affected roadway workers must treat the non-controlled track on Side Y as an adjacent controlled track for purposes of this section. (3) As used in this section, “adjacent controlled track” means a controlled track whose track center is spaced 19 feet or less from the track center of the occupied track. Note, however, that under the special circumstances specified in paragraph (a)(2)(ii) of this section, a non-controlled track whose track center is spaced 19 feet or less from the track center of the occupied track must be treated as an adjacent controlled track for purposes of this section. “Adjacent track” means a controlled or non-controlled track whose track center means is spaced less than 25 feet from the track center of the occupied track. “Inter-track barrier” means a continuous barrier of a permanent or semi-permanent nature that spans the entire work area, that is at least four feet in height, and that is of sufficient strength to prevent a roadway worker from fouling the adjacent track.

Minor correction means one or more repairs of a minor nature, including, but not limited to, spiking, anchoring, hand tamping, and joint bolt replacement that is accomplished with hand tools or handheld pneumatic tools only. The term does not include welding, machine spiking, machine tamping, or any similarly distracting repair. Occupied track” means a track on which on-track, self-propelled equipment or coupled equipment is authorized or permitted to be located while engaged in a common task with a roadway work group with a least one of the roadway workers on the ground.

*Any burden associated with § 214.319, and § 214.329 are included in those sections, respectively. Consequently, there is no additional burden under the above provision.*

(b) Procedures for adjacent-controlled-track movements over 25 mph. If a train or other on-track equipment is authorized to move on an adjacent controlled track at a speed greater than 25 mph, each roadway worker in the roadway work group that is affected by such movement must comply with the following procedures:

(1) Ceasing work and occupying a predetermined place of safety. Except for the work activities as described in paragraph (e) of this section, each affected roadway worker must, as described in Table 1 of this section, cease all on-ground work and equipment movement that is being performed on or between the rails of the occupied track or on one or both sides of the occupied track, and occupy a predetermined place of safety upon receiving either a watchman/lookout warning, or alternatively, a notification that the roadway worker in charge intends to permit one or more train or other on-track equipment movements through the working limits on the adjacent controlled track.

(2) Resuming work. (i) An affected roadway worker may resume on-ground work and equipment movement (on or between the rails of the occupied track on one or both sides of the occupied track as described in Table 1 of this section) only after the trailing-end of all trains or other on-track equipment moving on the adjacent controlled track (for which a warning or notification has been received in accordance with paragraph (b)(1) of this section) has passed and remains ahead of that roadway worker.

FRA estimates that approximately 10,000 notifications or watchmen lookout warnings will be made under the above requirement. It is estimated that it will take approximately five (5) seconds to make each notification/watchman lookout warning. Total annual burden for this requirement is 14 hours.

Respondents Universe:	100 Railroads
Burden time per response:	5 seconds
Frequency of Response:	On occasion
Annual Number of responses:	10,000 notifications or watchmen lookout warnings
Total Annual Burden:	14 hours
Annual Cost:	\$798 (14 hrs. x \$57 p/hr.)

**Calculation:** 10,000 notifications or watchmen lookout warnings x 5 sec. = 14 hours

(ii) If the train or other on-track equipment stops before its trailing-end has passed all of the affected roadway workers in the roadway work group, the work to be performed (on or between the rails of the occupied track or on one or both sides of the occupied track as described in Table 1 of this section) ahead of the trailing-end of the train or other on-track equipment on the adjacent controlled track may resume only – (A) If on-track safety through train approach warning (§ 214.329) has been established on the adjacent controlled track; or (B) After the roadway worker in charge has communicated with a member of the train crew or the on-track equipment operator and established that further movements of such train or other on-track equipment shall be made only as permitted by the roadway worker in charge.

(c) Procedures for adjacent-controlled-track movements 25 mph or less. If a train or other on-track equipment is authorized or permitted to move on an adjacent controlled track at a speed of 25 mph or less, each roadway worker in the roadway work group that is affected by such movement must comply with the procedures listed in paragraph (b) of this section, except that equipment movement on the rails of the occupied track and on-ground work performed exclusively between the rails (i.e., not breaking the plane of the rails) of the occupied track may continue, provided that no on-ground work is performed within the areas 25 feet in front or 25 feet behind any on-track, self-propelled equipment or coupled equipment permitted to move on the occupied track.

In keeping with the requirements listed in paragraph (b) of this section, FRA estimates that approximately 3,000 notifications or watchmen lookout warnings will be made under the above requirement. It is estimated that it will take approximately 5 seconds to make each notification/watchman lookout warning. Total annual burden for this requirement is four (4) hours.

Respondents Universe:	100 Railroads
Burden time per response:	5 seconds
Frequency of Response:	On occasion
Annual Number of responses:	3,000 notifications or watchmen lookout warnings
Total Annual Burden:	4 hours
Annual Cost:	\$228 (4 hrs. x \$57 p/hr.)

**Calculation:** 3,000 notifications/watchmen lookout warnings x 5 sec. = 4 hrs.

(e) Exceptions to the requirements in paragraphs (a), (b), and (c) for adjacent-controlled-track on-track safety. No on-track safety (other than that required by paragraph (f) (Procedures for components of roadway maintenance machines fouling an adjacent controlled track) or provided under paragraph (d) (Discretion of roadway worker in charge) of this section) is required by this section for an adjacent controlled track during the times that the roadway work group is exclusively performing one or more of the following work activities:

(1) On-ground work performed on a side of the occupied track meeting specified condition(s). A roadway work group with all of its on-ground roadway workers (other than those performing work in accordance with another exception in paragraph (e) of this section) performing work while exclusively positioned on a side of the occupied track as follows and as further specified in Table 1 of this section: (i) The side with no adjacent track; (ii) The side with one or more adjacent tracks, the closest of which has working limits on it and no movements permitted within such working limits by the roadway worker in charge; or (iii) The side with one or more adjacent tracks, provided that that it has an inter-track barrier between the occupied track and the closest adjacent track on that side.

(2) Maintenance or repairs performed alongside machines or equipment on the occupied track. One or more roadway workers performing maintenance or repairs alongside a roadway maintenance machine or coupled equipment, provided that such machine or equipment would effectively prevent the worker from fouling the adjacent controlled track on the other side of such equipment, and that such maintenance or repairs are performed while positioned on a side of the occupied track as described in paragraph (e) (1)(i), (e)(1)(ii), or (e)(1)(iii) and Table 1 of this section.

