

11 FEDERAL RAILROAD ADMINISTRATION
Railroad Safety Appliance Standards
(Title 49 Code of Federal Regulations Part 231)
SUPPORTING JUSTIFICATION
OMB Control No. 2130-0594

Summary of Submission

- This submission is a request for an extension without change (with changes in estimates) of the last three-year approval granted by the Office of Management and Budget (OMB) on October 20, 2017, which now expires on October 31, 2020.
- FRA published the required 60-day *Federal Register* Notice on July 16, 2020. See 85 FR 43298. FRA received no comments in response to this Notice.
- The total number of burden hours requested for this information collection is 37 hours. The total number of burden hours previously approved by OMB was 35,107 hours.
- The total number of responses requested for this information collection is 6. The total number of responses previously approved by OMB was 7,190.
- Overall, the adjustments decreased the burden by 35,070 hours and decreased responses by 7,184 after a thorough review of the data.
- The answer to question number 12 itemizes information collection requirements.
- The answer to question number 15 itemizes adjustments.
- There are no program changes at this time.

1. Circumstances that make collection of the information necessary.

The Association of American Railroads (AAR) submitted a petition to amend 49 CFR Part 231 on March 28, 2006. The AAR petition requested that FRA adopt new Federal railroad safety appliance standards to incorporate changes in railcar design that have occurred since the safety appliance regulations were promulgated in their current form. FRA acted on AAR's request by amending 49 CFR Part 231 to add sections 231.33 and 231.35 to the existing regulations.¹ These sections established a special approval process enabling the railroad industry to submit new rail equipment designs to FRA for approval with respect to the placement and securement of safety appliances on the designs. Safety appliances include, but are not limited to, couplers to couple and uncouple cars, grab irons, stirrup steps, hand brakes, running boards on top of freight cars and running board

¹ April 28, 2011 (76 FR 23714).

extensions. This process permits railroad industry representatives to submit requests for the approval of existing industry standards relating to the safety appliance arrangements on newly constructed railroad cars, locomotives, tenders, or other rail vehicles in lieu of the specific provisions currently contained in part 231.

The amendments were intended to promote the safe placement and securement of safety appliances on modern rail equipment by establishing a process for the review and approval of existing industry standards. It is anticipated that this special approval process enhances railroad safety by allowing FRA to consider technological advancements and ergonomic design standards for new car construction. It also ensures that modern rail equipment complies with the applicable statutory and safety-critical regulatory requirements related to safety appliances while also providing the flexibility to efficiently address safety appliance requirements on new designs in the future for railroad cars, locomotives, tenders, or other rail vehicles.

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

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

Railroad industry representatives are permitted to submit requests for the approval of existing industry standards regarding rail equipment. These requests are submitted to FRA electronically in the form of a letter. FRA reviews such petitions for special approval of an existing industry standard for new car construction to determine whether it is safe, appropriate, and in the public interest to approve an industry standard relating to the safety appliance arrangements on newly constructed railroad cars and locomotives in lieu of the specific provisions currently codified in 49 CFR 231 for cars of special construction. FRA reviews these special approval petitions to further rail safety by considering technological advancements and ergonomic design standards for new car construction.

3. Extent of automated information collection.

FRA strongly encourages and highly endorses the use of advanced information technology, wherever possible, to reduce burden on respondents. Sections 231.33(e) and 231.35(d) of the rule provide that electronic submission of comments to FRA may be made via the internet at <http://www.regulations.gov>.

All of the information required by the final rule are electronically provided to FRA by railroads. Railroads are not required to send hard copies of the required documents, but in the past, did so *as a courtesy* when complex drawings and other important documents

are involved. FRA does not anticipate receiving hard copies any longer.

4. Efforts to identify duplication.

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

Similar data is not available from any other source.

5. Efforts to minimize the burden on small businesses.

“Small entity” is defined in 5 U.S.C. 601 as a small business concern that is independently owned and operated and is not dominant in its field of operation. 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.²

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 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.³

¹The \$20 million limit is based on the Surface Transportation Board’s (STB) 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 1201.1-1. The current threshold is \$39.2 million or less.⁴

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

The rule will not have a significant economic impact on a substantial number of small entities, as there are no direct costs to small entities. Small entities will not be

² Size Eligibility Provisions and Standards, 13 CFR part 121, subpart A.

