

1111FEDERAL RAILROAD ADMINISTRATION
State Safety Participation Regulations and Reporting of Remedial Actions
(Title 49 Code of Federal Regulations (CFR) Parts 209 and 212)
SUPPORTING JUSTIFICATION
OMB Control No. 2130-0509

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 May 6, 2019, which expires May 31, 2022.
- The Federal Railroad Administration (FRA) published the required 60-day Federal Register Notice on February 11, 2022. See 87 FR 8082. FRA received no comments in response to this Notice.
- Overall, the adjustments increased the burden by 2,612 hours and increased responses by 463 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.

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1. Circumstances that make collection of the information necessary.

The Rail State Safety Participation Program consists of States employing safety inspectors in the five rail safety inspection disciplines. State programs emphasize planned, routine compliance inspections; however, States may undertake additional investigative and surveillance activities consistent with overall program needs and individual State capabilities.

Before participation can begin, each State agency must enter into a multi-year agreement with FRA for the exercise of specified authority. This agreement may delegate investigative and surveillance authority regarding all or any part of Federal railroad safety laws.¹

The training of State inspectors is one of FRA's major customer service initiatives. FRA reimburses States for travel and subsistence expenses associated with rail safety inspector technical training. The training program helps States to develop rail safety programs and enables qualified State inspectors to maintain technical proficiency. FRA routinely provides on-the-job training to State inspector candidates as well.

¹ States are authorized to work in partnership with FRA to enforce Federal railroad safety laws and regulations (49 U.S.C. 20105, 49 CFR part 212). See 57 FR 28115.

Additionally, if a railroad receives written notification from an FRA or State safety inspector, it is required to report to FRA actions taken to remedy certain alleged violations of law.²

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

The collection of information is set forth under 49 CFR part 212. This requires qualified State inspectors to provide various reports to FRA for monitoring and enforcement purposes concerning State investigation, inspection, and surveillance activities regarding railroad compliance with Federal railroad safety laws and regulations. Additionally, under 49 CFR part 209, subpart E, railroads are required to report to FRA actions taken to remedy certain alleged violations of law.

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

FRA strongly encourages the use of advanced information technology, wherever possible, to reduce burden on respondents. FRA and State inspectors report inspection findings on automated inspection reports using notebook computers and software developed by the agency.

4. **Efforts to identify duplication.**

The information collected to FRA's knowledge is not duplicated anywhere.

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

State Participation

The collection of State participation information does not involve small businesses or organizations.

Remedial Actions Reporting

The collection of remedial actions information does not involve small businesses other than railroads and railroad contractors. FRA does not propose to eliminate small railroads or contractors from the reporting requirements because rail safety is at stake.

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

Without this collection of information, FRA would not be able to fulfill its mandate from Congress to reduce rail-related accidents. Participating States are required to submit their

² 59 FR 43676.

reports on investigation and surveillance activities either on a monthly or more frequent basis to ensure swift corrective actions if safety is either deteriorating or is questioned. To be effective, a safety program requires timely information, and collecting this information less frequently would impair FRA's safety program.

Federal and State inspectors monitor the day-to-day rail environment to ensure compliance with Federal safety laws and regulations and to highlight violations so that they can be quickly corrected. Without the remedial action reports, FRA would have no way of knowing whether railroads actually took the appropriate action(s) to correct a failure detected by a Federal or State inspector, or provided a satisfactory explanation that no violation occurred.

7. Special circumstances.

The Rail Safety Enforcement and Review Act requires remedial actions reports be made within 30 days after the end of the month in which each such notification is received. FRA is constrained by this law from extending the collection period or reducing the frequency of collection.

All other 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 (PRA) and 5 CFR 1320, FRA published a notice in the Federal Register on February 11, 2022, soliciting comments.³ FRA received no comments in response to this notice.

Consultations with representatives of the affected population:

Individuals from the railroad industry and public authorities are generally in direct contact with FRA and can provide any comments or concerns to FRA.

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.

³ 87 FR 8082.

10. Assurance of confidentiality.

The 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 sensitive questions, and no sensitive information is requested.

