

**FEDERAL RAILROAD ADMINISTRATION
ALCOHOL AND DRUG REGULATIONS
(Title 49 Code of Federal Regulations Part 219)
SUPPORTING JUSTIFICATION
OMB Control No. 2130-0526**

Summary

- This submission is a request for an extension with change of the last approval granted by the Office of Management and Budget (OMB) on **May 16, 2017**, which expires on **October 31, 2019**.
- The Federal Railroad Administration (FRA) published the required 60-day Notice in the *Federal Register* (FR) on **August 30, 2019**. (See 84 FR 45824.) FRA received no comments in response to this Notice.
- The total number of burden hours **previously approved** by OMB for this collection is **22,272 hours** and the total number of responses **previously approved** is **863,408**.
- The total number of burden **hours requested** is **3,142 hours** and the total number of responses **requested** is **427,661**.
- The total burden for this collection has decreased by 19,540 hours and by 435,747 responses.
- ****The answer to question number 12 itemizes the hourly burden associated with each information collection requirement associated with this rule. (See pages 11-14)**
- ****The answer to question number 15 itemizes all adjustments associated with this rule. (See pages 16-27.)**

1. **Circumstances that make collection of the information necessary.**

Background

In 2016, FRA published the Control of Alcohol and Drug Use: Coverage of Maintenance of Way (MOW) Employees and Retrospective Regulatory Review-Based Amendments Rule. (See 81 FRA 37894, June 10, 2016, codified at Title 49 Code of Federal Regulations (49 CFR) Part 219.) The rule, effective since June 10, 2016, expands the scope of 49 CFR Part 219 (part 219) to cover MOW employees, codifies guidance from FRA compliance manuals, responds to National Transportation Safety Board (NTSB) recommendations, and adopts substantive amendments based upon FRA's regulatory review of 30 years of implementation of this part. Historically, FRA has conducted only

post-mortem post-accident toxicological (PAT) testing of MOW employees, since an MOW employee, unlike a covered service employee, has been subject to part 219 testing only when he or she has died as the result of a reportable railroad accident or incident. Even in this comparatively small sample of post-mortem results, FRA found a disproportionately high level of positive test results among deceased MOW employees compared to the PAT testing and random testing results of covered employees who are already wholly subject to part 219. As a result, FRA expanded the scope of the rule to make MOW employees subject to all part 219 testing, namely, random testing, PAT testing, reasonable suspicion testing, reasonable cause testing, pre-employment testing, return-to-duty testing, and follow-up testing.

FRA has regulated the use of alcohol and drugs by certain railroad employees since 1985, when it issued a final rule establishing alcohol and drug use control regulations under part 219. See 50 FR 31508, Aug. 2, 1985. The rule contained certain prohibitions on the use and possession of alcohol and drugs by covered employees, who were defined as employees who had been assigned to perform covered service subject to the Hours of Service Act (45 U.S.C. 61-64b).¹ See id. at 31569. The rule also contained requirements for PAT testing, discretionary reasonable cause and reasonable suspicion testing, co-worker and voluntary referral policies, pre-employment drug testing, and reporting. See id. at 31508. In 1988, FRA amended part 219 to require random drug testing of covered employees. See 53 FR 47102, Nov. 21, 1988. In 1994, FRA again amended part 219 to require random alcohol testing and reasonable suspicion testing, in conformance with the requirements of the Omnibus Transportation Employee Testing Act of 1991 (Omnibus Act) (reasonable cause testing remained discretionary). See 59 FR 7448, Feb. 15, 1994. FRA has not fundamentally revised part 219 since 1994.²

The Omnibus Act required the Department of Transportation (DOT or Department) to establish Federal workplace testing procedures for transportation employees. The Department's Procedures for the Transportation Workplace Drug and Alcohol Testing Program are contained in 49 CFR part 40 (part 40), which is published by the DOT Office of the Secretary (OST). Only the DOT Office of Drug and Alcohol Policy and Compliance (ODAPC) and the DOT Office of General Counsel (OGC) are authorized to interpret Part 40 requirements. See 49 CFR 40.5.³ Part 40 testing requirements and procedures apply to any drug or alcohol test required by DOT agency regulations, except for FRA's PAT testing and certain testing conducted pursuant to DOT-mandated peer prevention programs (including FRA's peer prevention program currently required by subpart E of part 219). See § 219.701. FRA's PAT testing program pre-dates the

¹ The hours of service (HOS) laws are currently found at 49 U.S.C. Ch. 211.

² In 2004, FRA expanded the scope of part 219 to cover foreign railroad foreign-based employees who perform train or dispatching service in the United States. See 69 FR 19270, Apr. 12, 2004. In 2013, FRA added routine tests for certain non-controlled substances to its PAT testing program. See 78 FR 14217, Mar. 5, 2013.

³ Unless otherwise specified, all references to CFR sections and parts in this document refer to Title 49 of the CFR.

enactment of the Omnibus Act, which specifically exempts the program from part 40. See § 40.1(c).

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

This is an extension with change to a current collection of information entirely associated with FRA's part 219 rule. Specifically, FRA will use the information collected to ensure that MOW employees are subject to random alcohol and drug testing.

The information collected under this rule will be used by FRA to ensure that railroads establish required alcohol and drug use prevention programs and to confirm that railroad employees who perform regulated service comply with Federal regulations prohibiting the use of alcohol and drugs while on duty. Also, FRA uses the information collected to ensure that independent contractors and any other entities that perform regulated service for a railroad also comply with the requirements of this rule regarding its employees who perform regulated service. FRA reviews the required documentation to verify that the responsibility for compliance is clearly spelled out in the contract (or other document) between the railroad and the independent/other entity.

FRA uses information collected to ensure that railroads devise adequate programs so that supervisors of regulated employees receive essential alcohol and drug training. Specifically, they must be trained in the signs and symptoms of alcohol and drug influence, intoxication, and misuse. At a minimum, training programs must provide information concerning the acute behavioral and apparent psychological effects of alcohol and the major drug groups on the controlled substances list. The program must also provide training on the qualifying criteria for post-accident testing (contained in subpart C of 49 CFR Part 219) and the role of the supervisor in post-accident collections (described in subpart C and Appendix C of 49 CFR Part 219).

FRA reviews the information collected to confirm that railroads provide educational materials to employees which explain the requirements of 49 CFR Part 219 and the railroad's policies and procedures with respect to meeting those requirements. Railroads must ensure that a copy of these materials is distributed to each covered employee prior to the start of alcohol testing under the railroad's alcohol misuse prevention program and to each person who is subsequently hired or transferred to a covered position. FRA also reviews the collected information to confirm that railroads provide written notice to representatives of employee organizations of the availability of this information.

The information collection provisions contained in the pre-employment screening requirement and the authorization for detection screening of in-service employees are intended primarily to assure a sense of fairness and accuracy for protection of both the railroads and the employees in the implementation of these provisions. The basic information – evidence of unauthorized use of drugs – will be used to help prevent

accidents by screening personnel (now new MOW employees as well) who perform safety-sensitive functions. The ancillary information would be used by the railroad, the employee, or the prospective employee and FRA.

