

FEDERAL RAILROAD ADMINISTRATION
Fatigue Risk Management Programs for Certain Passengers and
Freight Railroads (49 CFR 270 and 271)
SUPPORTING JUSTIFICATION
RIN 2130-AC54; OMB No. 2130-NEW

Summary

- This is a new collection of information solely associated with the Federal Railroad Administration's (FRA) Notice of Proposed Rulemaking (NPRM) titled Fatigue Risk Management Programs for Certain Passengers and Freight Railroads (49 CFR Parts 270 and 271), which is statutorily mandated by the Rail Safety Improvement Act of 2008.
- FRA is publishing this NPRM in the Federal Register on December 22, 2020. See 85 FR XXXXX.
- The total number of burden hours requested for this submission is 1,489 hours
- The total number of responses requested for this submission is 69.
- By definition, this entire submission is a program change.
- The answer to question number 12 itemizes information collection requirements.

1. Circumstances that make collection of the information necessary.

The Railroad Safety Improvement Act of 2008 (RSIA) directs the Secretary of Transportation (Secretary) to issue a regulation requiring Class I railroads, railroad carriers that provide intercity rail passenger or commuter rail passenger transportation (passenger railroads), and railroads with inadequate safety performance to develop, submit to the Secretary for review and approval, and implement a Fatigue Risk Management Program (FRMP). Implementation of an FRMP would be supported by a written fatigue risk management program plan (FRMP plan) describing the railroad's processes and procedures for implementing the requirements for an FRMP. An FRMP plan would also be required to contain certain elements that support the development of an FRMP, such as a policy statement, a statement of the railroad's FRMP goals, a description of the railroad's system, and an FRMP implementation plan. A railroad would be required to conduct an annual internal assessment of its FRMP, and a railroad's FRMP processes and procedures would be externally audited by FRA.¹

Generally, these railroads would be required to assess and manage risk and develop proactive fatigue risk mitigation strategies to promote safety improvement. The proposed rule would also implement other specific fatigue safety risk reduction program

¹ See 49 U.S.C. 20156.

requirements, such as the requirement that a railroad consult with, employ good faith, and use its best efforts to reach agreement with all its directly affected employees (including any non-profit employee labor organization representing a class or craft of directly affected employees) on the contents of the railroad's FRMP plan.²

As part of their FRMP, compliant railroads are required, at least once every 2 years, to update their plans to address any new fatigue safety risks and ensure that their FRMP is designed to reduce the likelihood of accidents, incidents, injuries, and fatalities caused by fatigue.³

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

This is a new collection of information. The information collected under this proposed rule will be used by railroads and FRA to improve safety through structured, proactive processes to systematically evaluate railroad safety hazards on their systems and manage the risks associated with those hazards to reduce the number and rates of railroad accidents/incidents, injuries, and fatalities. FRA will externally audit each railroad's FRMP processes and procedures to ensure that they comply with the requirements of this rulemaking. Class I railroads and railroad carriers that provide intercity rail passenger or commuter rail passenger transportation (passenger railroads) and railroads determined by FRA to have inadequate safety performance (ISP) will be required to develop and implement an FRMP. Railroads that FRA analysis determines to have inadequate safety performance would have to comply with the requirements of new Part 271 for at least five years.

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

Under section 20156(g)(1), Class I, passenger railroads and ISP railroads that are required to establish an FRMP must "consult with, employ good faith and use its best efforts to reach agreement with all of its directly affected employees, including any non-profit employee labor organization representing a class or craft of directly affected employees of the railroad carrier, on the contents of the safety risk reduction program." Good faith and best efforts consultation with employees then will be used by railroads to educate the directly affected employees on risk reduction and how it may affect them. It

² 49 U.S.C. 20156(g)(1).

³ 49 U.S.C. 20156(f)(1) and 20156(f)(2).