12. Estimate of burden hours for information collected.

The estimates for the respondent universe, annual responses, and average time per response are based on the experience and expertise of FRA's Office of Regional Operations and Outreach.

Section ⁴	Respondent universe	Total annual responses (A)	Average time per response (B)	Total annual burden hours (C) = A * B	Total cost equivalent (D) = C * wage ⁵	PRA Analyses and Estimates
49 U.S.C. 20105—Railroad Safety State Participation Agreement—Annual updates or amendments including workplans, training plans and schedules to existing agreements	32 States	32 updates	1 hour	32 hours	\$2,615	Exhibit 2A - Revised Schedule of Current Participation - This exhibit allows the State agencies to update their agreements. Exhibit 3 - State Railroad Safety

⁴ The current inventory exhibits a total burden of 9,346 hours while the total burden of this notice is 11,958 hours.

⁵ For State respondents, the dollar equivalent cost is derived from the Bureau of Labor Statistics data for management occupations, NAICS 99920—State Government, excluding schools and hospitals, for State government employees. To calculate the mean hourly wage of \$46.69 for this category of workers, FRA included a 75-percent charge for overhead costs. The calculation is \$46.69 per hour * 1.75 = \$81.71. The Web address for this data is: https://www.bls.gov/oes/current/naics4_999200.htm#11-0000. Additionally, for railroad respondents, the dollar equivalent cost is derived from the Surface Transportation Board's 2020 Full Year Wage A&B data series for railroad workers. The wage rate of \$77.44 per hour includes a 75-percent overhead charge.

—Inspector travel planning and reimbursement	32 States	600 vouchers	1.5 hours	900 hours	\$73,539	<p>Technical Training and Funding Agreement - This exhibit is the agreement between FRA and the State agency regarding reimbursement and other costs associated with inspector training.</p> <p>FRA estimates it will take about 1 hour to update the workplans, training plans, and schedules to existing agreements.</p> <p>Additionally, it will take about 1.5 hours to prepare each voucher.</p>
—FRA-approved technical training and funding agreement (under §§ 212.201 through 212.233) under 212.109	The estimated paperwork burden associated with this requirement is covered above under 49 U.S.C. 20105.					
212.107—Certification—State to file annual certification in the event that FRA and the State agency do not agree on terms for the participation under § 212.105	FRA anticipates zero submissions.					
212.109—Joint planning of inspections—Annual work plan for the conduct of investigative and surveillance activities by the State agency	The estimated paperwork burden associated with this requirement is covered above under 49 U.S.C. 20105.					
212.113—Program termination—30-day notice provided by State agency of its intent to terminate its participation	FRA anticipates zero submissions.					
—Inspection Report (Form FRA F 6180.96)—All disciplines submitted by State inspectors	32 States	19,400 forms	15 minutes	4,850 hours	\$396,294	This inspection form is used by State inspectors to document rail safety inspections, defects, and railroad compliance with the regulations.

						It is estimated that it will take each inspector an average of 15 minutes to complete each inspection report.
—Violation Report—Motive, Power, and Equipment Regulations (Form FRA F 6180.109)	19 States	360 reports	4 hours	1,440 hours	\$117,662	<p>This form is used by State inspectors to document violations of the Motive Power and Equipment Regulations.</p> <p>It is estimated that it will take an average of approximately 4 hours to complete each violation report.</p>
—Violation Report—Operating Practices Regulations (Form FRA F 6180.67)	19 States	180 reports	4 hours	720 hours	\$58,831	<p>This report is used by State inspectors to document violations of the Operating Practices Regulations.</p> <p>It is estimated that it will take an average of approximately 4 hours to complete each violation report</p>
—Violation Report—Hazardous Materials Regulations (Form FRA F 6180.110)	17 States	420 reports	4 hours	1,680 hours	\$137,273	<p>This report is used by State inspectors to document violations of the Hazardous Materials Regulations.</p> <p>It is estimated that it will take an average of approximately 4 hours to complete each violation report</p>
—Violation Report—Hours of Service Law (F 6180.33)	19 States	2 reports	4 hours	8 hours	\$654	<p>This report is used by both Federal and State inspectors to document violations of the Hours of Service Laws.</p> <p>It is estimated that it will take an average of approximately 4 hours to complete each violation report</p>
—Violation Report—Accident/Incident Reporting Rules (Form FRA F 6180.61)	19 States	2 reports	4 hours	8 hours	\$654	<p>This report is used by State inspectors to document violations of the Accidents Reports Act.</p> <p>It is estimated that it will take an average</p>