FRA reviews PAT testing reports/records to examine whether or not good faith determinations have been made regarding any decision by a person other than the responding railroad representative on whether an accident/incident qualifies for testing. FRA examines these reports to ensure they include the facts reported by the responding railroad representative, the basis upon which the testing was made, and the person making the decision. Also, to encourage and ensure compliance with this rule, FRA reviews records of tests not promptly administered under subpart C to monitor the reasons the test was not properly administered. Administering prompt tests is essential to having and maintaining an effective alcohol/drug prevention program, and provides critical data for FRA, railroads, and other Federal agencies in the investigation of an accident/incident.

FRA reviews random selection records of alcohol/drug testing procedures practiced by railroads to ensure that the testing process is fair and made by a method employing objective, neutral criteria such that each covered employee has a substantially equal statistical chance of being selected within the specified time frame.

Railroads are required to retain breath alcohol testing records and urine drug testing records for stipulated time periods. These records provide FRA with an invaluable resource for reviewing railroad drug and alcohol programs and procedures and ensuring compliance with Federal regulations, and they serve as a vital tool for FRA, the NTSB, and others in the investigation of accidents/incidents that may be drug or alcohol related.

FRA reviews laboratory records relating to required documentation of all aspects of the alcohol and drug testing process to ensure that these laboratories are following necessary protocols and procedures, and to ensure that the results sent to railroads' Medical Review Officers (MRO) are accurate, objective, and fair since the careers and livelihoods of railroad employees are at stake. Laboratory data must include a personnel file on analysts, supervisors, directors, and all individuals authorized to have access to specimens; chain-of-custody documents; quality assurance and control records; procedure manuals; all test data on tests conducted under subpart H; reports (including calibration curves and any calculations used in determining test results); reports; performance records on performance testing; performance on certification inspections; and hard copies of computer-generated data. These records are essential for FRA, the railroads, and the courts in making a determination concerning any specimen that is under legal challenge.

Overall, the information collected under this amended rule serves as a critical compliance tool, and FRA uses the information to promote and enhance railroad safety and reduce the number and severity of railroad accidents/incidents, particularly those related to the

misuse of alcohol and drugs by regulated railroad employees who occupy safety-sensitive positions. FRA believes the part 219 inclusion of MOW employees will save lives.

3. Extent of automated information collection.

Over the years, FRA has strongly supported and highly encouraged the use of advanced automated technology, particularly electronic recordkeeping, to reduce the burden on railroads and other entities (wherever possible) that submit or retain information required by the agency. It should be noted that, even though there are many sections of the final rule that require written documentation, there are other parts of the rule—such as section 219.623—that specify or require the electronic option. FRA believes approximately 100% of responses will be submitted and kept electronically.

4. Efforts to identify duplication.

The source of the information collection requirements is unique for each separate occurrence and, therefore, there is no known duplication of this material. Although other Federal agencies may utilize the information collected in the event of an accident/incident for their investigation (e.g., NTSB), FRA is the sole Federal agency requiring the collection of this information from the railroads.

The information submitted or collected for recordkeeping purposes is unique, and no other existing effort can be used or modified for these purposes.

The data collected is not available from any other source.

5. Efforts to minimize the burden on small businesses.

The “universe” of the entities considered in this analysis generally includes only those small entities that can reasonably expect to be directly regulated by this final action. The types of small entities potentially affected by this final rule are: (1) small railroads; (2) small contractors that engage in MOW operations; and (3) small contractors that provide HOS services (such as dispatching, signal, and train and engine services).

“Small entity” is defined in 5 U.S.C. 601(3) as having the same meaning as “small business concern” under Section 3 of the Small Business Act. This includes any small business concern that is independently owned and operated and is not dominant in its field of operation. Section 601(4) likewise includes within the definition of “small entities” not-for-profit enterprises that are independently owned and operated, and are not dominant in their field of operation. The U.S. Small Business Administration (SBA) stipulates in its size standards that the largest a railroad business firm that is “for profit” may be and still be classified as a “small entity” is 1,500 employees for “Line Haul Operating Railroads” and 500 employees for “Switching and Terminal Establishments.”

Additionally, 5 U.S.C. 601(5) defines as “small entities” governments of cities, counties, towns, townships, villages, school districts, or special districts with populations of less than 50,000.

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 policy which formally establishes small entities as being railroads, contractors, and hazardous materials shippers that meet the revenue requirements of a Class III railroad.⁴ FRA is using this definition for this rulemaking.

FRA estimates that there are approximately 713 railroads (including 2 foreign-based railroads), 44,797 MOW employees, and 146,000 total regulated employees. Most railroads must comply with all provisions of part 219. However, FRA has a “small railroad” definition associated with part 219 that limits compliance requirements for railroads with 15 HOS employees or fewer and no joint operations, to reduce burden on the smallest of railroads.

There are approximately 695 small railroads (as defined by revenue size). Class II and Class III railroads do not report to the Surface Transportation Board (STB), and although the number of Class II railroads is known, the precise number of Class III railroads is difficult to ascertain due to conflicting definitions, conglomerates, and even seasonal operations. Potentially, all small railroads could be impacted by this final regulation. Part 219 has a small railroad exception for all railroads with 15 or fewer covered employees, except when these railroads have joint operations with another railroad, therefore increasing risk. Thus, a railroad with such characteristics shall be called a “partially excepted small railroad” in this analysis and is a subsection of the “small entities” as defined by the STB and FRA, addressed above. Currently, there are 288 partially excepted small railroads and, as FRA is not amending to the substantive criteria of classification, there should be no change in the number of partially excepted small railroads associated with the final rule.

All commuter railroad operations in the United States are part of larger governmental entities whose jurisdictions exceed 50,000 in population. All railroads must comply with all or limited subparts of part 219. For partially excepted small railroads, per FRA’s definition, the significant burden involves the costs of adding MOW employees to the existing testing programs and adding reasonable suspicion and pre-employment drug testing (which they have not needed to comply with). A significant portion of the MOW industry consists of contractors. FRA has determined that risk lies as heavily with contractors as with railroad employees, so contractors and subcontractors will be subject to the same provisions of part 219 as the railroads for which they do contract work. Whether contractors must comply with all or part of the provisions of part 219 will

⁴ See 68 FR 24891, May 9, 2003.

depend on the size of the largest railroad (assumed to have the largest risk) for which the contractor works.

FRA discussed with industry representatives how to ascertain the number of contractors that will be involved with this rulemaking. FRA is aware that some railroads hire contractors to conduct some or all of the MOW worker functions on their railroads. Generally, the costs for the burdens associated with this rulemaking will get passed on from the contractor to the pertinent railroad. FRA has determined that there are approximately 3,000 MOW-related contractor companies who will be covered by this final rule. Of those, 2,970 are considered to be a “small entity.” FRA has sought estimates of the number of contractors that may be fully compliant and how many may be partially excepted, depending on the size of the largest railroad for which they work. FRA expects that some HOS small contractors will be impacted based upon the compliance requirements for part 219 small railroads to now include reasonable suspicion testing and pre-employment drug testing. This burden is estimated to be minimal, as reasonable suspicion tests occur extremely infrequently on small railroads (average less than one time per year for all small railroads), and pre-employment drug tests, the least costly of all tests, will only be required for new employees.

No other small businesses (non-railroad related) are expected to be negatively impacted significantly by this rulemaking. Conversely, this final regulation will bring business to consortiums, collectors, testing labs, and other companies involved in the drug and alcohol program business.