(3) Work activities involving certain equipment and purposes. One or more on-ground roadway workers engaged in a common task on an occupied track with on-track, self-propelled equipment or coupled equipment consisting exclusively of one or more of the

types of equipment described in paragraphs (e)(3)(i) through (e)(3)(iii) of this section. If such a roadway work group (“excepted group”) is authorized or permitted to operate on the same occupied track and within the working limits of a separate roadway work group performing work that is subject to the requirements of this section (“non-excepted group”) or vice versa (*i.e.*, a non-excepted group is authorized or permitted to operate on the same occupied track and within the working limits of an excepted group), the groups must conduct an on-track safety job briefing to determine if adjacent-controlled-track on-track safety is necessary for the excepted group. Such determination shall be made by the roadway worker in charge of the working limits; however, if the groups are in such proximity where the ability of the roadway workers in the excepted group to hear or see approaching trains and other on-track equipment is impaired by background noise, lights, sight obstructions or any other physical conditions caused by the equipment, then this exception does not apply, and adjacent-controlled-track on-track safety must be provided to both groups. This exception otherwise applies to work activities involving one or more of the following types of equipment:

(i) A hi-rail vehicle (other than a catenary maintenance tower vehicle) being used for inspection or minor correction purposes, provided that such hi-rail vehicle is not coupled to one or more railroad cars. In accordance with § 214.315(a), where multiple hi-rail vehicles being used for inspection or minor correction are engaged in a common task, the on-track safety job briefing shall include discussion of the nature of the work to be performed to determine if adjacent-controlled-track on-track safety is necessary.

(ii) An automated inspection car being used for inspection or minor correction purposes.

(iii) A catenary maintenance tower car or vehicle, provided that all of the on-ground workers engaged in the common task (other than those performing work in accordance with another exception in paragraph (e) of this section) are positioned within the gage of the occupied track for the sole purpose of applying or removing grounds.

*As noted previously, railroad job briefings are a usual and customary practice. Consequently, there is no burden associated with this requirement.*

Total annual burden for this entire requirement is 18 hours (14 + 4).

**O. On-track Safety Procedures for Lone Workers (214.337)**

(a) A lone worker who fouls a track while performing routine inspection or minor correction may use individual train detection to establish on-track safety only where permitted by this section and the on-track safety program of the railroad.



(b) A lone worker retains an absolute right to use on-track safety procedures other than individual train detection if he or she deems it necessary, and to occupy a place of safety until such other form of on-track safety can be established.

*The burden for on-track safety programs/procedures is included above under that of § 214.305. Consequently, there is no additional burden associated with this requirement.*

(c) Individual train detection may be used to establish on-track safety only:

(1) By a lone worker who has been trained, qualified, and designated to do so by the employer in accordance with § 214.347 of this subpart;

(2) While performing routine inspection and minor correction work;

(3) On track outside the limits of a manual interlocking, a controlled point (except those consisting of signals only), or a remotely controlled hump yard facility.

(4) Where the lone worker is able to visually detect the approach of a train moving at the maximum speed authorized on that track, and move to a previously determined place of safety, not less than 15 seconds before the train would arrive at the location of the lone worker;

(5) Where no power-operated tools or roadway maintenance machines are in use within the hearing of the lone worker; and

(6) Where the ability of the lone worker to hear and see approaching trains and other on-track equipment is not impaired by background noise, lights, precipitation, fog, passing trains, or any other physical conditions.

(d) The place of safety to be occupied by a lone worker upon the approach of a train may not be on a track, unless working limits are established on that track.

(e) A lone worker using individual train detection for on-track safety while fouling a track may not occupy a position or engage in any activity that would interfere with that worker's ability to maintain a vigilant lookout for, and detect the approach of, a train moving in either direction as prescribed in this section.

(f) A lone worker who uses individual train detection to establish on-track safety shall first complete a written Statement of On-track Safety. The Statement shall designate the limits of the track for which it is prepared and the date and time for which it is valid. The statement shall show the maximum authorized speed of trains within the limits for which it is prepared, and the sight distance that provides the required warning of approaching trains. The lone worker using individual train detection to establish on-track safety shall produce the Statement of On-track Safety when requested by a representative of the Federal Railroad Administrator.

*This is a usual and customary practice. Consequently, there is no burden associated with this requirement.*

**P. Audible Warning from Trains (214.339)**

(a) Each railroad shall have in effect and comply with written procedures that prescribe effective requirements for audible warning by horn and/or bell for trains and locomotives approaching any roadway workers or roadway maintenance machines that are either on the track on which the movement is occurring, or about the track if the roadway workers or roadway maintenance machines are at risk of fouling the track. At a minimum, such written procedures shall address:

- (1) Initial horn warning,
- (2) Subsequent warning(s), and
- (3) Alternative warnings in areas where sounding the horn adversely affects roadway workers (e.g., in tunnels and terminals).

(b) Such audible warning shall not substitute for on-track safety procedures prescribed in this Part.

This requirement will affect approximately 19 railroads. Thus, FRA estimates that approximately 19 written procedures that prescribe effective requirements for audible warning by horn and/or bell for trains and locomotives approaching any roadway workers or roadway maintenance machines will be completed under the above requirement. It is estimated that it will take approximately four (4) hours to complete each written procedure. Total annual burden for this requirement is 76 hours.

Respondents Universe:	19 Railroads
Burden time per response:	13 hours
Frequency of Response:	On occasion
Annual Number of responses:	19 written procedures
Total Annual Burden:	76 hours
Annual Cost:	\$5,776 (76 hrs. x \$76 p/hr.)

**Calculation:** 19 written procedures x 4 hrs. = 76 hours

**Q. TRAINING REQUIREMENTS**

**(1) Training and Qualification, General (214.343; 214.345)**

- No employer shall assign an employee to perform the duties of a roadway worker, and no employee shall accept such assignment, unless that employee has received training in the on-track safety program procedures associated with the assignment to be performed, and that employee has demonstrated the ability to fulfill the responsibilities for on-track

safety that are required of an individual roadway worker performing that assignment.