						of approximately 4 hours to complete each violation report.
—Violation Report—Track Safety Regulations (Form FRA F 6180.111)	26 States	110 reports	4 hours	440 hours	\$35,952	<p>This report is used by State inspectors to document violations of the Track Safety Regulations.</p> <p>It is estimated that it will take an average of approximately 4 hours to complete each violation report.</p>
—Violation Report—Signal and Train Control Regulations (Form FRA F 6180.112)	14 States	80 reports	4 hours	320 hours	\$26,147	<p>This report is used by State inspectors to document violations of the Signal and Train Control Regulations.</p> <p>It is estimated that it will take an average of approximately 4 hours to complete each violation report.</p>
209.405(a)—Reporting of remedial actions—Completion of Form FRA F 6180.96 including selection of railroad remedial action code	754 railroads	2,400 reports	30 minutes	1,200 hours	\$92,928	<p>Each railroad that has received written notification on FRA's Inspection Report (FRA F 6180.96) from an FRA or State Safety Inspector both that assessment of a civil penalty will be recommended for the railroad's failure to comply with a provision of the Federal railroad safety laws and that it must submit a remedial actions report is required to report to FRA, within 30 days after the calendar month in which the notification is received, all actions taken to remedy that failure.</p> <p>It is estimated that it will take an average of approximately 30 minutes for a railroad to fill in the required information and submit the inspection report back to FRA.</p>
—(b) Violation report challenge by	754 railroads	240	45	180 hours	\$13,939	If any railroad concludes that the

the railroads—Remedial action reports		challenges	minutes			violation alleged on the inspection report may not have occurred, it may submit the remedial actions report with an appropriate written explanation. It is estimated that it will take an additional 45 minutes to prepare the written explanation required to be submitted with the Remedial Actions Report (Form FRA F 6180.96).
209.407—Delayed reports	754 railroads	240 reports	45 minutes	180 hours	\$13,939	If a railroad cannot initiate or complete remedial actions within 30 days after the end of the calendar month in which the notification is received, it must prepare, in writing, an explanation of the reasons for such delay and a good faith estimate of the date by which it will complete the remedial actions. It is estimated that it will take an additional 45 minutes to prepare, sign, file, and submit the written notification to the appropriate FRA inspector explaining the reasons for such delay and to provide an estimate of a date by which the remedial actions will be completed.
Total	32 States and 754 railroads	24,066 responses	N/A	11,958 hours	\$970,427	

13. Estimate of total annual costs to respondents.

There are no additional costs to respondents in addition to those in question number 12 above.

14. Estimate of Cost to Federal Government.

FRA estimates that approximately one person (at the GS-14, step 5 level; 2022 OPM Pay Schedule for the locality pay area of Washington-Baltimore-Arlington, DC-MD-VA-WV-PA) will be spending 100 percent of their time reviewing all the documentation associated with the requirements of part 212. This excludes time spent doing routine compliance and enforcement activities. Multiplying annual salaries of \$143,064 times 100 percent times 75-percent overhead cost equals to an annual Federal cost of \$250,362.

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 9,346 hours and 23,603 responses, while the requesting inventory estimates a total burden of 11,958 hours and 24,066 responses. Overall, the burden for this submission has increased by 2,612 hours and increased by 463 responses. Also, the outdated previous cost to respondents under question 13 decreased from \$31,000 to zero. There is no change in the method of the collection. The increase in burden is solely the result of adjustments.

CFR Section	Total Annual Responses			Total Annual Burden Hours			PRA Analyses and Estimates
	Previous Submission	Current Submission	Difference	Previous Submission	Current Submission	Difference	
49 U.S.C. 20105—Railroad Safety State Participation Agreement—Updates or amendments including training plans and schedules to existing agreements	16 updates (3 hours)	32 updates (1 hour)	16 updates	40 hours	32 hours	-8 hours	FRA expects to receive more submissions in this 3-year ICR period. Additionally, the average time per submission is now more accurate in terms of the time necessary to prepare this type of document.

