

11 FEDERAL RAILROAD ADMINISTRATION
Hours of Service Regulations
(Title 49 Code of Federal Regulations (CFR) Part 228)
SUPPORTING JUSTIFICATION
OMB Control No. 2130-0005

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 29, 2018, which expires October 31, 2021.
- The Federal Railroad Administration (FRA) published the required 60-day Federal Register Notice on June 29, 2021. See 86 FR 34303. FRA received no comments in response to this Notice.
- Overall, the adjustments decreased the burden by 2,137,783 hours and increased responses by 9,135,644 after a thorough review of the data.
- The answer to question number 12 itemizes all information collection requirements.
- The answer to question number 15 itemizes all adjustments.
- There are no program changes at this time.

1. Circumstances that make collection of the information necessary.

The Hours of Service laws (HSL), first enacted in 1907¹ and most recently amended in 2018 as mandated by the Rail Safety Improvement Act of 2008 (RSIA 2008).² The HSLs³ include substantive hours of service requirements for train employees (i.e., locomotive engineers and conductors) providing commuter and intercity rail passenger transportation (e.g., maximum on-duty periods, minimum off-duty periods, and other limitations). The regulations also require railroads to evaluate passenger train employee work schedules for risk of employee fatigue and implement measures to mitigate the risk,

¹ See the Hours of Service Act (Public Law 59-274, 34 Stat. 1415 (1907)). Effective July 5, 1994, Public Law 103-272, 108 Stat. 745 (1994), repealed the Hours of Service Act as amended, then codified at 45 U.S.C. 61-64b, and also revised and reenacted its provisions, without substantive change, as positive law at secs. 21101-21108, 21303, and 21304.

² FRA received regulatory authority in RSIA 2008 to establish hours of service limitations for train employees providing commuter and intercity rail passenger transportation service (passenger train employees).

³ See 74 FR 25346, May 27, 2009, as amended at 76 FR 50396, Aug. 12, 2011; 76 FR 67087, Oct. 31, 2011; 83 FR 43997, Aug. 29, 2018

and to submit to FRA for approval certain schedules and mitigation plans. Finally, the regulations include recordkeeping and reporting provisions requiring railroads to keep hours of service records, and report excessive service, for train employees, signal employees, and dispatching service employees on both freight and passenger railroads.

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

The information collected is used by FRA to verify that railroads do not require or allow their employees to exceed maximum on-duty periods, and ensure that they abide by minimum off-duty periods, and adhere to other limitations in this regulation, to enhance rail safety and reduce the risk of accidents/incidents caused, or contributed to, by train employee fatigue.

The rule covers tourist, scenic, historic, and excursion railroads as well as commuter and intercity passenger railroads. Under Subpart F, railroads having not more than 15 train employees, signal employees, and dispatching service employees may apply for an exemption from the requirements of the rule. FRA reviews and evaluates exemption requests to determine whether it is appropriate, safe, and in the public interest to grant such requests.

Under § 228.11, the *Hours of Duty* records are monitored and reviewed by FRA to ensure that train and engine employees, dispatchers, and railroad signal workers and covered signal workers of contractors/subcontractors to railroads provide the required information and work the stipulated number of hours and experience the necessary rest periods now prescribed for their job category.

Under § 228.17, the *Dispatcher's Records of Train Movements*, the information collected is used by FRA and participating State safety inspectors to monitor and obtain compliance with statutory provisions and FRA regulations by dispatching offices nationwide. Each carrier is required to keep a record of train movements for each dispatching district under the direction and control of a dispatcher who uses a telegraph, telephone, radio, or any other electrical or mechanical device to dispatch, report, transmit, receive, or deliver orders relating to train movements.

Under § 228.19, the *Monthly Reports of Excess Service*, the information collected is used by FRA and participating State safety inspectors to monitor and ensure that each railroad or contractor or subcontractor of a railroad reports to FRA each instance of excess service mandated under this section and in the manner prescribed within 30 days after the calendar month in which the instance occurs. Additionally, participating NTSB investigators use the monthly reports whenever there is an accident/incident involving a train movement.

Under § 228.103, *Construction of Employee Sleeping Quarters*, FRA reviews petitions

for construction, reconstruction, or acquisition of employee sleeping quarters.