³ 68 FR 24891 (May 9, 2003) (codified at appendix C to 49 CFR part 209).

⁴ The Class III revenue threshold is \$39,194,876 or less, last updated in 2018. (The Class II threshold is between \$39,194,876 and \$489,935,956; and the Class I threshold is \$489,935,956 or more.)

responsible for preparing the petitions for special approval.

Furthermore, FRA does not believe there are any significant costs to implementing an approved industry standard as any such standard will likely be a repositioning of existing safety appliances and will only be applicable to newly manufactured units. Accordingly, FRA does not consider the impact of the rule to be significant for small entities, and has prepared and placed in the docket a Certification Statement that assesses the impact on small entities, and certifies that the rule is not expected to have a significant economic impact on a substantial number of small entities.

6. Impact of less frequent collection of information.

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

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

7. Special circumstances.

All information collection requirements are in compliance with this section.

8. Compliance with 5 CFR 1320.8.

As required by the Paperwork Reduction Act of 1995 and 5 CFR 1320, FRA published a notice in the Federal Register on July 16, 2020, soliciting comment on these information collection requirements from the public, railroads, and other interested parties.⁵ 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

⁵ 85 FR 43298.

information collection requirements contained in this regulation.

10. Assurance of confidentiality.

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

11. Justification for any questions of a sensitive nature.

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

12. Estimate of burden hours for information collected.

The estimates for the respondent universe, annual responses, and average time per responses are based on the experience and expertise of FRA's Office of Railroad Infrastructure and Mechanical Equipment.

FRA is including the dollar equivalent cost for each of the itemized hours below using STB's Full-Year Wage A&B data series as the basis for each cost calculation. For professional and administrative staff, the hourly wage rate is \$77 per hour ($\$44.27 * 1.75 = \77).

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

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

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

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

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

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

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

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

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

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

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

FRA estimates that approximately one petition for special approval will be filed each year with FRA under the above requirement. It is estimated that it will take approximately 16 hours to complete each petition and send it to FRA.

Respondent Universe:	AAR (Industry Representative)
Burden time per response:	16 hours
Frequency of Response:	On occasion
Annual number of Responses:	1 petition
Annual Burden:	16 hours
Annual Cost:	\$1,232 (\$77 x 16 hours)

Calculation: 1 petitions x 16 hours = 16 hours

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

FRA estimates that approximately one statement that the petitioner has served a copy on the party stipulated in 231.33(c) will be made each year under the above requirement. It is estimated that it will take approximately one hour to complete each statement and send it to FRA.

Respondent Universe:	AAR (Industry Representative)
Burden time per response:	1 hour
Frequency of Response:	On occasion
Annual number of Responses:	1 affirmation statement
Annual Burden:	1 hour
Annual Cost:	\$77 (\$77 x 1 hour)

Calculation: 1 affirmation statement x 1 hour = 1 hour

(e) Comment

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

FRA estimates that zero comments will be received. Consequently, there is no burden associated with the above requirement.

(f.) Disposition of Petitions.

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

FRA estimates that approximately one petition will be returned requesting additional information. It is estimated that it will take approximately two hours to complete the additional information document or amended petition.

Respondent Universe:	AAR (Industry Representative)
Burden time per response:	2 hours
Frequency of Response:	On occasion
Annual number of Responses:	1 petition/additional document
Annual Burden:	2 hours
Annual Cost:	\$154 (\$77 x 2 hours)

Calculation: 1 petition/additional document x 2 hours = 2 hours

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

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

Total annual burden for this entire requirement is 19 hours (16 + 1 + 2), or a total annual cost of \$1,463.

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

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

FRA estimates that approximately 1 petition for modification of an approved industry safety appliance standard will be made each year under the above requirement. It is estimated that it will take approximately 16 hours to complete each petition for modification.

