

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

Summary of Submission

- This submission is a request for an extension without change of the last three-year approval granted by the Office of Management and Budget (OMB) on January 7, 2023, which expires on January 31, 2024.
- The Federal Railroad Administration (hereafter “FRA” or “the Agency”) published the required 60-day Notice in the Federal Register on October 2, 2023. See 88 FR 67865. FRA received no comments in response to this Notice.
- The total number of burden hours requested for this information collection submission is 37, which is unchanged from the last submission.
- The total number of responses requested for this information collection submission is 6, which is unchanged from the last submission.
- The answer to question 12 itemizes information collection requirements.
- The answer to question 15 itemizes all adjustments.

1. Circumstances that make collection of the information necessary.

The Association of American Railroads (AAR) submitted a petition to amend 49 CFR part 231 on March 28, 2006. The AAR petition requested that FRA adopt new Federal railroad safety appliance standards to incorporate changes in railcar design that have occurred since the safety appliance regulations were promulgated in their current form. FRA acted on AAR’s request by amending 49 CFR part 231 to add sections 231.33 and 231.35 to the existing regulations.¹ These sections established a special approval process enabling the railroad industry to submit new rail equipment designs to FRA for approval with respect to the placement and securement of safety appliances.²

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

¹ See 76 FR 23714.

² Examples of safety appliances regulated under part 231 include couplers to couple and uncouple cars, grab irons, stirrup steps, hand brakes, running boards on top of freight cars and running board extensions.

The amendments promote the safe placement and securement of safety appliances on newly constructed rail equipment by establishing a process for the review and approval of existing industry standards. This special approval process enhances railroad safety by allowing FRA to consider approving technological advancements and ergonomic design standards for new car construction. It also ensures that newly constructed rail equipment complies with the applicable statutory and safety-critical regulatory safety appliance requirements and provides a more flexible and efficient process to evaluate new design safety and compliance.

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

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

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

Additionally, the information collected is also used by FRA to ensure that representatives of rail labor employees who operate, inspect, test, and maintain such rail equipment, other organizations or bodies that either issued the standard to which the special approval pertains or issued the industry standard that is proposed in the petition, and any other persons filing current statements of interest with FRA are fully informed in a timely manner of such special approval petitions and are provided an opportunity to comment before FRA makes a decision on such special approval petitions. FRA reviews and considers all documents and comments submitted by respondents in its decision-making process.

FRA applies the same process and level of review and scrutiny to requests for modification of an approved industry safety appliance standard.

In sum, FRA uses all the information collected to further its comprehensive national regulatory safety program that seeks to reduce rail accidents and incidents, and corresponding fatalities, injuries, and property damage.

The details of each paperwork requirement are covered under question 12 of this document.

3. Extent of automated information collection.

FRA strongly encourages the use of advance information technology, wherever feasible, to reduce paperwork burdens on respondents. FRA estimates that approximately 100 percent of all responses will be collected electronically by the railroads.

4. Efforts to identify duplication.

The information collection requirements, to FRA's knowledge, are not duplicated elsewhere. Similar data is not available from other sources.

5. Efforts to minimize the burden on small businesses.

Part 231 applies to governmental jurisdictions or transit authorities that provide commuter rail service – none of which is a small entity.³ These entities also receive Federal transportation funds. Intercity rail service providers Amtrak and the Alaska Railroad Corporation are also subject to the existing rule, but they are not small entities and likewise receive Federal transportation funds. Small entities are not responsible for preparing the petitions for special approval and there are no significant costs associated with implementing an approved industry standard as any such standard will likely be a repositioning of existing safety appliances and will only be applicable to newly manufactured units.

Furthermore, FRA has determined that the requirements of part 231 have no significant economic impact on a substantial number of small entities, as there are no direct costs to small entities.

³“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. 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 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.

6. Impact of less frequent collection of information.

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

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

7. Special circumstances.

There are no special circumstances.

8. Compliance with 5 CFR 1320.8.

As required by the Paperwork Reduction Act of 1995 (PRA) and 5 CFR part 1320, FRA published a notice in the *Federal Register* on October 2, 2023⁴ soliciting comment from the public, railroads, and other interested parties on these information collection requirements. FRA received no comments.

Consultations with representatives of the affected population:

As a part of FRA's oversight and enforcement, individuals from the railroad industry are generally in direct contact with FRA's inspectors at the time of site inspections and can provide any comments or concerns to them.

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.

⁴ See 88 FR 67865.