Under §228.401-§228.413 (Subpart F) each railroad must perform an analysis of one cycle of the work schedules of its train employees engaged in commuter and intercity rail passenger transportation and identify those schedules that, if worked, put the train employee at risk for a level of fatigue at which safety may be compromised. Railroads must use an FRA approved valid bio-mathematical model of performance and fatigue (e.g., FAST, FAID, or any other approved model) to determine where the fatigue risk posed exceeds the fatigue threshold.

Additionally, under Subpart F, each covered railroad must provide training to its employees, signal employees, and dispatching service employees and its supervisors of these employees with initial training and refresher training. FRA reviews railroad training programs (and records) to ensure that critical topics are covered and fully explained to railroad employees during their trainings.

3. Extent of automated information collection.

FRA provides a simplified method of computerized recordkeeping (an automated system)—in which employees apply their electronic signatures to automated records stored in a railroad computer system without the complexity and functionality of an electronic system—for eligible smaller railroads (and contractors and subcontractors providing covered service employees to such railroads). Although FRA does not require the use of automated recordkeeping, but, when implemented by the small operations for which it is tailored, it will decrease the burden hours spent on hours of service recordkeeping.

To date, FRA estimates that approximately 75 percent of all responses are kept electronically.

4. Efforts to identify duplication.

The information collection requirements, to our knowledge, are not duplicated elsewhere.

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.*) and Executive Order 13272 (67 FR 53461, Aug. 16, 2002) require agency review of proposed and final rules to assess their impacts on 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.⁴

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.⁵

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 1201.1-1. The current threshold is \$40.4 million or less. For other entities, the same dollar limit in revenues governs whether a railroad, contractor, rail equipment supplier, or other respondent is a small entity.

FRA does not anticipate that this rule will negatively impact a substantial number of small entities.

6. Impact of less frequent collection of information.

If this information were not collected or were collected less frequently, rail safety in the United States would be seriously jeopardized. The data collected under Part 228 allows FRA to verify that railroads do not require or allow their employees to exceed maximum on-duty periods, and ensure that they abide by minimum off-duty periods, and adhere to other limitations in this regulation, to enhance rail safety and reduce the risk of accidents/incidents caused, or contributed to, by train employee fatigue.

Without the required training requirements, FRA would have no way of knowing if railroads developed essential training programs regarding human performance and fatigue. High fatigue increases the probability of mistakes or omissions that could lead to greater numbers of rail accidents/incidents.

The *Hours of Duty* records and Monthly Reports of Excess Service reports allow FRA’s Office of Safety to closely monitor the railroad industry to ensure that the law and its

⁴ Size Eligibility Provisions and Standards, 13 CFR part 121, subpart A.

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

regulations are being complied with. If the law and agency regulations are not complied with and covered railroad employees are working excessive hours, FRA can take immediate corrective action upon discovering this.

If FRA did not collect the information provided by the *Dispatcher's Record of Train Movements*, or collected this information less frequently, the agency would lose a valuable resource used by agency and NTSB investigators to determine the cause(s) or contributing cause(s) of rail accidents/incidents. These records provide vital information to FRA and DOT.

If FRA did not collect the information contained in the petitions for approval for construction of employee sleeping quarters, the safety of certain railroad workers could be greatly endangered.

In sum, this collection of information facilitates the accomplishment of FRA's main mission, which is to promote and enhance rail safety throughout the country.

7. Special circumstances.

The Excess Service Reports (Form FRA F 6180.3) are required to be filed monthly (within 30 days of the close of the month in which the excess service occurred). This would allow FRA to closely monitor circumstances where employees work excessive hours, and take any necessary measures to correct situations where the safety of train crews (and correspondingly the travelling public), signalmen, and other railroad employees might be put in jeopardy.

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

8. Compliance with 5 CFR 1320.8.

In accordance with the Paperwork Reduction Act of 1995, Pub. L. No.104-13, § 2, 109 Stat. 163 (1995) (codified as revised at 44 U.S.C. §§ 3501-3520), and its implementing regulations, 5 CFR Part 1320, FRA published a notice in the Federal Register on June 29, 2021, soliciting public comments on these information collection requirements. FRA solicited comments regarding whether the collection is necessary for FRA to properly execute its functions; the accuracy of FRA's estimates; ways to enhance the quality, utility, and clarity of the information collected; and, way for FRA to minimize the burden on the public.⁶ FRA received no comments in response to this Notice.