Expanding the program to cover MOW employees will only have a small effect in terms of testing burden for railroads, based upon the cost of pre-employment drug testing for new employees and the testing of MOW employees. FRA estimates that 90 percent of small railroads already conduct pre-employment drug testing under their own company authority. Many of these contractors have employees with commercial drivers’ licenses, and, therefore, fall under the drug and alcohol program requirements of the Federal Motor Carrier Safety Administration (FMCSA).

Consortia are companies that provide testing, random selection, collection, policy development, and training services to help employers stay compliant. Consortia alleviate much of the administrative burden of a testing program and negotiate volume discounts on behalf of their clients. It is likely that all part 219 small railroads already have a compliant testing program for employees that have been covered under the regulation. It should also be noted that approximately 125 of the small railroads that will be impacted are subsidiaries of large short line holding companies with resources comparable to larger railroads. Additionally, many small railroads are members of the American Shortline and Regional Railroad Association (ASLRRA), which was consulted throughout the development of this regulation. ASLRRA has helped create a consortium for its members in the past, and FRA will work to ensure that small entities, as well as large,

have the ability to adhere to the regulation as easily as possible. The consortium market will be affected in a positive manner due to new business from this rulemaking.

FRA estimates that small railroads will not have any additional expenses over the next ten years to comply with the new requirements in this final regulation. Based on this estimation, FRA concludes that the expected burden of this final rule will not have a significant impact on the competitive position of small entities, or on the small entity segment of the railroad industry as a whole.

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 605(b)), FRA certified that this final rule will not have a significant economic impact on a substantial number of small entities. FRA invited all interested parties to submit data and information regarding the potential economic impact that will result from adoption of the proposals in the Notice of Proposed Rulemaking.

Also, it should be noted that this part does **not** apply to the following:

- (1) Railroads that operate only on track inside an installation that is not part of the general railroad system of transportation (i.e., plant railroads, as defined in § 219.5);
- (2) Tourist, scenic, historic, or excursion operations that are not part of the general railroad system of transportation, as defined in § 219.5; or
- (3) Rapid transit operations in an urban area that are not connected to the general railroad system of transportation.

The small railroad exception in § 219.3(b)(2) has provided, in part, that a railroad with 15 or fewer covered employees that does not engage in joint operations with another railroad is not subject to the requirements for reasonable suspicion or reasonable cause testing (both previously found in subpart D), identification of troubled employees (previously subpart E), pre-employment drug testing (subpart F), or random testing (subpart G).

FRA is modifying the small railroad exception so that small railroads are no longer excepted from the reasonable suspicion testing requirements of subpart D. Subpart D requires a railroad to conduct Federal reasonable suspicion testing whenever one or more trained supervisors reasonably suspects that an employee has violated an FRA prohibition against the use of alcohol or drugs. See § 219.300(a). FRA's decision not to authorize small railroads to conduct FRA-authority reasonable cause testing (moved to subpart E of this rule) remains unchanged, however.

FRA is also amending the small railroad exception so that small railroads are no longer excepted from subpart F. As is already required for larger railroads, a small railroad must conduct a pre-employment drug test and obtain a negative result before allowing an

individual to perform regulated service for the first time. See § 219.501(a). As with larger railroads, this requirement applies only to those regulated employees hired by a small railroad after the effective date of this final rule, because all regulated employees hired before the effective date of this rule are exempted from pre-employment drug testing. Subparts E and G of part 219 do not apply to small railroads and a small railroad may not perform the Federal alcohol and drug testing authorized by these subparts.

6. Impact of less frequent collection of information.

If this collection of information were not conducted, or conducted less frequently, rail safety in the U.S. might be seriously jeopardized. Specifically, if railroads did not have effective alcohol and drug misuse prevention programs, and if these programs were not carefully monitored, regulated railroad employees working in safety-sensitive positions might abuse alcohol and drugs while on-duty or just prior to coming on-duty. These actions could lead to increased numbers of—and perhaps more severe—accident/incidents in which train crews, MOW employees, other railroad employees, passengers, and innocent bystanders are injured or killed. Particularly in the case of a catastrophic accident or an accident involving the release of radioactive or other hazardous materials, the number of casualties and harm to the environment and surrounding communities could be great.

Without the required alcohol and drug training programs, supervisors would not be able to spot employees under the influence of alcohol or drugs and would not be able to immediately remove them from service. Consequently, the risk of additional rail accidents/incidents—with their corresponding injuries and death—would increase substantially.

Without this collection of information, FRA would have no way of determining whether or not laboratories, which conduct alcohol and drug testing, are following proper protocols and procedures, and thus would have no way of determining whether positive results affecting the careers and livelihoods of railroad employees were done fairly and accurately. Without this information, FRA would be unable to have confidence in laboratory results and so, too, would railroads, which rely on these laboratories to conduct an effective drug and alcohol prevention program. Without the required laboratory records, railroad employees would be denied a critical resource to mount a legal challenge for a positive test that was false, improperly or inaccurately processed, or invalid on medical/other grounds.

Without this collection of information, railroad employees and members of the public-at-large would be exposed to preventable dangers and would suffer as first-line casualties. Also, the collection of information is extremely helpful to FRA in determining whether or not railroads properly penalized an employee for a drug/alcohol infraction, and it is an invaluable resource to FRA, railroads, and other Federal agencies in determining accident

causation or factors which contributed to an accident/incident.

Overall, this collection of information promotes and enhances FRA's comprehensive rail safety program and contributes significantly to achieving both FRA's and DOT's mission, which is to enable safe transportation. FRA believes that the part 219 addition of MOW employees under this final rule will save lives.

To be effective, a safety program requires timely information. Collection of this information less frequently would render it obsolete and meaningless, which would impair FRA's and railroads' safety programs. If future experience indicates that a lesser frequency is warranted, FRA would carefully review this part of its regulatory safety program and make necessary revisions accordingly.

7. Special circumstances.

Under section § 219.901(b), each railroad must maintain the following records for a minimum of five years:

- (1) A summary record or the individual files of each regulated employee's test results;
- (2) A copy of the annual report summarizing the results of its alcohol and drug misuse prevention program (if required to submit the report under § 219.800(a)).

Under (b)(1) above, FRA permits railroads to maintain either a summary record or an individual file of each regulated employee's alcohol/drug test results for five years. Previously, FRA had allowed only summary records, but smaller railroads may find it easier to maintain individual files rather than summary records.

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

8. Compliance with 5 CFR 1320.8.

FRA published the required 60-day Notice in the *Federal Register* on August 30, 2019. (See 84 FR 45824.) FRA received no comments in response to this Notice.

9. Payments or gifts to respondents.

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

10. Assurance of confidentiality.

No assurances of confidentiality have been provided to affected respondents. FRA maintains a set of accident investigation files. FRA will not maintain a system of records that will permit the identification of records by an individual name. FRA does hold in confidence information concerning medically authorized use of controlled substances, pursuant to 5 U.S.C. 55 2 (b)(6), except where the information is deemed material to determination of accident causation. The random testing programs for alcohol and drugs require that results of random tests and related medical information be held in confidence, except as necessary to effect discipline and/or referral for rehabilitation.

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 contained in this information collection.