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

Section 270.201(c)(2) or 271.303(c) addresses the process a railroad must follow whenever it amends its FRA-approved FRMP Plan (regardless of whether the amendments are substantive or non-substantive). Along with the amended FRMP plan, the railroad must also file a cover letter outlining the proposed change(s) to the original, approved FRMP plan. The cover letter should provide enough information so that FRA knows what is being added or removed from the original approved FRMP. These requirements would not apply if the proposed amendment is limited to adding or changing a name, title, address, or telephone number of a person, although the railroad would still be required to file the amended FRMP plan with FRA's Associate Administrator for Railroad Safety/Chief Safety Officer. Such amendments would be implemented by the railroad upon filing with FRA. FRA will review the amended FRMP Plan within 45 days of receipt to determine whether it is deficient in any of the specific points the railroad is amending. If it is, railroads will have 60 days to either submit a corrected copy of the amendment that addresses all deficiencies noted by FRA or a notice that it is retracting the amendment. It should be noted that FRA may, for cause stated, reopen consideration of an FRMP Plan or amendment. FRA will use the reopened review to ensure that railroads fully comply with their FRMP Plans/amendments and, in some cases, to scrutinize information that has been made available that was not available when FRA originally approved the plan or amendment. The determination of whether to reopen consideration would be solely within FRA's discretion and made on a case-by-case basis.

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

3. Extent of automated information collection.

For many years, FRA has highly endorsed and strongly encouraged the use of the latest information technology, wherever feasible, to reduce burden on the railroad industry.

FRA has particularly encouraged the use of electronic records by railroads and other respondents. In keeping with its longstanding practice and with the requirements of the Government Paperwork Elimination Act and the Paperwork Reduction Act of 1995, all documents required to be submitted to FRA for an FRMP may be submitted electronically pursuant to the procedures provided in section 271.301 or pursuant to section 270.201(e). The electronic option then will make it easier, more convenient, and less expensive for railroads to file their documents with FRA.

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

4. Efforts to identify duplication.

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

FRA is not aware of any other relevant rules that may duplicate, overlap, or conflict with the proposed rule. Similar data are not available from any other source.

5. Efforts to minimize the burden on small businesses.

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 et seq.) requires a review of proposed and final rules to assess their impact on small entities, unless the Secretary certifies that the rule would not have a significant economic impact on a substantial number of small entities. “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. See “Size Eligibility Provisions and Standards,” 13 CFR part 121 subpart A. Additionally, section 601(5) of the Small Business Act defines “small entities” as governments of cities, counties, towns,

townships, villages, school districts, or special districts with populations less than 50,000 that operate railroads.

Federal agencies may adopt their own size standards for small entities in consultation with SBA and in conjunction with public comment. Thus, in consultation with SBA, FRA has published a final statement of agency policy that formally establishes “small entities” or “small businesses” as railroads, contractors, and shippers that meet the revenue requirements of a Class III railroad⁴—\$20 million or less in inflation-adjusted annual revenue—and commuter railroads or small government jurisdictions that serve populations of 50,000 or less.⁵

The “universe” of entities this NPRM would affect includes only those small entities that can reasonably be expected to be directly affected by the provisions of this rule. In this case, the “universe” consists of railroads that would be subject to the requirements of either 49 CFR part 270 or part 271. For the purposes of this analysis, 736 railroads would be considered “small entities”, since they are Class III railroads. Of the 736 small entities, 695 are on the general system and could be potentially impacted by the proposed regulation. Given that FRA does not currently know which railroads will be considered ISP railroads and that an ISP railroad could be either a Class II or Class III railroad, FRA is unable to provide a more accurate impact that the proposed regulation would have on small entities.

For the purposes of this analysis, there are 35 reporting commuter or other short-haul passenger railroad operations in the U.S., including two intercity passenger railroads, Amtrak and the Alaska Railroad. Neither of the intercity passenger railroads is considered a small entity. Most of these commuter railroads are part of larger transit organizations that receive Federal funds and serve major metropolitan areas with populations greater than 50,000. However, one of these railroads does not fall in this category and is considered a small entity: the Hawkeye Express (operated by the Iowa Northern Railway Company). The Hawkeye Express is a short-haul railroad, not a commuter or intercity railroad, and as the proposed regulation impacts all railroads that are subject to 49 CFR part 270 and part 271, any small entity subject to 49 CFR part 270 or part 271 would be impacted by this regulation.