The information collected is not of a confidential nature and FRA pledges no assurance of confidentiality.

11. Justification for any questions of a sensitive nature.

The information collection does not contain any data of a personal or sensitive nature.

12. Estimate of burden hours for information collected.

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

CFR Section	Respondent Universe	Total Annual Responses (A)	Average Time per Response (B)	Total Annual Burden Hours (C=A*B)	Total Cost Equivalent (D=C* wage rates)⁵	PRA Analyses and Estimates
231.33(b)—Procedure for special approval of existing industry safety appliance standards—filing of petitions	AAR (industry rep.)	1 petition	16 hours	16.00 hours	\$1,374.88	An industry representative may submit a petition for special approval of an existing industry safety appliance standard for new construction. FRA estimates, after careful review, that it will take approximately 16 hours for each petition.
—(b)(6) Affirmative statement by petitioner that a petition copy has been served on rep. of employees responsible for equipment’s operation/inspection/testing/maintenance	AAR (industry rep.)	1 affirmation statement	1 hour	1.00 hours	\$85.93	A statement affirming that the petitioner has served a copy of the petition on designated representatives of the employees responsible for the equipment’s operation, inspection, testing, and maintenance under this part, together with a list of the names and addresses of the persons served. FRA estimates, after careful review, that it will take approximately 1 hour for each affirmation statement.
—(f)(3)(iii) Disposition of petitions:	AAR	1	2	2.00	\$171.86	A petition may be returned to the

⁵ The dollar equivalent cost is derived from the 2022 Surface Transportation Board Full Year Wage A&B data series using the employee group 200 (Professional & Administrative) hourly wage rate of \$49.10. The total burden wage rate (Straight time plus 75%) used in the table is \$85.93 (\$49.10 x 1.75 = \$85.93).

petition returned by FRA requesting additional information	(industry rep.)	petition or additional document	hours	hours		<p>petitioner for additional consideration where it is determined that further information is required or that the petition may be amended in a reasonable manner to comply with all applicable Federal statutes, that petition may be amended to comply with the requirements of this section, or to ensure that the existing industry standard provides at least an equivalent level of safety as the existing FRA standards. Where the petition is returned to the petitioner, FRA will provide written notice to the petitioner of the item(s) identified by FRA as requiring additional consideration. Petitioner shall reply within 60 days from the date of FRA's written notice of return for additional consideration or the petition will be deemed withdrawn, unless good cause is shown.</p> <p>FRA estimates, after careful review, that it will take approximately 2 hours to comply with each request for additional information.</p>
231.35(a)–Procedure for modification of an approved industry safety appliance standard for new car construction— filing of petitions	AAR (industry rep.)	1 petition for modification	16 hours	16.00 hours	\$1,374.88	<p>An industry representative may seek modification of an existing industry safety appliance standard for new construction of railroad cars, locomotives, tenders, or other rail vehicles after the petition for special approval has been approved pursuant to § 231.33. The petition for modification shall include each of the elements identified in § 231.33(b).</p> <p>FRA estimates, after careful review, that</p>

						it will take approximately 16 hours for each petition modification.
—(b)(iii) Affirmative statement by petitioner that a petition copy has been served on rep. of employees responsible for equipment’s operation/inspection /testing/maintenance	AAR (industry rep.)	1 affirmation statement	1 hour	1.00 hour	\$85.93	FRA estimates, after careful review, that it will take approximately 1 hour for each affirmation statement.
—(e) FRA review of petition for modification; agency objection and AAR response	AAR (industry rep.)	1 additional comment	1 hour	1.00 hour	\$85.93	During the 60 days provided for public comment, FRA will review the petition. If FRA objects to the requested modification, written notification will be provided within this 60-day period to the party requesting the modification detailing FRA's objection. FRA estimates, after careful review, that it will take approximately 1 hour for each additional comment.
Total ⁶	765 railroads	6 responses		37 hours	\$3,179	

13. Estimate of total annual costs to respondents.

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

14. Estimate of Cost to Federal Government.

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

15. Explanation of program changes and adjustments.

⁶Totals may not add up due to rounding.

This submission is an extension without change to a current collection of information. There were no changes with regards to the 18 car types and corresponding forms. Therefore, there are no adjustments currently with respect to the hourly burden for the next 3-year collection period.

16. Publication of results of data collection.

FRA does not plan to publish the results of the data collection.

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

FRA intends to display the expiration date.

18. Exception to certification statement.

No exceptions are taken at this time.