Consultations with representatives of the affected population:

⁶ 86 FR 34303.

As a part of FRA's oversight and enforcement of the Hours of Service Laws, individuals from the railroad industry are generally in direct contact with the FRA's HOS Specialists and District Inspectors at the time of the site inspection and can provide any comments or concerns to the FRA's HOS team. The railroad industry as a whole has greatly benefited from HOS transitioning to electronic records, the average of time railroad employees spend recording their HOS has been reduced.

Additionally, in recent site visits, FRA encouraged the industry to review the estimates, and provide any comments to the docket.

9. Payments or gifts to respondents.

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

10. Assurance of confidentiality.

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 or information of a sensitive nature, nor data that would normally be considered private matters contained in this rule.

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 Systems and Technology.

The total annual burden hours, under the fifth column, is calculated by multiplying total annual responses by average time per responses. For example, 2 petition waivers * 24 hours = 48 hours.

The total cost equivalent, under the seventh column, is calculated by multiplying total annual burden hours by the appropriate employee group hourly wage rate that includes a 75-percent overhead charge. For example, 48 hours * \$77.47 = \$3,717.

FRA is including the dollar equivalent cost for each of the itemized hours below using the 2020 Surface Transportation Board's (STB) Full-Year Wage A&B data series as the basis for each cost-equivalent calculation.

- For professional and administrative staff, the hourly wage rate is \$77.47 per hour (\$44.27 * 175-percent overhead charge). This wage plus overhead charge was used to estimate the total cost equivalent for all the burdens listed below.

The respondent universe is 796 railroads, signal contractors and subcontractors (756 railroads plus 40 signal employee contractors). The number of railroad workers covered by the rule is estimated to be approximately 85,712.

| CFR Section ⁷ | Respondent universe | Total annual responses | Average time per responses | Total annual burden hours | Total cost equivalent ⁸ | PRA Estimates and Analyses |
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| 228.9—Railroad records; general | <i>The burden for this requirement is accounted for under § 228.11.</i> | | | | | |
| 228.11—Hours of duty records | 796 railroads/signal contractors & subcontractors | 17,448,669 (electronic records) + 918,351 (paper records) | 3 minutes (electronic records) + 8 minutes (paper records) | 994,880 hours | \$77,043,507 | Each railroad, or a contractor or a subcontractor of a railroad, shall keep a record of the hours of duty of each employee. Based on this latest data available from railroad industry sources and from agency independent research conducted in conjunction with other future agency rulemakings, there are approximately 85,712 covered employees. It is estimated the employees will work 210 days by taking into account days off, etc.). FRA estimates then that a total of |

⁷ The current inventory exhibits a total burden of 3,421,290 hours while the total burden of this notice is 1,283,507 hours. FRA determined many of the estimates were initial estimates, outdated, or duplicates. Moreover, other estimates were not derived from PRA requirements, thus leading to the increased figures in the current inventory, which were decreased accordingly in this notice.

⁸ The dollar equivalent cost is derived from the Surface Transportation Board's 2020 Full Year Wage A&B data series using the appropriate employee group hourly wage rate that includes a 75-percent overhead charge.

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| | | | | | | <p>18,367,020 hours of duty records (85,712 workers' records x 210 days) will be generated each year.</p> <p>FRA estimates that 95 percent of the records will be kept electronically while 5 percent will be kept on paper.</p> <p>It is estimated that automated records will take an average of three (3) minutes to complete while paper record will take about eight (8) minutes to complete.</p> |
| 228.17—Dispatchers record of train movements | 65 dispatch offices | 285,000 cumulative train-movement tracking (records) | 1 hour | 285,000 hours | \$22,070,400 | <p>Each carrier must keep, for each dispatching district, a record of train movements made under the direction and control of a dispatcher who uses telegraph, telephone, radio, or any other electrical or mechanical device to dispatch, report, transmit, receive, or deliver orders pertaining to train movements.</p> <p>It is estimated that it will take approximately one (1) hour to complete each record.</p> |
| 228.19(g)-(h)—Monthly reports of excess service—Exception (FRA F 6180.3) | 796 railroads/signal contractors & subcontractors | 1,750 reports | 1 hour | 1,750 hours | \$135,520 | <p>Each carrier then must report the circumstances where their employees have exceeded maximum duty hour limitations.</p> <p>It is estimated that it will take approximately one (1) hour to prepare the report and forward it to FRA.</p> |
| 228.23—Criminal penalty for false report or record | FRA estimates that there will be zero (0) falsified reports or records kept by railroads. | | | | | |
| 228.103/.107— | 796 | 2 petition | 24 hours | 48 hours | \$3,717 | Each railroad then must petition FRA to |