—FRA-approved technical training and funding agreement (under §§ 212.201 through 212.233) under 212.109	32 agreements (1 hour)	0	-32 agreements	32 hours	0	-32 hours	The burden associated with this requirement is covered above under 49 U.S.C. 20105.
—Inspector travel planning and reimbursement	400 vouchers (1 hour)	600 vouchers (2 hours)	200 vouchers	400 hours	900 hours	500 hours	FRA expects to receive more submissions in this 3-year ICR period. Additionally, the average time per submission is now more accurate in terms of the time necessary to prepare this type of document.
212.109—Joint planning of inspections—Annual work plan for the conduct of investigative and surveillance activities by the State agency	32 agreements (5 hours)	0	-32 agreements	160 hours	0	-160 hours	The burden associated with this requirement is covered above under 49 U.S.C. 20105.
—Inspection Report (Form FRA F 6180.96)—All disciplines submitted by State inspectors	17,265 forms (15 minutes)	19,400 forms (15 minutes)	2,135 forms	4,316 hours	4,850 hours	534 hours	FRA expects to receive more submissions in this 3-year ICR period.
—Violation Report—Motive, Power, and Equipment Regulations (Form FRA F 6180.109)	251 reports (4 hours)	360 reports (4 hours)	109 reports	1,004 hours	1,440 hours	436 hours	FRA expects to receive more submissions in this 3-year ICR period.
—Violation Report—Operating Practices Regulations (Form FRA F 6180.67)	110 reports (4 hours)	180 reports (4 hours)	70 reports	440 hours	720 hours	280 hours	FRA expects to receive more submissions in this 3-year ICR period.

—Violation Report— Hazardous Materials Regulations (Form FRA F 6180.110)	128 reports (4 hours)	420 reports (4 hours)	292 reports	512 hours	1,680 hours	1,168 hours	FRA expects to receive more submissions in this 3-year ICR period.
—Violation Report—Hours of Service Law (F 6180.33)	3 reports (4 hours)	2 reports (4 hours)	-1 report	12 hours	8 hours	-4 hours	FRA expects to receive fewer submissions in this 3-year ICR period.
—Violation Report— Accident/Incident Reporting Rules (Form FRA F 6180.61)	2 reports (4 hours)	2 reports (4 hours)	0	8 hours	8 hours	0	No adjustment.
—Violation Report—Track Safety Regulations (Form FRA F 6180.111)	73 reports (4 hours)	110 reports (4 hours)	37 reports	292 hours	440 hours	148 hours	FRA expects to receive more submissions in this 3-year ICR period.
—Violation Report—Signal and Train Control Regulations (Form FRA F 6180.112)	26 reports (4 hours)	80 reports (4 hours)	54 reports	104 hours	320 hours	216 hours	FRA expects to receive more submissions in this 3-year ICR period.
209.405(a)—Reporting of remedial actions—Completion of Form FRA F 6180.96 including selection of railroad remedial action code	4,050 reports (15 minutes)	2,400 reports (30 minutes)	-1,650 reports	1,013 hours	1,200 hours	187 hours	FRA expects to receive fewer submissions in this 3-year ICR period. Additionally, the average time per submission is now more accurate in terms of the time necessary to prepare this type of document.
—(b) Violation report challenge by the railroads— Remedial action reports	810 challenges (1 hour)	240 challenges (45 minutes)	-570 challenges	810 hours	180 hours	-630 hours	FRA expects to receive fewer submissions in this 3-year ICR period. Additionally, the average time per submission is now more accurate in terms of the time necessary to prepare this

209.407—Delayed reports	405 reports (30 minutes)	240 reports (45 minutes)	-165 reports	203 hours	180 hours	-23 hours	type of document. FRA expects to receive fewer submissions in this 3-year ICR period. Additionally, the average time per submission is now more accurate in terms of the time necessary to prepare this type of document.
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16. Publication of results of data collection.

FRA does not plan to publish the information collected.

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

FRA is not seeking approval to not display the expiration date.

18. Exception to certification statement.

No exceptions are taken at this time.