The impact of the proposed regulation on these small entities is unknown since FRA is allowing the railroads to decide their fatigue mitigations based on their specific needs instead of mandating that railroads adopt specific mitigation programs. Furthermore, FRA estimates that 50 ISP railroads would be impact by the proposed regulation, which is approximately 7 percent of small entities, assuming all 50 ISP railroads are considered small entities. FRA estimates that the 50 ISP railroads would be impacted over the course of 10 years, at a rate of 5 ISP’s per year. This estimate is consistent with the RRP

⁴ See 49 CFR Part 1201.1

⁵ See 68 FR 24891 (May 9, 2003). (Codified at Appendix C to 49 CFR part 209.)

final rule that FRA has published. Therefore, because of the uncertainty surrounding the number of ISP railroads that would be considered small entities, as well as the impact that the proposed regulation would have on those small entities, the impact that the NPRM would have on small entities is unclear.

6. Impact of less frequent collection of information.

If the information were not collected or were collected less frequently, railroad safety throughout the United States would be significantly adversely affected. Specifically, if Class I railroads, passenger railroads, and railroads with inadequate safety performance do not develop and implement FRMPs, then, undoubtedly, there will be higher fatigue related railroad incidents and corresponding injuries and fatalities to workers that could have been prevented with an effective FRMP. Without the implementation of an effective FRMP, Class I, passenger, and ISP railroads will not have a comprehensive, system-oriented approach to fatigue safety that both determines daily operations level of risk by identifying and analyzing applicable hazards, and formulates a plan to mitigate and, where possible, eliminate that risk. An effective FRMP encourages—and, indeed, facilitates—a railroad and its employees to work together to proactively identify fatigue hazards and to jointly determine what action to take to mitigate or eliminate the risks associated with those hazards. An effective FRMP will lead to decreases in unsafe behaviors. Decreases in unsafe behaviors or hazards will create a corresponding decrease in railroad-related incidents and the casualties and property damage that go along with them.

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

Without the FRMP requirement to conduct annual internal assessments, Class I, passenger, and ISP railroads would not be able to carry out essential audits to determine that their FRMP are properly implemented and effective. A properly executed internal assessment would provide the railroad with detailed knowledge of the status of its program implementation and the degree to which the program is effectively reducing risk. Results of the internal assessment are required to be reported to the railroad’s senior management. The railroad’s senior management will use the information to develop an improvement plan in order make their daily operations safer.

Finally, FRA external audits of the railroad's FRMP will focus on reviewing the railroad's FRMP process and ensuring that the railroad is following the processes and procedures described in its FRA-approved FRMP plan. This process will be interactive, and FRA will communicate with the railroad during the audit and attempt to resolve any issues before its completion. Once the audit is completed, FRA will provide the railroad with written notification of the audit results. The written notification will inform the railroad of any deficiencies within their FRMP plans. Such FRA oversight will serve to remedy any FRMP/FRMP Plan deficiencies and will also serve to improve rail safety.

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

7. Special circumstances.

All information collection requirements are in compliance with this section.

8. Compliance with 5 CFR 1320.8.

FRA is publishing an NPRM in the **Federal Register** on December 22, 2020, titled Fatigue Risk Management Programs for Certain Passenger and Freight Railroads soliciting comments on the proposed rule and its accompanying information collection requirements from the regulated community, the general public, and interested parties. See 85 FR XXXXX. FRA will respond to any comments received concerning the proposed rule and its associated collection of information at the final rule stage and in the final rule Supporting Justification.

9. Payments or gifts to respondents.

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

10. Assurance of confidentiality.

Section 109 of the RSIA specifies that certain risk reduction records obtained by the Secretary are exempt from the public disclosure requirements of the Freedom of Information Act (FOIA). This exemption is subject to two exceptions for disclosure necessary to enforce or carry out any Federal law and disclosure when a record is comprised of facts otherwise available to the public and FRA has determined that disclosure would be inconsistent with the confidentiality needed for FRMP.⁶ FRA, therefore, believes that fatigue risk management records in its possession would generally

⁶ 49 U.S.C. 20118.

be exempted from mandatory disclosure under FOIA. Unless one of the two exceptions provided by the RSIA would apply, FRA would withhold disclosing any such records in response to a FOIA request.⁷

Section 109 of the RSIA also authorizes the Secretary to issue a regulation protecting from discovery and admissibility into evidence in litigation certain information generated for the purpose of developing, implementing, or evaluating a railroad FRMP. Currently, the proposed rule would implement Section 109 with respect to FRMP.