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| Construction of employees' sleeping quarters—Petition request to FRA to allow construction near work areas | railroads/signal contractors & subcontractors | waivers | | | | allow the construction or reconstruction of employee sleeping quarters in the vicinity of any area where switching is performed. It is estimated that it would take approximately 24 hours to gather the necessary data, prepare the petition and other required documentation, and send the stipulated number of copies to the appropriate parties. |
| 228.201—Electronic recordkeeping system and automated system; general | The burden for this requirement is included under that of § 228.11 and § 228.207. | | | | | |
| 228.203—Program components | The burden for this provision has already been fulfilled by railroads. Consequently, there is no additional burden associated with this requirement. | | | | | |
| 228.205—Access to electronic records | The burden for this provision has already been fulfilled by railroads. Consequently, there is no additional burden associated with this requirement. | | | | | |
| 228.206—Requirements for automated records and for automated recordkeeping systems on eligible smaller railroads, and their contractors or subcontractors that provide covered service employees to such railroads. | The burden for this provision has already been fulfilled by railroads or included under § 228.11. Consequently, there is no additional burden associated with this requirement. | | | | | |
| 228.207(b)—Training—Initial training—New employees and supervisors | 671 railroads | 250 training records | 2 minutes | 8 hours | \$620 | Railroads that move to automated recordkeeping will need to train their staff, specifically train and engine, and dispatchers and signalmen, on how to enter their time on the automated system. It is estimated that it will take |

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| | | | | | | approximately two (2) minutes to keep the corresponding training record. |
| —(c) Refresher training— System audits for irregularities by railroads and contractors | 796 railroads/signal contractors & subcontractors | 796 audits and records | 2 hours | 1,592 hours | \$123,284 | Refresher training shall be provided to each employee any time that recurrent errors in records prepared by the employee, discovered through the monitoring indicators, suggest, for example, the employee's lack of understanding of how to complete hours of service records. It is estimated that it will take approximately two (2) hours to train each employee keep the corresponding training record. |
| 228.407(a)—Analysis of work schedules— Railroads' analysis of one cycle of work schedules of employees engaged in commuter or intercity passenger transportation | 34 railroads | 3 analyses | 2 hours | 6 hours | \$465 | Each railroad subject to this subpart must perform an analysis of one cycle of the work schedules (the period within which the work schedule repeats) of its train employees engaged in commuter or intercity rail passenger transportation and identify those work schedules intended to be assigned to its train employees, that, if worked by such a train employee, put the train employee at risk for a level of fatigue at which safety may be compromised. It is estimated that it will take approximately two (2) hours to complete each work schedule analysis. |
| —(b) Submissions of certain work schedules and any fatigue mitigation plans and determinations of operational necessity or | 34 railroads | 3 fatigue mitigation plans | 20 hours | 60 hours | \$4,646 | Railroads must use an FRA approved valid bio-mathematical model of performance and fatigue (e.g., FAST, FAID, or any other approved model) to determine where the fatigue risk posed |