- Each employer must provide to all roadway workers in its employ initial or recurrent training once every calendar year on the on-track safety rules and procedures that they are required to follow.
  - Except as provided for in § 214.353, railroad employees other than roadway workers, who are associated with on-track safety procedures, and whose primary duties are concerned with the movement and protection of trains, shall be trained to perform their functions related to on-track safety through the training and qualification procedures prescribed by the operating railroad for the primary position of the employee, including maintenance of records and frequency of training.
  - Each employer of roadway workers must maintain written or electronic records of each roadway worker's qualifications in effect. Each record must include the name of the employee, the type of qualification made, and the most recent date of qualification. These records must be kept available for inspection and photocopying by the Federal Railroad Administration during regular business hours.
- \* Consistent with § 214.343(b), the training for all roadway workers must include, as a minimum, the following:

\*Recognition of railroad tracks and understanding of the space around them within which on-track safety is required;

\*The functions and responsibilities of various persons involved with on-track safety procedures;

\*Proper compliance with on-track safety instructions given by persons performing or responsible for on-track safety functions;

\*Signals given by watchmen/lookouts, and the proper procedures upon receiving a train approach warning from a lookout;

\*The hazards associated with working on or near railroad tracks, including review of on-track safety rules and procedures.

\*Instruction on railroad safety rules adopted to comply with § 214.317(b) of this Subpart.

**(2) Training and Qualification for Lone Workers (214.347)**

Each lone worker must be trained and qualified by the employer to establish on-track

safety in accordance with the requirements of this section, and must be authorized to do so by the railroad that conducts train operations on those tracks.

The training and qualification for lone works must include, as a minimum, consideration of the following factors:

- Detection of approaching trains and prompt movement to a place of safety upon their approach;
- Determination of the distance along the track at which trains must be visible in order to provide the prescribed warning time;
- Rules and procedures prescribed by the railroad for individual train detection, establishment of working limits, and definite train location; and
- On-track safety procedures to be used in the territory on which the employee is to be qualified and permitted to work alone.
- Alternative means to access to the information in a railroad's on-track safety manual when a lone worker's duties make it impracticable for the on-track safety manual to be readily available
- Initial and periodic (as specified by § 243.201 of this Chapter) qualification of a lone worker shall be evidenced by demonstrated proficiency.

**(3) Training and Qualification of Watchmen/Lookouts (214.349)**

The training and qualification for roadway workers assigned the duties of watchmen/lookouts must include, as a minimum, consideration of the following factors:

- Detection and recognition of approaching trains;
- Effective warning of roadway workers of the approach of trains;
- Determination of the distance along the track at which trains must be visible in order to provide the prescribed warning time; and
- Rules and procedures of the railroad to be used for train approach warning.

(b) Initial and periodic (as specified by § 243.201 of this Chapter) qualification of a watchman/lookout shall be evidenced by demonstrated proficiency.

**(4) Training and Qualification of Flagman (214.351)**

The training and qualification for roadway workers assigned the duties of flagmen must include, as a minimum, the content and application of the operating rules of the railroad pertaining to giving proper stop signals to trains and holding trains clear of working limits.

(b) Initial and periodic (as specified by § 243.201 of this Chapter) qualification of a flagman shall be evidenced by demonstrated proficiency.

**(5) Training and Qualification of Roadway Workers Who Provide On-track Safety for Roadway Work Groups (214.353)**

The training and qualification of each roadway worker in charge, or any other employee acting as a roadway worker in charge (e.g., a conductor or a brakeman), who provides for the on-track safety of roadway workers through establishment of working limits or the assignment and supervision of watchmen/lookouts or flagmen shall include, at a minimum:

- All the on-track safety training and qualification required of the roadway workers to be supervised and protected, including the railroad's procedures governing good faith challenges in §§ 214.311(b)-(c) and 214.313(d) of this Subpart (
- The content and application of the operating rules of the railroad pertaining to the establishment of working limits;
- The content and application of the rules of the railroad pertaining to the establishment or train approach warning; and
- The relevant physical characteristics of the territory of the railroad upon which the roadway worker is qualified.
- The procedures required to ensure that the roadway worker in charge of the on-track safety group(s) of roadway workers remains immediately accessible and available to all roadway workers being protected under the working limits or other provisions of on-track safety established by the roadway worker in charge.

(b) Initial and periodic (as specified by § 243.201 of this Chapter) qualification of a roadway worker in charge shall be evidenced by demonstrated proficiency.

**(6) Training and Qualification of Each Roadway Worker in On-Track Safety for Operators of Roadway Maintenance Machines (214.355)**

The training and qualification of roadway workers who operate roadway maintenance machines must include, as a minimum:

- Procedures to prevent a person from being struck by the machine when the machine is in motion or operation;
- Procedures to prevent any part of the machine from being struck by a train or other equipment on another track;
- Procedures to provide for stopping the machine short of other machines or obstructions on the track; and
- Methods to determine safe operating procedures for each machine that the operator is expected to operate.

*Training is a continuous and usual and customary practice for railroads. Consequently, there is no burden associated with this requirement.*

(b) Initial and periodic (as specified by § 243.201 of this Chapter) qualification of a roadway worker to operate roadway maintenance machines shall be evidenced by demonstrated proficiency.

*Again, training is a continuous and usual and customary practice for railroads. Consequently, there is no burden associated with this requirement.*

For the 50,000 roadway workers now employed, FRA estimates that it will take approximately two (2) minutes per employee to keep a written or electronic record of their qualifications. Total annual burden for this requirement is 1,667 hours.

Respondents:	50,000
	Roadway Workers
Burden time per response:	2 minutes
Frequency of Response:	On occasion
Annual Number of responses:	50,000 records
Total Annual Burden:	1,667 hours
Annual Cost:	\$126,692 (1,667 hrs. x \$76 p/hr.)

**Calculation:** 50,000 roadway workers x 2 min. = 1,667 hours

Total burden for this entire requirement is 1,667 hours

The total burden for Subpart C is 3,745 hours (563 + 92 + 4 + 20 + 741 + 100 + 10 + 10 + 38 + 20 + 167 + 219 + 14 + 4 + 76 + 1,667).

## SUBPART D

### § 214.503 Good Faith Challenges; Procedures for Notification and Resolution.

- A. An employee operating an on-track roadway maintenance machine or hi-rail vehicle must inform the employer whenever the employee makes a good faith determination that the machine or vehicle does not comply with FRA regulations, or has a condition that inhibits its safe operation.