FRA anticipates that a final FRMP rule would become effective 60 days after the date of publication. However, by statute, the protection of certain information from discovery, admission into evidence, or use for other purposes in a proceeding for damages would not become applicable until one year after the publication of the final rule.

An FRMP could be successful only if a railroad engaged in a robust assessment of the hazards and associated risks on its system. However, a railroad may be reluctant to reveal such hazards and risks if there is the possibility that such information may be used against it in a court proceeding for damages. In Section 109 of the RSIA, Congress directed FRA to conduct a study to determine if it was in the public interest to withhold certain information, including the railroad's assessment of its safety risks and its statement of mitigation measures, from discovery and admission into evidence in proceedings for damages involving personal injury and wrongful death.⁸ FRA contracted with an outside organization to conduct this study, and the study concluded that it was in the public interest to withhold this type of information from these types of proceedings.⁹ Furthermore, Congress authorized FRA, by delegation from the Secretary, to prescribe a rule, subject to notice and comment, to address the results of the study.¹⁰ The proposed rule would address the study's results and set forth protections of certain information from discovery, admission into evidence, or use for other purposes in a proceeding for damages.

11. Justification for any questions of a sensitive nature.

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

⁷ 5 U.S.C. 552(b)(3) and 49 CFR 7.13(c)(3).

⁸ 49 U.S.C. 20119.

⁹ Study of Existing Legal Protections for Safety-Related Information and Analysis of Considerations for and Against Protecting Railroad Safety Risk Reduction Program Information, FRA, docket no. FRA-2011-0025-0031, Oct. 21, 2011.

¹⁰ 49 U.S.C. 20119(b).

12. Justification for any questions of a sensitive nature.

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

13. Estimate of burden hours for information collected.

In the following table, estimates for the respondent universe, annual responses, and average time per responses are based on the experience and expertise of FRA’s Risk Reduction Program Division.

The total annual burden hours, under the fourth column, is calculated by multiplying total annual responses by average time per responses. For example, 12 written plans * 60 hours = 720 hours.

The total cost equivalent, under the sixth column, is calculated by multiplying total annual burden hours by the appropriate employee group hourly wage rate that includes a 75-percent overhead charge. FRA is including the dollar equivalent cost for each of the itemized hours below using the Surface Transportation Board's (STB) Full-Year Wage A&B data series as the basis for each cost calculation. For railroad executives, officials, and staff assistants, the hourly wage rate is \$115 per hour ($\$65.44 * 1.75 = \115). For professional and administrative staff, the hourly wage rate is \$76 per hour ($\$43.37 * 1.75 = \76).

CFR Section/Subject	Respondent Universe	Total Annual Responses (A)	Average Time per Response (B)	Total Annual Burden Hours (C) = A*B	Total Annual Dollar Cost Equivalent (D) = C* wage rate ¹¹	Section analyses and estimates
270.409 – Fatigue Risk Management Program Plan (FRMP Plan) as part of its SSP – Comprehensive written FRMP plan	35 passenger railroads	12 written plans	60 hours	720 hours	\$63,144	A railroad shall adopt and implement its FRMP through an FRA-approved FRMP plan, developed in consultation with directly affected employees as described under § 270.107. A railroad FRMP plan must contain the elements described in this section. A railroad must submit the plan to FRA

¹¹ The dollar equivalent cost is derived from the 2018 Surface Transportation Board’s Full Year Wage A&B data series using the appropriate employee group hourly wage rate that includes 75-percent overhead charges.