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| declarations | | | | | | exceeds the fatigue threshold. It is estimated that it will take approximately 20 hours to complete each fatigue mitigation plan. |
| —(b) Submissions to FRA for review and approval | 34 railroads | 1 submission | 1 hour | 1 hour | \$77 | FRA estimates that approximately one (1) work schedule, proposed fatigue mitigation tools, and determination of operational necessity will need to be revised/corrected under the above requirement. It is estimated that it will take approximately one (1) hour to complete each corrected document. |
| —(d) Analysis of certain later changes in work schedules—Analyses and mitigation plans—Resubmission to FRA for approval | 34 railroads | 1 analysis or plan | 1 hour | 1 hour | \$9,647 | FRA estimates that approximately one (1) follow-up analyses will be performed by railroads and submitted to the agency whenever they change work schedules under the above requirement. It is estimated that it will take approximately one (1) hour to complete each follow-up analysis. |
| —(e) Fatigue mitigation plans | The burden for this provision has already been fulfilled by railroads or included under § 228.407(b)-(d). Consequently, there is no additional burden associated with this requirement. | | | | | |
| —(f) RR Consultation with directly affected employees on: (i) RR Work schedules at risk for fatigue level possibly compromising safety; and (ii) Railroad’s selection of fatigue mitigation tools; | The burden for this requirement is included under OMB Control Number 2130-0599. | | | | | |

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| and (iii) All RR Submissions required by this section seeking FRA approval | | | | | | |
| 228.409—Requirements for railroad-provided employee sleeping quarters during interim releases and other periods available for rest within a duty tour | The burden for this requirement is included that of § 228.407(f). Consequently, there is no additional burden associated with this requirement | | | | | |
| 228.411—Training programs on fatigue and related topics (e.g., rest, alertness, changes in rest cycles, etc.). | 34 railroads | 34 railroads | 2 hours | 68 hours | \$5,266 | FRA reviews railroad training programs to ensure that critical topics are covered and fully explained to railroad employees during their trainings. It is estimated that it will take approximately two (2) hours to develop each training program. |
| —(e) Records of training on fatigue and related topics | 34 railroads | 5,539 records | 1 minute | 92 hours | \$7,124 | A railroad shall maintain a record of each employee provided training in compliance with this section and shall retain these records for three years. It is estimated that it will take approximately one (1) minute to complete each record. |
| 228.411(f)—Conditional exclusion—Written declaration to FRA by tourist, scenic, historic, or excursion railroads seeking exclusion | 83 railroads | 1 written declaration | 1 hour | 1 hour | \$77 | A railroad engaged in tourist, scenic, historic, or excursion rail passenger transportation, may be excluded from the requirements of this section, if its train employees subject to this rule are assigned to work only schedules wholly within the hours of 4 a.m. to 8 p.m. on the same calendar day that comply with the provisions of § 228.405, upon that |

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| | | | | | | <p>railroad's submission to the Associate Administrator of a written declaration, signed by an officer of the railroad, indicating that the railroad meets the limitations established in this paragraph.</p> <p>It is estimated that it will take approximately one (1) hour to complete each written declaration.</p> |
| Totals ⁹ | 796 railroads/signal contractors & subcontractors | 18,660,400 responses | N/A | 1,283,507 Hours | \$99,404,352 | |

13. Estimate of total annual costs to respondents.

FRA estimates that there would be programming costs for railroads to modify computer software for the bio-mathematical models of fatigue that they will use for work schedule analyses. Additionally, employees from the railroad who will be performing the work schedule analysis would need training in the use of the models and subsequent support. The software model may also require periodic maintenance for updates and to resolve other issues that may arise when using the model. Purchasing a software license, training in its use, and providing for its future support and maintenance are typical features of many software applications. Based upon the FAST model and

⁹ Totals may not add due to rounding.

other automated system maintenance, FRA estimates that the programming modifications will cost about \$75,000; training will cost about \$50,000; support will cost \$7,500, for a total cost of \$132,500. Costs for training and support are estimated at about \$15,000 annually.

Average annual cost = \$147,500

Additional annual costs to respondents associated with maintenance of the system, program logic, and addressing securing issues are estimated at about \$100,000.

Total annual average cost to respondents = \$247,500 (\$147,500 + \$100,000).

Note: There will be no to sending paper copies of reports to FRA since reports/forms are sent electronically.