FRA estimates that approximately 125 notifications will be made each year by employees to employers under this requirement. It is estimated that it will take approximately 10 minutes to make each notification/communication to the employer. Total annual burden for this requirement is 21 hours.

Respondent Universe:	50,000 Roadway Workers
Burden time per response:	10 minutes
Frequency of Response:	On occasion
Annual number of Responses:	125 notifications
Total Annual Burden:	21 hours
Annual Cost:	\$1,197 (21 hrs. x \$57 p/hr.)

**Calculation:** 125 notifications/communications x 10 min. = 21 hours

- B. Each employer must have in place and follow written procedures to assure prompt and equitable resolution of challenges resulting from good faith determinations made in accordance with this section. The procedures must include specific steps to be taken by the employer to investigate each good faith challenge, as well as procedures to follow once the employer finds a challenged machine or vehicle does not comply with this subpart or is otherwise unsafe to operate. The procedures must also include the title and location of the employer's designated official.

FRA estimates that approximately five (5) new railroads will commence operations each year and thus five (5) resolution procedures will be developed each year under the above requirement. It is estimated that it will take approximately two (2) hours to develop each resolution procedure. Total annual burden for this requirement is 10 hours.

Respondent Universe:	692 Class III
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	Railroads/	200 Contractors
Burden time per response:	2 hours	
Frequency of Response:	On occasion	
Annual number of Responses:	5 resolution procedures	
Total Annual Burden:	10 hours	
Annual Cost:		\$760 (10 hrs.
	x \$76 p/hr.)	

**Calculation:** 5 resolution procedures x 2 hrs. = 10 hours

Total annual burden for this requirement is 31 hours (21 + 10).

**§ 214.505 Required Environmental Control and Protection Systems for New On-Track Roadway Maintenance Machines with Enclosed Cabs.**

- A. An employer must maintain a list of new and designated existing on-track roadway maintenance machines of the types listed in paragraph (a)(1) through (a)(5) of this section, or functionally equivalent thereto. The list must be kept current and made available to the Federal Railroad Administration and other Federal and State agencies upon request.

This requirement covers both railroads and contractors. FRA estimates then that approximately 300 lists of new and designated on-track roadway maintenance machines of the types specified in paragraph (a) of this section will be kept by railroads and an additional 200 lists will be kept by contractor under the above requirement. It is estimated that it will take approximately one (1) hour to develop/compile each list. Total annual burden for this requirement is 500 hours.

Respondent Universe:		692 Class III
	Railroads/	200 Contractors
Burden time per response:	1 hour	
Frequency of Response:	On occasion	
Annual number of Responses:	500 lists	
Total Annual Burden:	500 hours	
Annual Cost:		\$38,000 (500
	hrs. x \$76 p/hr.)	

**Calculation:** 500 lists x 1 hr. = 500 hours



- B. An existing roadway maintenance machine of the types listed in paragraphs (a)(1) through (a)(5) of this section, or functionally equivalent thereto, becomes “designated” when the employer adds the machine to the list required in paragraph(c) of this section. The designation is irrevocable, and the designated existing roadway maintenance machine remains subject to paragraph (b) of this section until it is retired or sold.

Those existing roadway maintenance machines that are not already designated will become so when they are sold by a railroad to another railroad or contractor. FRA estimates that approximately 150 machines will become designated under these circumstances. It is estimated that it will take approximately five (5) minutes to designate each roadway maintenance machine. Total annual burden for this requirement is 13 hours.

Respondent Universe:	692 Class III Railroads/ 200 Contractors
Burden time per response:	5 minutes
Frequency of Response:	On occasion
Annual number of Responses:	150 designations
Total Annual Burden:	13 hours
Annual Cost:	\$988 (13 hrs. x \$76 p/hr.)

**Calculation:** 150 designations x 5 min. = 13 hours

Total annual burden for this entire requirement is 513 hours (500 + 13).

**§ 214.507 Required Safety Equipment for New On-Track Roadway Maintenance Machines.**

Each new on-track roadway maintenance machine must have its as-built light weight displayed in a conspicuous location on the machine.

FRA estimates that approximately 1,000 new on-track roadway maintenance machines are built each year. It is estimated that it will take approximately five (5) minutes to display a sticker or stencil on each machine indicating its as-built light weight in a conspicuous location. Total annual burden is approximately 83 hours.

Respondent Universe:	692 Class III Railroads/ 200 Contractors
Burden time per response:	5 minutes
Frequency of Response:	On occasion
Annual number of Responses:	1,000 stickers/stencils

Total Annual Burden:	83 hours	
Annual Cost:	hrs. x \$57 p/hr.)	\$4,731 (83

**Calculation:** 1,000 stickers/stencils x 5 min. = 83 hours

**§ 214.511 Required Audible Warning Devices for New On-Track Roadway Maintenance Machines.**

Each new on-track roadway maintenance machine must be equipped with: (1) A horn or audible warning device that produces a sound loud enough to be heard by roadway workers and other machine operators within the immediate work area. The triggering mechanism for the device must be clearly identifiable and within easy reach of the machine operator; and (2) An automatic change-of-direction alarm which provides an audible signal that is at least three seconds long and is distinguishable from the surrounding noise. Change of direction alarms may be interrupted by the machine operator when operating the machine in the work mode if the function of the machine would result in a constant, or almost constant, sounding of the device. In any action brought by FRA to enforce the change-of-direction alarm requirement, the employer shall have the burden of proving that use of the change-of-direction alarm in a particular work function would cause constant, or almost constant, sounding of the device. FRA estimates that approximately 3,700 roadway maintenance machines will be affected, requiring that triggering mechanisms for these new machines be made clearly identifiable and within easy reach of the machine operator. It is estimated that it will take approximately five (5) minutes to identify each triggering mechanism. Total annual burden for this requirement is 308 hours.

Respondent Universe:	692 Class III Railroads/ 200 Contractors
Burden time per response:	5 minutes
Frequency of Response:	On occasion
Annual number of Responses:	3,700 identified mechanisms
Total Annual Burden:	308 hours
Annual Cost:	hrs. x \$57 p/hr.)
	\$17,556 (308

**Calculation:** 3,700 identified mechanisms x 5 min. = 308 hours

**§ 214.513 Retrofitting of Existing On-Track Roadway Maintenance Machines; General.**

By March 28, 2005, each existing on-track roadway maintenance machine must be equipped with a permanent or portable horn or other audible warning device that

produces a sound loud enough to be heard by roadway workers and other machine operators within the immediate work area. The triggering mechanism for the device must be clearly identifiable and within easy reach of the machine operator.