meeting all of this section's requirements and under Part 270 subpart C.						for approval under the criteria of subpart C. FRA estimates that approximately 12 written FRMP plans will be developed meeting all of the requirements stipulated above and then implemented by affected railroads. It is estimated that it will take approximately 60 hours to develop each written plan. <i>Annual wage cost: \$63,144 (\$76 * 504 hours + \$115 * 216 hours)</i>
– (c)(3)(ii) -- Annual internal FRMP Plan assessments/reports conducted by RRs	35 passenger railroads	12 evaluations/reports	2 hours	24 hours	\$1,824	A railroad's procedures for reviewing the FRMP as part of the annual internal assessment of its SSP under § 270.303 and for updating the FRMP plan under the process for amending its SSP plan under § 270.201(c). FRA estimates that about 12 internal FRMP plan will be conducted by railroads annually. It is estimated that it will take about two (2) hours to conduct each assessment and complete the required report. <i>Annual wage cost: \$1,824 (\$76 * 24 hours)</i>
– FRMP plans found deficient by FRA and requiring amendment	35 passenger railroads	4 amended written plans	30 hours	120 hours	\$9,588	FRA estimates that approximately four (4) written FRMP plans will be found deficient, will be disapproved by the agency, and will need to be amended by railroads. It is estimated that it will take approximately 30 hours to amend each FRMP plan. <i>Annual wage cost: \$9,588 (\$76 * 108 hours + \$115 * 12 hours)</i>
– Review of amended FRMP plans found deficient and requiring further amendment by	35 passenger railroads	1 further amended written plan	15 hours	15 hours	\$1,199	FRA estimates that approximately one (1) amended written FRMP plan will be found deficient and disapproved by FRA. It is estimated that it will take approximately 15 hours

RRs						to further amend/correct each FRMP plan. <i>Annual wage cost: \$1,199 (\$76 * 13.5 hours + \$115 * 1.5 hours)</i>
– Consultation requirements -- RR consultation with its directly affected employees on FRMP Plan	35 passenger railroads	12 written consultations (w/labor union reps.)	1.5 hours	18 hours	\$1,368	<p>A railroad shall describe in its FRMP plan how it will implement its FRMP. This description must cover an implementation period not to exceed 36 months, and shall include:</p> <p>(1) A description of the roles and responsibilities of each position or job function with significant responsibility for implementing the FRMP, including those held by employees, contractors who provide significant FRMP-related services, and other entities or persons that provide significant FRMP services;</p> <p>(2) A timeline describing when certain milestones that must be met to implement the FRMP fully will be achieved. Implementation milestones shall be specific and measurable;</p> <p>(3) A description of how a railroad may make significant changes to the FRMP plan under the process for amending its SSP plan in § 270.201(c); and (4) The procedures for consultation with directly affected employees on any subsequent substantive amendments to the railroad’s FRMP plan. The requirements of this section do not apply to non-substantive amendments (e.g., amendments that update names and addresses of railroad personnel).</p> <p>FRA estimates that approximately 12 written consultations will be conducted by railroads with affected employees/employee labor organizations. It is estimated that it will take one and a half hours to complete each written consultation.</p>

						<i>Annual wage cost: \$1,368 (\$76 * 18 hours)</i>
271.609 – Fatigue Risk Management Program Plan (FRMP Plan) as part of its RRP – Comprehensive written FRMP Plan meeting all of this section’s requirements and under Part 271 subpart d.	7 Class 1 railroads	2 written plans	90 hours	180 hours	\$15,786	A railroad shall adopt and implement its FRMP through an FRA-approved FRMP plan, developed in consultation with directly affected employees as described under § 271.207. A railroad FRMP plan must contain the elements described in this section. The railroad must submit the plan to FRA for approval under the criteria of subpart D. FRA estimates that approximately 2 written FRMP plans will be developed and then implemented by affected railroads. It is estimated that it will take approximately 90 hours to develop each written plan by Class 1 railroads.
	15 ISP railroads	5 written plans	50 hours	250 hours	\$21,925	<i>Annual wage cost: \$15,786 (\$76 * 126 hours + \$115 * 54 hours)</i> Also, it is estimated that it will take approximately 50 hours to develop each written plan by ISP railroads. <i>Annual wage cost: \$21,925 (\$76 * 175 hours + \$115 * 75 hours)</i>
– (c)(3)(ii) -- Annual internal FRMP Plan assessments/reports conducted by RRs	7 Class 1 + 15 ISP railroads	7 evaluations/ reports	2 hours	14 hours	\$1,064	A railroad’s procedures for reviewing the FRMP as part of the annual assessment of its RRP under § 271.401 and for updating the FRMP plan under the process for amending its RRP plan under § 271.303. FRA estimates that about 12 internal FRMP plan will be conducted by railroads annually. It is estimated that it will take about two (2) hours to conduct each assessment and complete the required report.