14. Estimate of Cost to Federal Government.

Annual recurring costs to FRA for the current rule is \$77,636. The table below provides specific information on the estimated cost to the government.

| CFR Sections | Cost to Government (Annual Average) | Notes |
|---|-------------------------------------|--|
| 228.11—Hours of duty records | \$55,000 | The estimate government cost in connection with these recordkeeping requirements. FRA inspectors will interview, process, and follow up on the reports submitted by the railroads. |
| 228.17—Dispatcher's record of train movements | | There is no cost to the Federal Government in connection with these recordkeeping requirements because the requirements are essentially the same as before. |
| 228.103—Approval procedure: construction within one-half mile (2,640 feet) (804 meters) | \$2,678 | The estimated government cost for obtaining, evaluating, and processing the required information. Calculation: 2 petitions x 11.5 hours x GS-14-5 x 75 percent allowance for overhead and operational expenses = 23 hours x \$66.54 x 1.75 = \$2,678. |
| 228.207/.411—Training | \$10,606 | The estimated government cost for monitoring railroads' training programs. Calculations: 4 FRA field inspectors x GS-12-5 (times overhead of 1.75) x 32 |

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| | | hours = 128 hours x \$47.35 x 1.75 = \$10,606. |
| 228.407—Work schedules | \$7,955 | The estimated government cost for monitoring railroads' work schedules. Calculations: 3 work schedule analyses x 32 hours x GS-12-5 (times overhead of 1.75) = 96 hours x \$47.35 x 1.75 = \$7,955. |
| 228.407—Training | \$1,397 | Calculations: 3 fatigue mitigation plans x 4 hours x GS-14-5 (times overhead of 1.75) = 12 hours x \$66.54 x 1.75 = \$1,397. |

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 3,421,290 hours and 27,796,044 responses, while the requesting inventory estimates a total burden of 1,283,507 hours and 18,660,400 responses. Overall, the burden for this submission has decreased by 2,137,783 hours and decreased by 9,135,644 responses. There is no change in the method of the collection. The decrease in burden is solely the result of adjustments.

FRA determined some of the prior estimates were fulfilled, outdated, or were not derived from PRA requirements, thus leading to the increased figures in the current inventory, which were decreased accordingly. Additionally, the number of responses (number of employees) declined by a third while the number of railroads using electronic records increased from 80 percent to 95 percent thus substantially reducing the average time per record under section 228.11 from 2.7 million hours to about 1 million hours.

The table below provides specific information on any burden estimates that have changed from the previous submission.

| FR Section | Total Annual Responses | | | Total Annual Burden Hours | | | Section Analyses and Estimates |
|------------|--|---|------------|---------------------------|-----------------------|------------|--------------------------------|
| | Current submission (average time per response) | Requesting submission (average time per | Difference | Current submission | Requesting submission | Difference | |
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| | | response) | | | | | |
| 228.11—Hours of duty records | 27,511,875 records (varies —2 minutes, 5 minutes, and 8 minutes depending on the record type) | 17,448,669 (3 minutes (electronic records) + 918,351 (8 minutes (paper records) | -9,144,855 records | 2,733,439 hours | 994,880 hours | -1,738,559 hours | The reduction in burden hours is due to changes in responses and in average time response. The underlying employment data used in the prior estimate was outdated (changed from 100,500 to 85,715). Additionally, the average time per record was reduced because the railroads are increasingly using electronic records. |
| 228.17—Dispatchers record of train movements | 200,750 records (3 hours) | 285,000 cumulative train-movement tracking (records) (1 hour) | 84,250 cumulative train-movement tracking (records) | 602,250 hours | 285,000 hours | -317,250 hours | The increase in response is due to a review of estimated number of submissions expected to be received. Additionally, the average time per record was reduced because the railroads are increasingly using electronic records. |
| 228.19(g)-(h)—Monthly reports of excess service —Exception (FRA F 6180.3) | 2,670 reports (2 hours) | 1,750 reports (1 hour) | -920 reports | 5,340 hours | 1,750 hours | -3,590 hours | The decrease in response is due to a review of estimated number of submissions expected to be received. Additionally, the average time per response was reduced because FRA had previously overestimated the burden. |
| 228.103/.107—Construction of employees sleeping quarters—Petition request to FRA to allow construction near work areas | 1 petition (16 hours) | 2 petition waivers (24 hours) | 1 petition waivers | 16 hours | 48 hours | 32 hours | The increase in burden hours is due to changes in the number of petitions expected to be received. Additionally, the average time per response was increased and now is more accurate in terms of the time necessary to prepare this type |