*This requirement has already been fulfilled. Consequently, there is no burden associated with it.*

### **§ 214.515 Overhead Covers for Existing On-Track Roadway Maintenance Machines.**

For those existing on-track roadway maintenance machines that are not already equipped with overhead covers for the operator's position, the employer shall evaluate the feasibility of providing an overhead cover on such a machine if requested in writing by the operator assigned to operate that machine or by the operator's designated representative. The employer shall provide the operator a written response for each request within 60 days. When the employer finds the addition of an overhead cover is not feasible, the response must include an explanation of the reasoning used by the employer to reach that conclusion.

FRA estimates that approximately 500 written requests for an overhead cover for an existing on-track roadway machines will be made by machine operators or their designated representatives. It is estimated that each written request by operators or their representatives will take approximately 10 minutes to complete. Further, it is estimated that there will be 500 written responses by employers within the required 60 days to these requests (including explanations when overhead covers are not feasible), and that each response will take approximately 20 minutes to complete. Total annual burden for this entire requirement is 250 hours.

Respondent Universe:	692 Class III Railroads/ 200 Contractors
Burden time per response:	10 minutes + 20 minutes
Frequency of Response:	On occasion
Annual number of Responses:	500 requests + 500 responses
Total Annual Burden:	250 hours
Annual Cost:	\$17,423 (83 hrs. x \$57 p/hr. + 167 hrs. x \$76 p/hr.)

**Calculation:** 500 requests x 10 min + 500 responses x 20 min. = 250 hours

### **§ 214.517 Retrofitting of Existing On-Track Roadway Maintenance Machines**

**Manufactured On or After January 1, 1991.**

In addition to meeting the requirements of §214.513, after March 28, 2005, each existing on-track roadway maintenance machine manufactured on or after January 1, 1991, must have the following: (1) A change-of-direction alarm or rearview mirror or other rearward viewing device, if either device is feasible, given the machine’s design, and if either device adds operational safety value, given the machine’s function. In any action brought by FRA to enforce this requirement, the employer shall have the burden of proving that neither device is feasible or adds operational safety value, or both, given the machine’s design or work function; (2) An operative heater, when the machine is operated at an ambient temperature less than 50 degrees Fahrenheit and is equipped with, or has been equipped with, a heater installed by the manufacturer or the railroad; (3) The light weight of the machine stenciled, or otherwise clearly displayed, on the machine if the light weight is known; (4) Reflective material, or a reflective device, or operable brake lights; (5) Safety glass when its glass is normally replaced, except that replacement glass that is specifically intended for on-track roadway maintenance machines and is in the employer's inventory as of September 26, 2003, may be utilized until exhausted; (6) A turntable restraint device, on machines equipped with a turntable, to prevent undesired lowering, or a warning light indicating that the turntable is not in the normal travel position.

FRA estimates that approximately 500 existing on-track roadway machines will have the lightweight of the machine stenciled, or otherwise clearly displayed, if the light weight is known. It is estimated that it will take approximately five (5) minutes to stencil or clearly mark each existing on-track roadway machine. Total annual burden for this requirement is 42 hours.

Respondent Universe:	692 Class III Railroads/ 200 Contractors
Burden time per response:	5 minutes
Frequency of Response:	On occasion
Annual number of Responses:	500 stencils/displays
Total Annual Burden:	42 hours
Annual Cost:	\$2,394 (42 hrs. x \$57 p/hr.)

**Calculation:** 500 stencils/displays x 5 min. = 42 hours

**§ 214.518 Safe and secure positions for riders.**

On or after March 1, 2004, a roadway worker, other than the machine operator, is prohibited from riding on any on-track roadway maintenance machine unless a safe and secure position for each roadway worker on the machine is clearly identified by stenciling, marking, or other written notice.

*This requirement has already been fulfilled. Consequently, there is no burden associated with it.*

**§ 214.523 Hi-Rail Vehicles.**

- A. The hi-rail gear of all hi-rail vehicles must be inspected for safety at least annually and with no more than 14 months between inspections. Tram, wheel wear and gage must be measured and, if necessary, adjusted to allow the vehicle to be safely operated.

Each employer must keep records pertaining to compliance with paragraph (a) of this section. Records may be kept on forms provided by the employer or by electronic means. The employer must retain the record of each inspection until the next required inspection is performed. The records must be available for inspection and copying during normal business hours by representatives of FRA and States participating under Part 212 of this chapter. The records may be kept on the hi-rail vehicle or at a location designated by the employer.

FRA estimates that approximately 5,000 hi-rail vehicles will have safety critical components inspected at least annually, if not more often. It is estimated that it will take approximately five (5) minutes to complete each hi-rail vehicle safety inspection and record the results, either electronically or in writing. Total annual burden for this requirement is 417 hours.

Respondent Universe:	692 Class III Railroads/ 200 Contractors
Burden time per response:	5 minutes
Frequency of Response:	On occasion
Annual number of Responses:	5,000 inspection records
Total Annual Burden:	417 hours
Annual Cost:	\$23,679 (417 hrs. x \$57 p/hr.)

**Calculation:** 5,000 inspection records x 5 min. = 417 hours

- B. The operator of the hi-rail vehicle must check the vehicle for compliance with this subpart, prior to using the vehicle at the start of the operator’s work shift. A non-complying condition that cannot be repaired immediately must be tagged and dated in a manner prescribed by the employer and reported to the designated official. Non-complying automatic change-of-direction alarms, back-up alarms, and 360-degree intermittent warning lights or beacons must be repaired or replaced as soon as practicable within seven calendar days.

FRA estimates that approximately 500 non-complying conditions that cannot be repaired immediately will be tagged and dated in a manner prescribed by the employer and reported to the designated official. It is estimated that it will take approximately 10 minutes to complete each tag and an additional 15 minutes to complete each report to the designated official. Total annual burden for this requirement is 208 hours.