12. Estimate of burden hours for information collected.

Note: Respondent universe affected by this information collection request is comprised of 713 railroads (including 2 foreign-based railroads), 44,797 MOW employees, and 146,000 total regulated employees.

| CFR Section/Subject | Respondent Universe | Total Annual Responses | Average Time per Response | Total Annual Burden Hours | Total Annual Dollar Cost Equivalent ⁵ |
|--|--------------------------------------|---|---------------------------|---------------------------|--|
| 219.4 – Petition for recognition of a foreign railroad’s workplace testing program | 1 railroad | 1 petition | 40 hours | 40 hours | \$3,040 |
| — Comments on petitions. Formerly from 2130-0555. | 1 railroad | 2 comments + 2 copies | 30 minutes | 1 hour | \$76 |
| 219.7 – Waivers | 713 railroads | 3 waiver letters | 90 minutes | 5 hours | \$380 |
| 219.23(a) – Notification to employees for testing | 146,000 employees | 63,000 notices | 3 seconds + 30 seconds | 171 hours | \$12,996 |
| 219.12(d) – Railroad Documentation on need to place employee on duty for follow-up tests | 713 railroads + 44,797 MOW employees | 5 documents | 30 minutes | 3 hours | \$228 |
| 219.23 (c) and (e) – Educational materials | 713 railroads + 44,797 MOW employees | 500 modified/revised educational documents | 1 hour | 500 hours | \$38,000 |
| — Copies of educational materials to employees | 146,000 employees | 19,506 copies of educational material documents | 2 minutes | 650 hours | \$49,400 |

⁵ FRA derived the wage rates from the Surface Transportation Board Website for 2018 wage data, and it uses the average annual wages for each employee group as follows: For Professional and Administrative staff, this cost amounts to \$76 per hour.

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| 219.104(b)– Removal of employee from regulated service – Verbal notice + follow-up written letter | 713 railroads + 44,797 MOW employees | 350 verbal notices + 350 letters | 30 seconds + 2 minutes | 15 hours | \$1,140 |
| 219.105 – Railroad's duty to prevent violations - Documents provided to FRA after agency request regarding railroad's alcohol and /or drug use education/prevention program. | 713 railroads + 44,797 MOW employees | 2 document copies | 5 minutes | 0.17 hours | \$13 |
| — Railroad Supervisor Rule G observations and records of regulated employees. | 713 railroads + 44,797 MOW employees | 292,000 observation records | 2 seconds | 162 hours | \$12,312 |
| 219.201(c)—Report by railroad concerning decision by person other than railroad representative about whether an accident/incident qualifies for testing | 713 railroads + 44,797 MOW employees | 2 reports | 30 minutes | 1 hour | \$76 |
| 219.203/207--Verbal notification and subsequent written report of failure to collect urine/blood specimens within four hours | 713 railroads + 44,797 MOW employees | 80 notifications + 80 written reports | 2 minutes + 5 minutes | 9 hours | \$684 |
| — Recall of employees for testing and Narrative Report Completion | 713 railroads + 44,797 MOW employees | 4 reports | 30 minutes | 2 hours | \$152 |
| — Railroad reference to part 219 requirements and FRA's post-accident toxicological kit instructions in seeking to obtain facility cooperation | 713 railroads + 44,797 MOW employees | 97 references | 5 minutes | 8 hours | \$608 |
| — Railroad notification to National Response Center (NRC) of injured employee unconscious or otherwise unable to give testing consent | 713 railroads + 44,797 MOW employees | 2 phone calls | 10 minutes | 0.33 hours | \$25 |
| — Railroad notification to local authority | 713 railroads + 44,797 MOW employees | 5 phone calls | 10 minutes | 0.83 hours | \$64 |
| 219.205 – Post Accident Toxicological Testing Forms – Completion of FRA F 6180.73 | 713 railroads + 44,797 MOW employees | 97 forms | 10 minutes | 16 hours | \$1,216 |
| – Specimen handling/collection – Completion of Form FRA F 6180.74 by train crew members after accident | 146,000 employees | 207 forms | 15 minutes | 52 hours | \$3,952 |
| Completion of Form FRA 6180.75 | 713 railroads + 44,797 MOW employees | 6 forms | 20 minutes | 2 hours | \$152 |
| — Documentation of chain of custody of sealed toxicology kit from medical facility to lab delivery | 713 railroads + 44,797 MOW employees | 97 chain of custody documents | 2 minutes | 3 hours | \$228 |

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|--|--------------------------------------|-------------------------|------------|------------|----------|
| — Railroad/medical facility record of kit error | 713 railroads + 44,797 MOW employees | 10 written records | 2 minutes | 0.33 hours | \$25 |
| 219.209(a) – Notification to NRC and FRA of accident/incident where samples were obtained | 713 railroads + 44,797 MOW employees | 97 phone reports | 2 minutes | 3 hours | \$228 |
| 219.211 ⁶ (b)—Results of post-accident toxicological testing to railroad MRO and railroad employee. | 713 railroads + 44,797 MOW employees | 6 reports | 15 minutes | 2 hours | \$152 |
| — MRO report to FRA of positive test for alcohol /drugs of surviving employee. | 713 railroads + 44,797 MOW employees | 5 reports | 15 minutes | 1 hour | \$76 |
| 219.303 – Railroad written documentation of observed signs/symptoms for reasonable suspicion determination | 713 railroads + 44,797 MOW employees | 30 written documents | 5 minutes | 3 hours | \$228 |
| 219.305 – Railroad written record stating reasons test was not promptly administered | 713 railroads + 44,797 MOW employees | 10 records | 2 minutes | 0.33 hours | \$25 |
| 219.405 – Railroad documentation describing basis of reasonable cause testing | 713 railroads + 44,797 MOW employees | 2,160 written documents | 5 minutes | 180 hours | \$13,680 |
| 219.407(b) – Prompt specimen collection time limitation exceeded – Record | 713 railroads + 44,797 MOW employees | 15 records | 15 minutes | 4 hours | \$304 |
| 219.501 – Railroad documentation of negative pre-employment drug tests | 713 railroads + 44,797 MOW employees | 6,100 lists | 30 seconds | 51 hours | \$3,876 |
| 219.605 – Submission of random testing plan: New railroads | 713 railroads + 44,797 MOW employees | 5 plans | 1 hour | 5 hours | \$380 |
| — Amendments to currently-approved FRA random testing plan | 713 railroads + 44,797 MOW employees | 450 amendments | 1 hour | 450 hours | \$34,200 |

⁶ The burdens for this section were also listed under OMB Control Number 2130-0598. After a review of our estimates, we realized we were double counting burdens associated with section 219.211 and consequently 2130-0598 has been discontinued. Also, tramadol, which has been controlled in the Controlled Substances Act as of August 2016, and antihistamines do not get MRO review, so there is no burden.