Respondent Universe:	AAR (Industry Representative)
Burden time per response:	16 hours
Frequency of Response:	On occasion
Annual number of Responses:	1 modified petition
Annual Burden:	16 hours
Annual Cost:	\$1,232 (\$77 x 16 hours)

Calculation: 1 modification petition x 16 hours = 16 hours

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

FRA estimates that approximately 1 statement that the petitioner has served copies on the parties stipulated in 231.33(c) will be made under the above requirement. It is estimated that it will take approximately one hour to complete each statement and send it to FRA.

Respondent Universe:	AAR (Industry Representative)
Burden time per response:	1 hour
Frequency of Response:	On occasion
Annual number of Responses:	1 affirmation statement
Annual Burden:	1 hour
Annual Cost:	\$77 (\$77 x 1 hour)

Calculation: 1 affirmation statement x 1 hour. = 1 hour

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

FRA estimates that zero comments will be received. Consequently, there is no burden associated with the above requirement.

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

FRA estimates that approximately one petition will be returned requesting additional information. It is estimated that it will take approximately one hour to complete the additional information document or amended petition. Total annual burden for this requirement is one hour.

Respondent Universe:	AAR (Industry Representative)
Burden time per response:	1 hour
Frequency of Response:	On occasion
Annual number of Responses:	1 additional document
Annual Burden:	1 hour
Annual Cost:	\$77 (\$77 x 1 hour)

Calculation: 1 additional document x 1 hour = 1 hour

(f) Disposition of petitions for modification.

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

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

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

(3) A petition for modification, once approved, may be re-opened upon good cause

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

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

Total annual burden for this entire information collection is 37 hours (19 + 18), or a total annual cost of \$2,849.

13. Estimate of total annual costs to respondents.

There is no additional cost associated with this information collection requirement.

14. Estimate of Cost to Federal Government.

There are no additional costs to the Federal Government relating to this collection of information as FRA inspectors accomplish the necessary tasks as part of their routine duties.

15. Explanation of program changes and adjustments.

This is an extension without change (with changes in estimates) to a current collection of information.

The current OMB inventory for this information collection shows a total burden of 35,107 hours, while the present submission exhibits a total burden of 37 hours. Hence, the burden for this information collection has decreased by 35,070 hours from the last submission. The decrease in burden is solely the result of adjustments.

FRA provided a thorough review of this package and determined many of the PRA estimates were outdated and some estimates were not PRA requirements. The reduction is due to review of the estimated number of petitions submitted and the associated statements/comments expected to be received. For instance, FRA anticipates receiving one petition as opposed to the previous estimate of 100 petitions, which is outdated. Additionally, the amount of time it takes to draft a petition has been reduced significantly because the industry is using or building on previously submitted documents or templates and thus is not creating a new document each time. The chart below provides specific information on any burden estimates that have changed from the previous submission.

TABLE FOR ADJUSTMENTS

CFR Sections	Responses & Avg. Time (Previous Submission)	Responses & Avg. Time (This Submission)	Burden Hours (Previous Submission)	Burden Hours (This Submission)	Difference (plus/minus)	Section analyses and estimates
231.33(b)— Procedure for special approval of existing industry safety appliance standards— filing of petitions	100 petitions 160 hours	1 petition 16 hours	16,000 hours	16 hours	- 1,584 hours - 99 responses	<i>The reduction is due to review of estimated number of submissions expected to be received and estimated time to complete a submission. In the last few years, FRA received 1 or 2 petitions per year and anticipate receiving at most one petition per year in the next year. Additionally, the amount of time it takes to draft a petition has been reduced to 16 hours because the industry is using or building on the previously submitted documents or templates and thus is not newly creating the document. Therefore, it is not as burdensome as before.</i>
—(b)(6) Affirmative statement by petitioner that a petition copy has been served on rep. of employees responsible for equipment’s operation/inspection/testing/maintenance	100 statements 2 hours	1 statement 1 hour	200 hours	1 hour	- 199 hours - 99 responses	<i>The reduction is due to review of estimated number of submissions expected to be received and estimated time to complete a submission. FRA estimates that one affirmation statement will be received since FRA estimated one petition will be received. Additionally, the amount of time it takes to draft a statement has been reduced to one hour because the industry is using a template. Therefore, it is not as burdensome as before.</i>
—(c)(2) Service of	1,130 petition	0	283 hours	0	- 283 hours	<i>The petitions are submitted via the</i>