Respondent Universe:	692 Class III Railroads/ 200 Contractors
Burden time per response:	10 minutes + 15 minutes
Frequency of Response:	On occasion
Annual number of Responses:	500 tags + 500 reports
Total Annual Burden:	208 hours
Annual Cost:	\$11,856 (208 hrs. x \$57 p/hr.)

**Calculation:** 500 tags x 10 min. + 500 reports x 15 min. = 208 hours

Total annual burden for this requirement is 625 hours (417 + 208).

**§ 214.527 On-Track Roadway Maintenance Machines; Inspection for Compliance and Schedule for Repairs.**

The operator of an on-track roadway maintenance machine must check the machine components for compliance with this subpart, prior to using the machine at the start of the operator's work shift. Any non-complying condition that cannot be repaired immediately must be tagged and dated in a manner prescribed by the employer and reported to the designated official.

FRA estimates that approximately 550 non-complying conditions relating to on-track roadway maintenance machines that cannot be repaired immediately will be tagged and dated in a manner prescribed by the employer and reported to the designated official. It is estimated that it will take the operator approximately five (5) minutes to check the machine components for compliance with this subpart and complete the tag. Further, it is estimated that it will take an additional 15 minutes to complete each report to the designated official. Total annual burden for this requirement is 183 hours.

Respondent Universe:	692 Class III Railroads/ 200 Contractors
Burden time per response:	5 minutes + 15 minutes
Frequency of Response:	On occasion
Annual number of Responses:	550 tags + 550 reports
Total Annual Burden:	183 hours

Annual Cost: \$10,431 (183  
hrs. x \$57 p/hr.)

**Calculation:** 550 tags x 5 min. + 550 reports x 15 min. = 183 hours

**§ 214.533 Schedule of Repairs Subject to Availability of Parts.**

(a) The employer must order a part necessary to repair a non-complying condition on an on-track roadway maintenance machine or a hi-rail vehicle by the end of the next business day following the report of the defect. (b) When the employer cannot repair as required by § 214.531 because of the temporary unavailability of a necessary part, the employer must repair the on-track roadway maintenance machine or hi-rail vehicle within seven calendar days after receiving the necessary part. The employer may continue to use the on-track roadway maintenance machine or hi-rail vehicle with a non-complying condition until receiving the necessary part(s) for repair, subject to the requirements of § 214.503. However, if a non-complying condition is not repaired within 30 days following the report of the defect, the employer must remove the on-track roadway maintenance machine or hi-rail vehicle from on-track service until it is brought into compliance with this subpart. (c) If the employer fails to order a part necessary to repair the reported non-complying condition, or if it fails to install an available part within the required seven calendar days, the on-track roadway maintenance machine or hi-rail vehicle must be removed from on-track service until brought into compliance with this subpart. (d) Each employer must maintain records pertaining to compliance with this section. Records may be kept on forms provided by the employer or by electronic means. The employer must retain each record for at least one year, and the records must be available for inspection and copying during normal business hours by representatives of FRA and States participating under Part 212 of this chapter. The records may be kept on the on-track roadway maintenance machine or hi-rail vehicle or at a location designated by the employer.

FRA estimates that approximately 250 records will be kept, either electronically or on paper, in order to comply with the requirements of this section. It is estimated that it will take approximately 15 minutes to complete each record. Total annual burden for this requirement is 63 hours.

Respondent Universe:	692 Class III
	Railroads/ 200 Contractors
Burden time per response:	15 minutes
Frequency of Response:	On occasion
Annual number of Responses:	250 records
Total Annual Burden:	63 hours
Annual Cost:	\$4,788 (63
	hrs. x \$76 p/hr.)

**Calculation:** 250 records x 15 min. = 63 hours

Total annual burden for Subpart D is 2,098 hours (21 + 10 + 500 + 13 + 83 + 308 + 250 + 42 + 417 + 208 + 183 + 63).

Total annual burden for the entire information collection is 6,359 hours (Form FRA 6180.119 + Subparts C + D) (516 + 3,745 + 2,098).

**13. Estimate of total annual costs to respondents.**

Listed below are the costs associated with the information collection requirements of Subpart C:

\$5	-	Letters/documents to FRA (1 letter/document@ \$5.00 per document to cover postage, paper, and envelopes)
\$250	-	Printing and other related expenses for required program manuals for 5 new start-up Class III railroads (@ \$50 per manual)
\$200,000	-	Miscellaneous Costs
\$200,255	-	Total Cost

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

Except for some minimal training costs for FRA safety inspectors who will have to monitor silica dust exposure inside the cabs of roadway maintenance machines and hi-rail vehicles under the new Subpart D, FRA estimates no additional costs.

**15. Explanation of program changes and adjustments.**

The total burden for this information collection has decreased by **858,164 hours** and by **24,971,709 responses** from the last approved submission. The decrease in burden is due solely **adjustments**, which are delineated in the table below.

**TABLE FOR ADJUSTMENTS**

Part 214 Sec	Responses & Avg. Time (Previous Submission)	Responses & Avg. Time (This Submission)	Burden Hours (Previous Submission)	Burden Hours (This Submissi	Difference (plus/minus)



			)	on)	
Form FRA F 6180.119 – Railroad Workplace Violation Report	120 forms 4 hours	129 forms 4 hours	480 hours	516 hours	+ 36 hours + 9 responses
214.307 – Railroad On-Track Safety Programs – RR Programs that comply with this Part + copies at System/Division Headquarters – RR Notification to FRA not less than one month before on-track safety program takes effect – RR Amended on-track safety programs after FRA disapproval – RR Written response in support of disapproved program	722 programs 2 hours + 851 copies 2 minutes  825 notices  34 programs 4 hours  2 written responses 40 hours	276 programs 2 hours + 325 copies 2 minutes  276 notices  1 program 4 hours  1 written response 20 hours	1,472 hours   275 hours  136 hours  80 hours	563 hours   92 hours  4 hours  20 hours	-909 hours -972 resp.   - 183 hours - 549 resp.  - 132 hours - 33 resp.  - 60 hours - 1 resp.
214.309 – On-Track Safety Manual – RR Provisions for alternative access to information in on-track safety manual	722 provisions 60 minutes	741 provisions 60 minutes	722 hours	741 hours	+ 19 hours + 19 resp.
214.311 - On-track safety program with written procedures to resolve good faith challenges – New Railroads	50 programs 30 minutes + 24 hours	5 programs 2 hours	613 hours	10 hours	- 603 hours - 45 responses
214.313 – Good Faith Challenges	80 challenges 8 hours	0	640 hours	0	- 640 hours - 80 responses
214.315/335 - Supervision + communication - Job Briefings - Adjacent-Track Safety Briefings -- Information on Accessibility of Roadway Worker in Charge (RWIC) and Alternative	16,350,000 briefings 2 minutes  2,403,450 brfs 30 seconds  594,000 briefings 20 seconds	0  0  0	545,000 hours  20,029 hours  3,300 hours	0  0  0	- 545,000 hours - 16,350,000 resp.  - 20,029 hours - 2,403,450 resp.  - 3,300 hours - 594,000 resp.