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|--|--------------------------------------|----------------------|------------|-------------|-----------|
| — Resubmitted random testing plans after notice of FRA disapproval of plan or amendment | 713 railroads + 44,797 MOW employees | 50 resubmitted plans | 30 minutes | 25 hours | \$1,900 |
| — Non-substantive amendment to an approved plan | 713 railroads + 44,797 MOW employees | 300 amendments | 15 minutes | 75 hours | \$5,700 |
| 219.615 – Incomplete random testing collections – Documentation | 713 railroads + 44,797 MOW employees | 2,000 documents | 30 seconds | 17 hours | \$1,292 |
| 219.617 – Employee Exclusion from random alcohol/drug testing after providing verifiable evidence from credible outside professional | 713 railroads + 44,797 MOW employees | 5 documents | 1 hour | 5 hours | \$380 |
| 219.623 – Random testing records | 713 railroads + 44,797 MOW employees | 40,000 records | 1 minute | 667 hours | \$50,692 |
| 219-1001- Co-worker referral of employee who is unsafe to work with/in violation of part 219 or railroad’s drug/alcohol rules | 713 railroads + 44,797 MOW employees | 20 referrals | 5 minutes | 2 hours | \$152 |
| Total | 713 railroads + 44,797 MOW employees | 427,661 responses | N/A | 3,132 hours | \$238,032 |

13. Estimate of total annual costs to respondents.

Respondent Costs

The estimated costs to respondents are as follows:

The costs for the Custody and Control Forms are the responsibility of the Department of Health and Human Services. Railroads bear the cost of shipping kits for post-accident toxicological (PAT) tests.

This cost amounts to \$25 per box and the medical review is another \$25 charged by the employer’s Medical Review Officer (MRO). The cost for the analysis of each test is \$1100 but this cost is borne by FRA. FRA estimates three (3) additional qualifying events per year and, thus, three (3) additional PAT tests due to the inclusion of MOW employees (one MOW employee tested per event). The cost for conducting the tests and shipping specimens from the new MOW employee tests is estimated to be \$150 per year. For the estimated annual 21 impact accident and grade crossing events, the cost of conducting the tests and shipping the boxes is estimated to be \$1,050 per year (21 test/kits x \$50). The total cost for shipping and medical review is **\$1,200**.

With the regulation now covering MOW employees, FRA estimates that 209 more reasonable suspicion/cause tests will be conducted each year. The average cost of a reasonable suspicion alcohol or drug test for a railroad, generally completed by a third-party contractor, is \$300. The annual cost, then, for this testing is **\$62,700**.

Also, after the effective date of the final rule, all newly hired MOW employees would be required to undergo a pre-employment drug test (with a negative result) prior to performing MOW activities for the railroad. FRA estimates this number to be approximately half of the estimated 44,797 MOW employees. This start-up pre-employment testing occurred in 2017. However, only half of those employees weren't covered by pre-exiting testing programs under company or FMCSA authority. Additionally, FRA estimates the turnover rate of MOW employees to be approximately four (4) percent. An in-clinic pre-employment drug test is estimated to cost \$60. Therefore, pre-employment drug testing for MOW employees would result in an estimated cost of **\$53,975** per year [calculation = 44,797 MOW employees x .5 MOW employees who do not fall under company authority or FMCSA testing x .04 turnover x \$60 = \$53,975.]

Finally, there are the costs for random alcohol and drug testing of MOW employees. The estimated cost of an onsite random drug and alcohol combination test is \$160. The estimated cost for an onsite random drug test is \$140. The cost of a random drug and alcohol combination test performed in a clinic is \$100 and the cost of a random drug test only performed in a clinic is \$60. FRA estimates that half of all tests will be performed onsite and half at a clinic. FRA estimates that the cost for random drug and alcohol tests at the minimum required levels for MOW employees:

[Calculation = (44,797 MOW employees x .5 not already being tested x .25 tested for drugs and alcohol x .5 onsite testing x \$160 per combo test) = \$449,790; 44,797 MOW employees x .5 not already being tested x .25 tested for drugs x .5 onsite testing x \$140 per drug test = \$393,566; (44,797 MOW employees x .5 not already being tested x .25 tested for drugs and alcohol x .5 clinic testing x \$100 per combo test) = \$281,119; 44,797 MOW employees x .5 not already being tested x .25 tested for drugs x .5 clinic testing x \$60 per drug test = \$167,989;

Total Respondent Cost = \$1,356,364 (\$1200 + \$62,700 + \$1,292,464)

14. Estimate of Cost to Federal Government.

FRA estimates that it will take approximately one (1) full-time equivalent employee at the GS-14 level to monitor FRA's alcohol and drug program. To calculate the government administrative cost, the 2019 Office of Personnel Management wage rates were used. The average wage (of step 1 through step 10) was used as a midpoint. Wages

were considered at the burdened wage rate by multiplying the actual wage rate by an overhead cost of 75 percent (or times 1.75).

| Pay Grade | Annual-Average Wage Rate | Total Wages (Wages * 1.75 of Overhead Cost) |
|-----------|--------------------------|---|
| GS-14 | \$134,772 | \$235,850 |

In addition, FRA estimates that three (3) MOW-related PAT tests will be conducted each year. The average cost for PAT testing is \$1,200. The annual cost, then, for this testing is **\$3,600**.

Estimated Cost to Federal Government = \$239,450 (\$235,850 + \$3,600)

15. Explanation of program changes and adjustments.

Currently, the OMB inventory for this collection of information shows a total burden of 22,672 hours and 863,408 responses, while this updated submission reflects a total burden of 3,132 hours and 427,661 responses. Overall, the adjustments decreased the burden by 19,540 hours and 435,747 responses.

FRA provided a thorough review of this package and determined many of our initial figures were based on rough estimates. Additionally, we realized some of the estimates were double counted and others were outdated. Moreover, other estimates were not Paperwork Reduction Act (PRA) requirements, thus leading to the increased figures, which were decreased accordingly in this submission. Thus, our latest review has refined our estimates to be more accurate. The chart below provides specific information on the review of any that have changed.

TABLE FOR ADJUSTMENTS

| CFR Section/Subject | Total Annual Responses | | | Total Annual Burden Hours | | |
|--|------------------------|-----------------------------|-----------------------------|---------------------------|--------------------|------------|
| | Previous Submission | Current Submission | Difference | Previous Submission | Current Submission | Difference |
| 219.4 –Petition for recognition of a foreign railroad’s workplace. <i>Reduction due to the estimated number of submission expected to be received.</i> | 2 petitions | 1 petition | -1 petition | 80 hours | 40 hours | -40 hours |
| — Comments on petitions. <i>Formerly from 2130-0555.</i> | 0 | 2 + 2 responses to petition | 2 + 2 responses to petition | 0 | 1 hour | 1 hour |
| 219.7 – Waivers. <i>Reduction due to review of estimated</i> | 4 waivers | 3 waivers | -1 waiver | 8 hours | 5 hours | -3 hours |

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| <i>number of submissions expected to be received and estimated time to complete submission.</i> | | | | | | |
| 219.9(b)(1)– Joint Operating Agreement between Railroads Assigning Responsibility for Compliance with this Part Amongst Themselves. <i>Reduction due to review, which determined that this briefing does not fall under PRA.</i> | 525 agreements | 0 | -525 agreements | 263 hours | 0 | -263 hours |
| --(b)(2) -- Request to railroad for documents by employee engaged in joint operation and subject to adverse action after being required to participate in breath/body fluid testing under subpart A, B, D, or F of part 219. <i>Zero submission is expected.</i> | 2 requests/ documents | 0 | -2 requests/ documents | 2 hours | 0 | -2 hours |
| --(c) Document by railroad/contractor delineating responsibility for compliance with this part. <i>Reduction due to review, which determined that this requirement does not fall under PRA.</i> | 10 documents | 0 | -10 documents | 20 hours | 0 | -20 hours |
| 219.11(d)—Employee consent to participate in body fluid testing under subpart C. <i>Reduction due to review, which determined that a consent is not required and thus, zero submission is required.</i> | 30 consent forms | 0 | -30 consent forms | 1 hour | 0 | -1 hour |
| 219.11(e)(1)—Notification to employees for testing. <i>Increase due to review of estimated number of submissions expected to be received and estimated time to complete submission.</i> | 9,508 notices | 63,000 notices | 53,492 notices | 13 hours | 171 hours | 158 hours |
| —(g)Railroad alcohol and drug program that provides training to supervisors and information on criteria for PAT testing contained in part 219 subpart C and appendix C. <i>Reduction due to review, which determined that this practice is a usual and customary procedure.</i> | 722 modified programs | 0 | -722 modified programs | 722 hours | 0 | -722 hours |
| —Alcohol and drug programs | 5 programs | 0 | -5 programs | 15 hours | 0 | -15 hours |