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| | | | | | | | of document. |
| 228.201—Electronic recordkeeping system | 615 automated systems (24 hours) | 0 | -615 automated systems | 14,760 hours | 0 | -14,760 hours | The burden for this requirement has already been completed by railroads. |
| —(c) Waiver requests by railroads subcontractors no longer eligible use an automated recordkeeping system to refrain from having to begin keeping manual or electronic records or refrain from retaining its automated records as required under § 228.9(c) | 2 waiver requests (8 hours) | 0 | -2 waiver requests | 16 hours | 0 | -16 hours | The burden for this requirement has already been completed by railroads. |
| 228.206—Requirements for automated records and for automated recordkeeping systems on eligible smaller railroads, and their contractors or subcontractors that provide covered service employees to such railroads | 19,365 signed certifications (5 minutes) | 0 | -19,365 signed certifications | 1,614 hours | 0 | -1,614 hours | The burden for this requirement has already been completed by railroads. |
| —Certification of employee electronic signature. | 75 signed certifications (5 minutes) | 0 | -75 signed certifications | 6 hours | 0 | -6 hours | The burden for this requirement has already been completed by railroads. |
| —Additional certification provided by employee upon FRA —Procedure for providing FRA/state inspector with system request. | 615 procedures (90 minutes) | 0 | -615 procedures | 923 hours | 0 | -923 hours | The burden for this requirement has already been completed by railroads. |

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| 228.207(b)—Training— Initial training—New employees and supervisors | 5,931 trained employees (2 hours) | 250 training records (2 minutes) | -5,681 training records | 11,862 hours | 8 hours | -11,854 hours | The reduction is due to review of estimated number of trainings expected to be conducted. Additionally, the average time per training record changed from 2 hours to 2 minutes. This updated estimate is based on the amount of time it takes to record training. The original figure included the training time (excepted category of information under the PRA). |
| —(c) Refresher training— System audits for irregularities by railroads and contractors | 47,000 trained employees (1 hour) | 796 audits and records (2 hours) | -46,204 audits and records | 47,000 hours | 1,592 hours | -45,408 hours | The reduction is due to review of estimated number of audits and records expected to be conducted. Additionally, the amount of time response was increased and now is more accurate in terms of the time necessary to audit and record this type of training. |
| 49 U.S.C. 21102—The Federal Hours of Service Laws—Petitions for exemption from laws | 1 petition (10 hours) | 0 | -1 petition | 10 hours | 0 | -10 hours | The burden for this requirement has already been completed by railroads. |
| 228.407(a)—Analysis of work schedules— Railroads' analysis of one cycle of work schedules of employees engaged in commuter or intercity passenger transportation | 2 analyses (20 hours) | 3 analyses (2 hours) | 1 analysis | 40 hours | 6 hours | -34 hours | The average time per response was reduced because FRA had previously overestimated the burden. This new estimate is more accurate because the railroad industry is using electronic means to pull the necessary data to conduct their analyses. |
| —(b) Submissions of | 1 report | 3 fatigue | 2 fatigue | 2 hours | 60 hours | 58 hours | The average time per response |

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| certain work schedules and any fatigue mitigation plans and determinations of operational necessity or declarations | (2 hours) | mitigation plans (20 hours) | mitigation plans | | | | increased because FRA had previously underestimated the burden. This new estimate is more accurate in terms of the time necessary to complete this type of document. |
| —(b) Submissions to FRA for review and approval | 1 plan (4 hours) | 1 submission (1 hour) | 0 | 4 hours | 1 hour | -3 hours | The average time per response reduced because FRA had previously overestimated the burden. This new estimate is more accurate in terms of the time necessary to complete this type of submission. |
| —Work schedules, proposed mitigation plans/ tools, determinations of operational necessity—found deficient by FRA and needing correction. | 1 corrected document (2 hours) | 0 | -1 corrected document | 2 hours | 0 | -2 hours | The burden for this requirement is included under § 228.407(a). |
| —(d) Analysis of certain later changes in work schedules Analyses and mitigation plans—Resubmission to FRA for approval | 5 analyses (4 hours) | 1 analysis (1 hour) | -4 analyses | 20 hours | 1 hour | -19 hours | The decrease in response is due to a review of estimated number of submissions expected to be received. Additionally, the average time per review was reduced because FRA had previously overestimated the burden. |
| —Deficiencies found by FRA in revised work schedules and accompanying fatigue mitigation tools and determinations of operational necessity needing correction. | 1 corrected document (2 hours) | 0 | -1 corrected document | 2 hours | 0 | -2 hours | The burden for this requirement is included under § 228.407(d). |