						<i>Annual wage cost: \$1,064 (\$76 * 14 hours)</i>
– Consultation requirements -- RR consultation with its directly affected employees on FRMP Plan	7 Class 1 railroads	2 written consultations (w/labor union reps.)	1.5 hours	3 hours	\$228	The procedures for consultation with directly affected employees on any subsequent substantive amendments to the railroad’s FRMP plan. FRA estimates that approximately seven (7) written consultations will be conducted by railroads with affected employees/employee labor organizations under the above requirement. It is estimated that it will take one and a half hours to complete each written consultation by Class 1 railroads.
	15 ISP railroads	5 written consultations (w/labor union reps.)	1 hour	5 hours	\$380	<i>Annual wage cost: \$228 (\$76 * 3 hours)</i> Also, it is estimated that it will take approximately one (1) hour to develop each written consultation by ISP railroads. <i>Annual wage cost: \$380 (\$76 * 5 hours)</i>
– FRMP plans found deficient by FRA and requiring amendment	7 Class 1 railroads	1 amended written plan	40 hours	40 hours	\$3,196	FRA estimates that approximately four (4) written FRMP plans will be found deficient, will be disapproved by the agency, and will need to be amended by railroads under the above requirement. It is estimated that it will take approximately 40 hours to amend FRMP plan by Class 1 railroads.
	15 ISP railroads	3 amended written plans	20 hours	60 hours	\$4,794	<i>Annual wage cost: \$3,196 (\$76 * 36 hours + \$115 * 4 hours)</i> Also, it is estimated that it will take approximately 20 hours to amend each FRMP plan by ISP railroads.

						<i>Annual wage cost: \$4,794 (\$76 * 46 hours + \$115 * 4 hours)</i>
– Review of amended FRMP plans found deficient and requiring further amendment by RRs	7 Class 1 railroads	1 further amended written plan	20 hours	20 hours	\$1,598	FRA estimates that approximately three (3) amended written FRMP plan will be found deficient and disapproved by FRA. It is estimated that it will take approximately 20hours to further amend/correct each FRMP plan by Class 1 railroads. <i>Annual wage cost: \$1,598 (\$76 * 18 hours + \$115 * 2 hours)</i>
	15 ISP railroads	2 further amended written plans	10 hours	20 hours	\$1,598	Also, it is estimated that it will take approximately 10 hours to amend each FRMP plan by ISP railroads. <i>Annual wage cost: \$1,598 (\$76 * 18 hours + \$115 * 2 hours)</i>
Totals	35 railroads	69 responses	N/A	1,489 hours	\$127,692	

14. Estimate of total annual costs to respondents.

As noted in the regulatory impact analysis accompanying this proposed rule, there are no additional annual costs to respondents besides the burden hours shown above.

15. Estimate of Cost to Federal Government.

FRA estimates an annual cost of approximately \$120,052 to the Federal Government for this proposed information collection request. This estimate comprises a Year One cost estimate of approximately \$180,078 and recurring

costs in years Two and Three of \$90,390 for each for reviewing the required documents associated with this rule. The midpoint for each pay range, Step 5, is used in this estimate.

Year 1 Cost

1 half-time employee at GS-12, Step 5 = \$47,260 per year

2 half-time employees at GS-14, Step 5 = \$132,818 per year

Year 2 Cost

The cost to government is half of year 1, \$90,390

Year 3 Cost

The cost to government is half of year 1, \$90,390

Annual Average Cost

\$120,052

16. Explanation of program changes and adjustments.

This is a new collection of information associated with FRA's proposed rule that adds new sections under Part 270 and Part 271. The total burden requested for this submission amounts to 1,489 hours, and the total number of responses requested is 69. By definition, the entire requested burden is a program change.

17. Publication of results of data collection.

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

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

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

19. Exception to certification statement.

No exceptions are taken at this time regarding this information collection.