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| —New railroads. <i>Reduction due to review, which determined that this practice is a usual and customary procedure.</i> | | | | | | |
| —Training of supervisory employees in signs/symptoms of alcohol/drug influence. <i>Reduction due to review, which determined that this practice is a usual and customary procedure.</i> | 2,462 trained supervisors | 0 | -2,462 trained supervisors | 7,386 hours | 0 | -7,386 hours |
| 219.12(d)—Railroad Documentation on need to place employee on duty for follow-up tests | 5 documents | 5 documents | documents | 3 hours | 3 hours | hours |
| 219.23 (c) and (e)—Educational materials. <i>Reduction due to the estimated number of submissions expected to be received.</i> | 1,098 modified/revise educational documents | 500 modified/revise educational documents | -598 modified/revise educational documents | 1,098 hours | 500 hours | -598 hours |
| —Copies of educational materials to employees. <i>Reduction due to the estimated number of submissions expected to be received.</i> | 142,000 copies of educational material documents | 19,506 copies of educational material documents | -122,494 copies of educational material documents | 4,733 hours | 650 hours | -4,083 hours |
| 219.104(b)—Removal of employee from regulated service—Verbal notice + follow-up written letter. <i>Reduction due to the estimated number of submissions expected to be received.</i> | 500 notices + 500 letters | 350 verbal notices + 350 letters | -150 verbal notices + -150 letters | 21 hours | 15 hours | -6 hours |
| —Request for Hearing by employee who denies test result or other information is valid evidence of part 219 violation. <i>Reduction due to review, which determined no requirements for hearing to be documented and do not to fall under PRA.</i> | 50 requests + 50 hearings | 0 | -50 requests + -50 hearings | 202 hours | 0 | -202 hours |
| - 219.104(e)(4)—Applicants declining pre-employment testing and withdrawing employment application—Communications. <i>Reduction due to review, which determined that this testing does not to fall under PRA.</i> | 60 notices/communications | 0 | -60 notices/communications | 2 hours | 0 | -2 hours |
| 219.105 – Railroad's duty to prevent violations— Documents provided to FRA after agency request regarding railroad's alcohol and /or drug use education/prevention | 2 documents | 2 documents | 0 | 0.17 hours | 0.17 hours | 0 |

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| program. <i>No adjustments.</i> | | | | | | |
| — Railroad Supervisor Rule G observations and records of regulated employees. <i>Reduction due to correction. Only records should be accounted for.</i> | 280,000 observation + 280,000 records observation records | 292,000 observation records | -280,000 observation + 12,000 records | 310 hours | 162 hours | -148 hours |
| 219.201(c)—Report by railroad concerning decision by person other than railroad representative about whether an accident/incident qualifies for testing. <i>No adjustments.</i> | 2 reports | 2 reports | 0 | 1 hour | 1 hour | 0 |
| —Determination by railroad representative to test non-crew member regulated employees based on specific information. <i>Reduction due to review, which determined that this testing does not fall under PRA.</i> | 80 decisions/ determinations | 0 | -80 decisions/ determinations | 20 hours | 0 | -20 hours |
| — (a) (6) —Determination by railroad representative to exclude surviving crewmember from testing. <i>Reduction due to review, which determined that this testing does not fall under PRA.</i> | 50 decisions/ determinations | 0 | -50 decisions/ determinations | 4 hours | 0 | -4 hours |
| 219.203/207—Verbal notification and subsequent written report of failure to collect urine/blood specimens within four hours. <i>Reduction due to review of estimated time to complete submission.</i> | 80 notifications + 80 reports | 80 notifications + 80 reports | 0 | 43 hours | 9 hours | -34 hours |
| Railroad call for train relief crew. <i>Reduction due to review, which determined that this practice is a usual and customary procedure.</i> | 25 determinations | 0 | -25 determinations | 4 hours | 0 | -4 hours |
| Railroad call for train relief crew. <i>Reduction due to review, which determined that this practice is a usual and customary procedure.</i> | 25 calls | 0 | -25 calls | 2 hours | 0 | -2 hours |
| —Recall of employees for testing and Narrative Report Completion | 4 calls + 4 reports | 4 reports | 0 | 2 hours | 2 hours | hours |
| — Railroad reference to part 219 requirements and FRA’s PAT kit instructions in seeking to obtain facility cooperation. <i>Reduction due to review of</i> | 80 references | 97 references | 17 references | 20 hours | 8 hours | -12 hours |

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| <i>estimated time to complete submission.</i> | | | | | | |
| — Railroad notification to NRC of injured employee unconscious or otherwise unable to give testing consent. <i>No adjustments.</i> | 2 phone calls | 2 phone calls | 0 | 0.33 hours | 0.33 hours | 0 |
| — Railroad notification to local authority. Increase due to correction. <i>This is a PRA requirement that was previously omitted.</i> | 0 | 5 phone calls | 5 phone calls | 0 | 0.83 hours | 0.83 hours |
| 219.205— PAT Forms— Completion of FRA F 6180.73. <i>Reduction due to the estimated number of submissions expected to be received.</i> | 240 forms | 97 forms | -143 forms | 40 hours | 16 hours | -24 hours |
| —Specimen handling/collection— Completion of Form FRA F 6180.74 by train crew members after accident. <i>Reduction due to the estimated number of submissions expected to be received.</i> | 240 forms | 207 forms | -33 forms | 60 hours | 52 hours | -8 hours |
| —Completion of Form FRA 6180.75. <i>Reduction due to the estimated number of submissions expected to be received.</i> | 10 completed forms | 6 completed forms | -4 completed forms | 3 hours | 2 hours | -1 hours |
| —Railroad representative request to medical facility representative to complete remaining information on FRA F 6180.74. <i>Reduction due to correction. This burden is covered under 203/205/207 sections.</i> | 80 phones requests | 0 | -80 phones requests | 3 hours | 0 | -3 hours |
| —Railroad representative completion of Form FRA F 6180.73. <i>Reduction due to correction. This burden is covered under 203/205/207 sections.</i> | 80 forms | 0 | -80 forms | 13 hours | 0 | -13 hours |
| —Request to FRA alcohol and drug program manager for order form for standard shipping Kits. <i>Reduction due to correction. This burden is covered under 203/205/207 sections.</i> | 5 requests | 0 | -5 requests | 0.17 hours | 0 | -0.17 hours |