Procedures in Event RWIC is No Longer Accessible to Work Gang					
214.317 – On-Track Safety Procedures, generally, for snow removal, and weed spray equipment, tunnel niche or clearing by	20 operating Procedures 60 minutes 722 operating Procedures 60 minutes 25 designations 5 minutes	5 operating procedures 2 hours	744 hours	10 hours	- 734 hours - 762 resp.
214.318 – Procedures established by railroads for workers to perform duties incidental to those of inspecting, testing, servicing, or repairing rolling equipment	722 rules/ Procedures 3 hours	19 rules/ procedures 2 hours	2,166 hours	38 hours	- 2,128 hours - 703 resp.
214.319 (b)(1)– New Requirements – Class I & II Railroads evaluation of its on-track safety program and identification of appropriate method to provide redundant protections for roadway work groups	47 On-track program evaluations 40 hours + 16 hours	0	1,568 hours	0	- 1,568 hours - 47 resp.
(b)(2) - Implementing redundant protections – safety briefings	77,394 safety briefings 4 minutes	0	5,160 hours	0	- 5,160 hours - 77,394 resp.
(c) Railroad written request to FRA requesting exemption from requirements of section 214.319(b) for each segment of track governed by Positive Train Control	5 written requests 60 minutes	0	5 hours	0	- 5 hours - 5 responses

214.322 -- Exclusive Track Occupancy, Electronic Display – Written Authorities/ Printed Authority Copy if Electronic Display Fails or Malfunctions	500 written authorities 10 minutes	1,000 written authorities 10 minutes	83 hours	167 hours	+ 84 hours + 500 resp.
-- On-Track Safety Briefings in Event Written Authority/ Printed Copy cannot be Obtained	100 briefings 6 minutes	0	10 hours	0	- 10 hours - 100 resp.
-- Data File Records Relating to Electronic Display Device in Part 225 Reportable Accident/Incident	25 data file records 2 hours	0	50 hours	0	- 50 hours - 25 resp.
- Requests for copies of NIST Assurance publication for railroads using electronic display system	3 requests + 3 copies 30 minutes + 2 minutes	0	2 hours	0 hours	- 2 hours - 6 responses
214.325 – Train Coordination - Working Limits Established on Controlled Track through Train Coordination: Verbal communication by roadway worker establishing working limits	36,500 verbal messages 15 seconds	0	152 hours	0	- 152 hours - 36,500 resp.

<p>214.327 - Inaccessible Track - Working Limits Established by Locomotive with/Without Cars to Prevent Access – Communication by RWIC with Locomotive Crew Member -- Notification to Train or Engine Crew on Any Working Limits in Effect That Prohibit Train Movement until RWIC gives permission to enter Working Limits -- Working Limits on Non-Controlled Track: Notifications</p>	<p>9,125 parleys/ communications 10 minutes</p> <p>1,750 notifications 60 minutes</p> <p>50,000 notifications 10 minutes</p>	<p>0 responses</p> <p>0 responses</p> <p>0</p>	<p>1,521 hours</p> <p>292 hours</p> <p>8,333 hours</p>	<p>0</p> <p>0</p> <p>0</p>	<p>- 1,521 hours - 9,125 resp.</p> <p>- 1,750 hours - 1,750 resp.</p> <p>- 8,333 hours - 50,000 resp.</p>
<p>214.329 –Train Approach Warning Provided by Watchmen/Lookouts: Communications on track and in yards</p>	<p>795,000 parleys + 79,500 parleys 30 seconds + 10 seconds</p>	<p>0</p>	<p>6,846 hours</p>	<p>0</p>	<p>- 6,846 hours - 874,500 resp.</p>

214.336 - Procedures for Adjacent-Track Movements Over 25 mph -Notifications/Watchmen/ Lookout Warnings - Roadway Worker Communication with Train Engineers or Equipment Operators - Procedures for Adjacent-Track Movements 25 mph or less - Notifications/Watchmen/ Lookout Warnings - Roadway Worker Communication with Train Engineers or Equipment Operators -Exceptions to the requirements in paragraphs (a), (b), and (c) for adjacent - controlled-track on-track safety: Work activities involving certain equipment and purposes – On-Track Job Safety Briefings	10,000 notices 15 seconds	10,000 notices 5 seconds	42 hours	14 hours	- 28 hours - 0 responses
	3,000 talks 1 minute	0	50 hours	0 hours	- 50 hours - 3,000 responses
	3,000 notices 15 seconds	3,000 notices 5 seconds	13 hours	4 hours	- 9 hours - 0 responses
	1,500 talks 1 minutes	0	25 hours	0 hours	- 25 hours - 1,500 responses
	2,403,450 safety briefings 15 seconds	0	10,014 hours	0 hours	- 10,014 hours - 2,403,450 responses
214.337 - On-Track Safety Procedures for Lone Workers: Statements by Lone Workers - Statement of On-Track Safety Using Individual Train Detection on Track Outside Manual Interlocking, a Controlled Point, or a Remotely Controlled Hump Yard Facility	2,080,000 statements 30 seconds	0	17,333 hours	0	- 17,333 hours - 2,080,000 resp.
	200 statements 30 seconds	0	2 hours	0	- 2 hours - 200 resp.
214.339 –Written procedures that prescribe effective requirements for audible warning by	44 written procedures 13 hours	19 written procedures 4 hours	572 hours	76 hours	- 496 hours - 25 responses