each special approval petition on parties designated	copies 15 minutes					- 1,130 responses	<i>Internet at the docket's Web site at http://www.regulations.gov. Consequently, there is no burden to report.</i>
—(c)(2)(iii) Statement of interest in reviewing special approval filed with FRA	150 statements 8 hours	0	1,200 hours	0		- 1,200 hours - 150 responses	<i>FRA estimates that zero statements will be received. Consequently, there is no burden associated with this requirement.</i>
—(e) Comments on petitions for special approval	75 comments 10 hours	0	750 hours	0		- 750 hours - 75 responses	<i>FRA estimates that zero comments will be received. Consequently, there is no burden associated with this requirement.</i>
—(f)(3)(iii) Disposition of petitions: petition returned by FRA requesting additional information	3 petitions or additional comments 6 hours	1 petition or additional comment 2 hours	18 hours	2 hours		- 16 hours - 2 responses	<i>The reduction is due to review of estimated number of submissions expected to be received and estimated time to complete a submission. FRA estimates receiving at most one petition per year in the next year. Additionally, the amount of time it takes to respond to FRA has been reduced to 2 hours because the industry is using or building on the previously submitted documents or templates. Therefore, it is not as burdensome as before.</i>
231.35(a)—Procedure for modification of an approved industry safety appliance standard for new car construction—filing of petitions	48 petitions 100 hours	1 petition 16 hours	4,800 hours	16 hours		- 4,784 hours - 47 responses	<i>The reduction is due to review of estimated number of submissions expected to be received and estimated time to complete a submission. Thus, FRA estimates receiving at most one petition per year in the next year. Additionally, the amount of time it takes to draft a petition has been reduced to 16 hours because the industry is using or building on the previously</i>

						<i>submitted documents or templates. Therefore, it is not as burdensome as before.</i>
—Affirmative statement by petitioner that a petition copy has been served on rep. of employees responsible for equipment’s operation/inspection/testing/maintenance	48 statements 1 hour	1 statement 1 hour	48 hours	1 hour	- 47 hours - 47 responses	<i>The reduction is due to review of estimated number of submissions expected to be received. FRA anticipates receiving at most one statement per year since FRA estimates to receiving one petition.</i>
—(b) Service of each special approval petition on parties designated	5,424 copies 2 hours	0	10,848 copies	0	- 10,848 hours - 5,424 responses	<i>The petitions are submitted via the Internet at the docket's Web site at http://www.regulations.gov. Consequently, there is no burden to report.</i>
—(b)(2)(iii) Statement of Interest in Reviewing Special Approval Filed with FRA	72 statements 8 hours	1 statement 1 hour	576 hours	1 hour	- 575 hours - 71 responses	<i>FRA estimates that zero statements will be received. Consequently, there is no burden associated with this requirement.</i>
—Comments on petitions for modification	36 comments 10 hours	0	360 hours	0	- 360 hours - 36 responses	<i>FRA estimates that zero comments will be received. Consequently, there is no burden associated with this requirement.</i>
—(e) FRA review of petition for modification; agency objection and AAR response	4 comments 6 hours	1 comment 1 hour	24 hours	1 hour	- 23 hours - 3 responses	<i>The reduction is due to review of estimated number of submissions expected to be received. FRA anticipates receiving at most one response per year since FRA estimates receiving one petition.</i>

The previous cost to respondents was \$29,961, while the present cost is zero. Since petitions are submitted via <http://www.regulations.gov> and not submitted as hard copies. Therefore, there will be no additional cost to respondents.

16. Publication of results of data collection.

FRA has no plans to publish this information.

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

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

18. Exception to certification statement.

No exceptions are taken at this time. 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.