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| —Request to NRC for post-mortem shipping kit. <i>Reduction due to correction. This burden is covered under 203/205/207 sections.</i> | 1 request | 0 | -1 request | 0.03 hours | 0 | -0.03 hours |
| —Railroads request to medical facility to transfer sealed toxicology kit. Reduction due to correction. <i>This requirement is covered under 203/205/207 sections.</i> | 40 phones requests | 0 | -40 phones requests | 1 hour | 0 | -1 hour |
| —Documentation of chain of custody of sealed toxicology kit from medical facility to lab delivery. <i>Increase due to the estimated number of submissions expected to be received.</i> | 40 chain of custody documents | 97 chain of custody documents | 57 chain of custody documents | 1 hour | 3 hours | 2 hours |
| —Railroad/medical facility record of kit error. <i>Reduction due to the estimated number of submissions expected to be received.</i> | 20 written record | 10 written record | -10 written record | 1 hour | 0.33 hours | -0.67 hours |
| 219.209(a)—Notification to NRC and FRA of accident/incident where samples were obtained. <i>Increase due to the estimated number of submissions expected to be received.</i> | 40 phone reports | 97 phone reports | 57 phone reports | 1 hour | 3 hours | 2 hours |
| 219.209(c)—Record of Part 219 Test not Administered within 4 Hours Following Accident/Incident. <i>Reduction due to correction. This burden is covered under 203/205/207 sections.</i> | 40 records | 0 | -40 records | 20 hours | 0 | -20 hours |
| 219.211 (b)—Results of post-accident toxicological testing to railroad MRO and railroad employee. <i>Reduction due to the estimated number of submissions expected to be received.</i> | 10 reports | 6 reports | -4 reports | 3 hours | 2 hours | -1 hour |
| —MRO report to FRA of positive test for alcohol /drugs of surviving employee. <i>Reduction due to the estimated number of submission expected to be received.</i> | 10 reports | 5 reports | -5 reports | 3 hours | 1 hour | -2 hours |
| 219.303—Reasonable suspicion observations (drug test)—Communication between on-site and off-site supervisors regarding reasonable suspicion | 50 phone communications | 0 | -50 phone communications | 2 hours | 0 | -2 hours |

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| observation. <i>Reduction due to review, which determined that this practice is a usual and customary procedure.</i> | | | | | | |
| 219.303—Railroad written documentation of observed signs/symptoms for reasonable suspicion determination. <i>No adjustments.</i> | 30 documents | 30 documents | 0 | 3 hours | 3 hours | 0 |
| 219.305—Railroad written record stating reasons test was not promptly administered. <i>Reduction due to the estimated number of submissions expected to be received.</i> | 30 records | 10 records | -20 records | 1 hour | 0.33 hours | -0.67 hours |
| 219.401—Notification to employee regarding reasonable cause testing. <i>Reduction due to correction. This burden is covered under 219.23.</i> | 50 notifications | 0 | -50 notifications | 13 hours | 0 | -13 hours |
| 219.405—Railroad documentation describing basis of reasonable cause testing. <i>Increase due to the estimated number of submissions expected to be received.</i> | 50 documents | 2,160 documents | 2,110 documents | 13 hours | 180 hours | 167 hours |
| —Railroad documentation of part 219 violation for each reasonable cause test. <i>Reduction due to correction. This burden is covered under 219.405.</i> | 20 documents | 0 | -20 documents | 5 hours | 0 | -5 hours |
| 219.407(b)—Prompt specimen collection time limitation exceeded—Record. <i>No adjustments.</i> | 15 records | 15 records | 0 | 4 hours | 4 hours | 0 |
| 219.501—Railroad documentation of negative pre-employment drug tests. <i>Reduction due to review of estimated time to complete submission.</i> | 1,200 + 1,200 (test/document) lists | 6,100 lists | --1,200 tests + 4,900 lists | 400 hours | 51 hours | -349 hours |
| 219.605—Submission of random testing plans: Existing railroads. <i>Zero submission expected.</i> | 200 plans | 0 | -200 plans | 200 hours | 0 | -200 hours |
| —Submission of random testing plan: New railroads. <i>No adjustments.</i> | 5 plans | 5 plans | 0 | 5 hours | 5 hours | 0 |
| —Amendments to currently approved FRA random testing plan. <i>Increase due to the estimated number of submissions</i> | 20 amendments | 450 amendments | 430 amendments | 20 hours | 450 hours | 430 hours |

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| <i>expected to be received.</i> | | | | | | |
| —Resubmitted Random testing plans after notice of FRA disapproval. <i>Increase due to review of estimated number of submissions expected to be received and estimated time to complete submission.</i> | 21 resubmitted plans | 50 resubmitted plans | 29 resubmitted plans | 5 hours | 25 hours | 20 hours |
| —Non-substantive amendment to an approved plan. <i>Increase due to the estimated number of submissions expected to be received.</i> | 50 amendments | 300 amendments | 250 amendments | 8 hours | 75 hours | 67 hours |
| —New/Combined/Amended Random testing plans Incorporating New Categories of regulated employees. <i>Reduction due to correction. This burden is covered under 219.605.</i> | 20 testing plans | 0 | -20 testing plans | 5 hours | 0 | -5 hours |
| 219.607—Railroads request to contractor or service agent to submit part 219 compliant random testing plan on its behalf. <i>Reduction due to correction. This burden is covered under 219.605.</i> | 50 requests | 0 | -50 requests | 13 hours | 0 | -13 hours |
| —Contractor random testing plan. <i>Reduction due to correction. This burden is covered under 219.605.</i> | 50 plans | 0 | -50 plans | 50 hours | 0 | -50 hours |
| 219.609—Inclusion of regulated service contractor employees/volunteers in railroad random testing plan. <i>Reduction due to correction. This burden is covered under 219.605.</i> | 15 plans | 0 | -15 plans | 3 hours | 0 | -3 hours |
| —Addenda to railroad random testing plan describing method used to test contractor/volunteer employees in non-random testing plan. <i>Reduction due to correction. This burden is covered under 219.605.</i> | 15 addenda | 0 | -15 addenda | 3 hours | 0 | -3 hours |
| 219.611—Random alcohol and drug test pools: good faith determinations and evaluations of employee likelihood of performing regulated service. <i>Reduction due to review which determined that this testing does not fall under</i> | 25,000 + 25,000 determinations + evaluations | 0 | -25,000 + - 25,000 determinations + evaluations | 417 hours | 0 | -417 hours |