horn and/or bell for trains approaching roadway workers					
214.343/345/347/349/351/353/355 –Annual Training for All Roadway Workers (RWs) - Training of Trainmen (Conductors & Brakemen) to Act as RWIC and Training of Station Platform Work Coordinators -Additional adjacent on-track safety training for Roadway Workers	50,000 tr. RW 4.5 hours	0	225,000 hours	0	- 225,000 hours - 50,000 responses
	810 trained workers 2 hours	0	1,620 hours	0	- 1,620 hours - 810 responses
	35,000 tr. RW 5 minutes	0	2,917 hours	0	- 2,917 hours - 35,000 responses
214.503 – Resolution Procedures	10 procedures 2 hours	5 procedures 2 hours	20 hours	10 hours	- 10 hours - 5 responses
214.513 - Retrofitting of Existing On-Track Roadway Maintenance Machines -Identification of Triggering Mechanism - Horns	200 I.D. mechanisms 5 minutes	0	17 hours	0	- 17 hours - 200 responses
214.518 - Safe and Secure Position for riders - Positions identified by stenciling /markings/notices	1,000 stencils 5 minutes	0	83 hours	0	- 83 hours - 1,000 responses
214.523 – Hi-Rail Vehicles	2,000 records 60 minutes	5,000 records 5 minutes	2,000 hours	417 hours	- 1,583 hours + 3,000 responses
214.527 -Inspection for Compliance; Repair Schedules	550 tags + 550 reports 5 minutes + 15 minutes	550 tags + 550 reports 5 minutes + 15 minutes	184 hours	183 hours	- 1 hours 0 responses

**Adjustments** above decreased the burden by **858,164 hours** and by **24,971,709 responses**.

Currently, the OMB inventory for this collection of information shows a burden total of *864,523 hours* and *25,078,191 responses*, while this updated submission reflects a total

burden of 6,359 hours and 106,482 responses. Hence, there is a total burden decrease of **858,164 hours** and **24,971,709 responses**.

The cost to respondents has decreased by **\$795** from the last approved submission. The change in cost is a result of two **adjustments**: The first in the estimated number of letters/documents that respondents will send to FRA (from **60 letters/documents @ \$5** ea. to *1 letter /document @ \$5* each; from \$300 to \$5, a decrease of **\$295**), and the second in the estimated number of new railroads (from **15 railroad** to **5 railroads**) that will incur printing/other related expenses for required program manuals for employees at \$50 per manual (from \$750 to \$250, a decrease of **\$500**). This revised estimate changed the cost from **\$201,050** to **\$200,255** and accounts for the decrease in cost of **\$795**.

**16. Publication of results of data collection.**

FRA does not have any plans to publish the results of this collection of 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 main DOT strategic goal, namely transportation safety. Without this collection of information, rail safety throughout the U.S. might be seriously hindered. Specifically, if roadway workers could not challenge the fitness of on-track roadway machines and hi-rail vehicles and if employers were not required to have in place and follow written procedures to assure prompt and equitable resolution of these challenges, these workers might be forced to operate machines with safety and other defects. This could lead to greater numbers of accidents/incidents and corresponding increases in the number of roadway worker casualties.

Without the provision that the triggering mechanism of audible warning devices required on new on-track roadway maintenance machines be clearly identifiable and within easy reach of the machine operator, more railway workers might be injured or killed because they did not know where the mechanism was in a critical situation and were not able to sound it in time. Additionally, without the requirement that employers will now have to evaluate the feasibility of providing an overhead cover for existing on-track roadway maintenance machines if requested in writing by the operator assigned to a particular machine or by the operator's representative, the safety and health of railroad workers would be at increased risk. Employers will now be required to provide a written response within 60 days, and will have to include an explanation of the reasoning used if it is determined that an overhead cover is not feasible. Unless employers have a valid reason,



they will not be able to deny roadway workers essential equipment. Covers or canopies provide protection from blinding sun and from inclement weather such as rain and snow. Overhead covers then could make all the difference in preventing accidents/incidents and the injuries to roadway workers which often ensue.

This information collection advances rail safety by requiring that records be kept regarding hi-rail vehicle annual safety inspections. In particular, these records allow FRA to verify that safety-critical components are checked once a year and adjusted, if necessary. Without this type of oversight, employers might not be as conscientious to check tram, wheel wear, and gage measurements. FRA would have no way to verify compliance with this new subpart. Non-complying conditions that were left uncorrected could lead to severe consequences for both railroads and their employees.

The collection of information provides that roadway workers will be well-trained and, therefore, well-qualified for their respective crafts (whether watchmen/lookouts, flagmen, lone workers, roadway machine operators, etc.). Without this rule and corresponding information collection, roadway workers would not receive the initial and recurring training (once every year) now required. Consequently, they would not be as knowledgeable with railroad operating procedures and safety practices nor would they be as familiar with overall conditions in today's railroad environment. Also, if this collection were not conducted, there would not be the clear delineation of employers' responsibilities for providing on-track safety as well as employees' corresponding rights and responsibilities. Roadway workers might then unnecessarily or inadvertently place themselves in hazardous situations.

Furthermore, without this collection of information, there would not be the well-defined procedures for communication and protection now required of roadway workers. As a result, there would likely be greater confusion around railroad tracks and greater uncertainty regarding the correct use of railroad equipment. More roadway worker injuries and fatalities would inevitably follow. FRA data tend to support this conclusion. FRA data indicate a continuing downward trend in roadway worker injuries and fatalities. For example, there were 3,107 injuries to maintenance of equipment and stores employees in 1994, while there were 2,024 to this same class of employees in 1998. FRA's objective is to continue and facilitate this downward trend.

As a result of this collection, each employer must maintain written or electronic records of each roadway worker's current qualifications, and make these records available to FRA for inspection and copying upon request. Also, roadway workers who provide on-track safety for roadway work groups are required to take a recorded examination as part of the qualification process. These and other required records are very valuable in investigations after an injury or fatality involving a roadway worker or group of roadway workers. Furthermore, should a potential violation of roadway worker rights and responsibilities occur, FRA can consider all the available evidence by parties in the case,

including written records maintained now required by this collection, in making its determination. Without this collection, FRA would not have available this valuable resource.

In summary, this collection of information enhances railroad safety by providing another tool through which FRA can monitor a crucial area of railroad operations nationwide. It furthers DOT's goal of promoting the public health and safety by working toward the elimination of transportation-related accidents and corresponding deaths, injuries, particularly to roadway workers, and property damage.

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