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| —Updated fatigue mitigation plans | 8 plans (4 hours) | 0 | -8 plans | 32 hours | 0 | -32 hours | The burden for this requirement is included under § 228.407(b). |
| —(f) RR Consultation with directly affected employees on: (i) RR Work schedules at risk for fatigue level possibly compromising safety; and (ii) Railroad’s selection of fatigue mitigation tools; and (iii) All RR Submissions required by this section seeking FRA approval. | 5 consultations (2 hours) | 0 | -5 consultations | 10 hours | 0 | -10 hours | The burden for this requirement is included under OMB Control Number 2130-0599. |
| —Filed employee statements with FRA explaining any issues related to paragraph (f)(1) of this section where consensus was not reached. | 2 filed statements (2 hours) | 0 | -2 filed statements | 4 hours | 0 | -4 hours | The burden for this requirement is included under OMB Control Number 2130-0599. |
| 228.411—Training programs on fatigue and related topics (e.g., rest, alertness, changes in rest cycles, etc.). | 14 training programs (5 hours) | 34 programs (2 hours) | 20 programs | 70 hours | 68 hours | -2 hours | The increase in response is due to a review of estimated number of submissions expected to be received. Additionally, the average time per response was reduced because FRA had previously overestimated the burden. |
| —Refresher training for new employees | 150 initially trained employees (1 hour) | 0 | -150 initially trained employees | 150 hours | 0 | -150 hours | Based on FRA’s interpretation of the PRA’s implementing regulations, specifically the definition of “information” within 5 C.F.R. § 1320.3(h), FRA considers training/testing to be an excepted category of |

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| | | | | | | | information under the PRA. |
| —RR Every 3 Years refresher training for existing employees | 3,400 trained employees (1 hour) | 0 | -3,400 trained employees | 3,400 hours | 0 | -3,400 hours | Based on FRA’s interpretation of the PRA’s implementing regulations, specifically the definition of “information” within 5 C.F.R. § 1320.3(h), FRA considers training/testing to be an excepted category of information under the PRA. |
| —(e) Records of training on fatigue and related topics | 3,550 records (5 minutes) | 5,539 records (1 minute) | 1,989 records | 296 hours | 92 hours | -204 hours | The decrease in response is due to a review of estimated number of submissions expected to be received. Additionally, the average time per record was reduced because FRA had previously overestimated the burden. |
| —(f) Conditional exclusion—Written declaration to FRA by tourist, scenic, historic, or excursion railroads seeking exclusion | 2 written declarations (1 hour) | 1 written declaration (1 hour) | -1 written declaration | 2 hours | 1 hour | -1 hour | The decrease in response is due to a review of estimated number of submissions expected to be received. |
| Appendix D—Guidance on fatigue management plan—RR reviewed and updated fatigue management plans | 2 updated plans (10 hours) | 0 | -2 updated plans | 20 hours | 0 | -20 hours | The burden for this requirement is included under § 228.407. |

Overall, the cost to respondents decreased by \$341,000 from the previously approved submission of \$588,500. For instance, the initial cost to automation (\$430,000) was removed because the larger commuter railroads have implemented their automated systems. As for the smaller commuter railroads, since this requirement is voluntary, they have elected to not implement automated systems. Additionally, the cost to postage (\$1,000) was eliminated because the railroads submit their forms or reports electronically including paper copies which are scanned in and submitted via email. The cost maintenance of the system, program logic, and addressing security issues increased

from \$1,000 to \$100,000.

The updated cost to respondents amounts to \$247,500 resulting solely from adjustments.

16. Publication of results of data collection.

There are no plans to publish the information collected in this submission.

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

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

18. Exception to certification statement.

No exceptions are taken at this time.