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| <i>PRA.</i> | | | | | | |
| —Random testing pool updates. <i>Reduction due to review, which determined that this testing does not fall under PRA.</i> | 13,176 pool updates | 0 | -13,176 pool updates | 1,098 hours | 0 | -1,098 hours |
| —Documents on railroad multiple random testing pools. <i>Reduction due to correction. This burden is covered under 219.623.</i> | 96 documents | 0 | -96 documents | 8 hours | 0 | -8 hours |
| 219.613—Railroad identification of total number of eligible employees for random testing. <i>Reduction due to correction. This burden is covered under 219.623.</i> | 2,196 IDs | 0 | -2,196 IDs | 73 hours | 0 | -73 hours |
| —Railroad records/explanation of discarded selection draws. <i>Reduction due to correction. This burden is covered under 219.623.</i> | 10 records/explanations | 0 | -10 records/explanations | 0.33 hours | 0 | -0.33 hours |
| —Electronic or hard copy of railroad snapshot of each random testing pool. <i>Reduction due to correction. This burden is covered under 219.623.</i> | 13,176 snapshots | 0 | -13,176 snapshots | 439 hours | 0 | -439 hours |
| 219.615—Incomplete random testing collections—Documentation. <i>No adjustments.</i> | 2,000 documents | 2,000 documents | 0 | 17 hours | 17 hours | 0 |
| 219.617—Employee Exclusion from random alcohol/drug testing after providing verifiable evidence from credible outside professional. <i>No adjustments.</i> | 5 documents | 5 documents | 0 | 5 hours | 5 hours | 0 |
| 219.619—Report by MRO of verified positive test or by breath alcohol technician of breath alcohol specimen of 04 or greater. <i>Although this section mentions MRO reports, these are really part 40 requirements.</i> | 88 reports | 0 | -88 reports | 7 hours | 0 | -7 hours |
| 219.623—Random testing records. <i>No adjustments.</i> | 40,000 records | 40,000 records | 0 | 667 hours | 667 hours | 0 |
| 219.901—Railroad alcohol and drug misuse prevention records for MOW Employees kept for FRA. <i>Reduction due</i> | 16,960 records | 0 | -16,960 records | 1,413 hours | 0 | -1,413 hours |

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| <i>to correction. This burden is covered under 219.623.</i> | | | | | | |
| 219.1001—Railroad adoption of peer support program. <i>Reduction due to correction. This burden is covered under 219.605.</i> | 40 programs | 0 | -40 programs | 120 hours | 0 | -120 hours |
| —New railroads adoption of peer support program. <i>Reduction due to correction. This burden is covered under 219.605.</i> | 5 programs | 0 | -5 programs | 15 hours | 0 | -15 hours |
| 219-1001—Co-worker referral of employee who is unsafe to work with/in violation of part 219 or railroad’s drug/alcohol rules. <i>Reduction due to review of estimated number of submissions expected to be received.</i> | 602 reports | 20 reports | -582 reports | 50 hours | 2 hours | -48 hours |
| 219.1003—Railroad designation of DAC and expectations when self-referral is allowed. <i>Burden requirements covered under 219.605.</i> | 40 designations/RR expectations | 0 | -40 designations/RR expectations | 13 hours | 0 | -13 hours |
| —219.1003—RR Employee Self-Referral. <i>Reduction due to review, which determined that there is no document requirement and does not to fall under PRA.</i> | 602 self-referrals | 0 | -602 self-referrals | 2 hours | 0 | -2 hours |
| Referral for treatment/evaluation of regulated employee by co-worker as unsafe to work with or in violation of part 219 or railroad alcohol/drug rules. <i>Reduction due to review, which determined that there is no requirement to keep a record and thus does not to fall under PRA.</i> | 602 treatment referrals/evaluations | 0 | -602 treatment referrals/evaluations | 301 hours | 0 | -301 hours |
| After non-per referral, removal of employee from service and confirmation by railroad representative that employee is unsafe to work with or in violation of part 219 or railroad drug/alcohol rule. <i>Reduction due to correction. This burden is covered under 219.605.</i> | 3 removal confirmations | 0 | -3 removal confirmations | 12 hours | 0 | -12 hours |
| Regulated employee waiver of investigation on railroad rule | 3 waivers + 3 DAC contracts | 0 | -3 waivers + -3 DAC contracts | 10 hours | 0 | -10 hours |

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| charge and contact of DAC within reasonable time period. <i>Reduction due to review, which determined that this is non-DOT process and does not to fall under PRA.</i> | | | | | | |
| Employee evaluation by qualified DAC after self-referral, co-worker referral, or non-peer referral. <i>Reduction due to review, which determined that this is non-DOT process and does not to fall under PRA.</i> | 602 evaluations | 0 | -602 evaluations | 1,204 hours | 0 | -1,204 hours |
| DAC recommendation of leave of absence for regulated employee. <i>Reduction due to review, which determined that this is non-DOT process and does not to fall under PRA.</i> | 602 mentions/recommendations | 0 | -602 mentions/recommendations | 602 hours | 0 | -602 hours |
| DAC notification to RR that employee is fit to return to regulated service. <i>Reduction due to review, which determined that this is non-DOT process and does not to fall under PRA.</i> | 602 notices | 0 | -602 notices | 100 hours | 0 | -100 hours |
| DAC modification of initial evaluation of regulated employee. <i>Reduction due to review, which determined that this is non-DOT process and does not to fall under PRA.</i> | 60 modified evaluations | 0 | -60 modified evaluations | 10 hours | 0 | -10 hours |
| 219.1005—Peer support programs with labor organization approvals that include optional provisions. <i>Reduction due to correction. This burden is covered under 219.605.</i> | 10 referral programs | 0 | -10 referral programs | 200 hours | 0 | -200 hours |
| 219.1007—Filing of Documents/Records with FRA of Labor Concurrences for Alternate Peer Support Programs. <i>Reduction due to correction. This burden is covered under 219.605.</i> | 10 documents | 0 | -10 documents | 10 hours | 0 | -10 hours |
| —Notice to FRA of amendment or revocation of FRA approved alternate peer support program. <i>Reduction due to correction. This burden is covered under 219.605.</i> | 1 notice/amended peer support program | 0 | -1 notice/amended peer support program | 1 hour | 0 | -1 hour |
| Total | 863,408 | 427,661 | -435,747 | 22,672 hours | 3,132 hours | -19,540 hours |

The annual cost to respondents has decreased \$129,461 from \$1,485,825 (the last submission) to **\$1,356,364** for this submission.

16. Publication of results of data collection.

The information concerning impairment in an accident setting, which is received pursuant to this program, will be published in a subset of data contained in FRA's annual Accident/Incident Bulletin. All of the remaining information obtained under this program is intended for use by the Office of Safety technical staff in its ongoing accident prevention activities or will be used by railroads in monitoring compliance by their employees with the prohibitions on alcohol and drug use.

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.

Meeting Department of Transportation (DOT) Strategic Goals

This information collection supports the top DOT strategic goal, namely transportation safety. Without this collection of information, rail safety in the U.S. would be seriously jeopardized. If railroads did not have effective alcohol and drug misuse prevention programs, and if these programs were not carefully monitored, railroad employees working in safety-sensitive positions might abuse alcohol and drugs while on duty or just prior to coming on duty. These actions could lead to a substantial increase in the number of accidents/incidents in which serious injuries, and even fatalities, happen to both railroad workers and the general public. In a worst-case scenario of a locomotive engineer abusing drugs or alcohol, a catastrophic accident could occur in which hundreds of passengers are killed and injured or there is great damage to the environment, as well as extensive property damage. A catastrophic accident is a particular concern with the advent and increasing use of high-speed trains. Without the required alcohol and drug training programs, supervisors might not be able to spot employees who are abusing alcohol or drugs, and immediately remove them from service. Not spotting these employees increases the risk of accidents/incidents. The collection of information is designed to monitor railroad alcohol and drug misuse prevention programs to ensure that railroads educate their employees on the hazards of alcohol and drug abuse and offer information on available treatment facilities. Also, the collection of information enhances rail safety by offering investigators records that might prove helpful in determining the cause of a rail accident, which also might prove useful in preventing future accident/incidents. In sum, the collection of information serves as another means

to make rail travel in the U.S. safe and convenient by reducing the likelihood that safety-sensitive workers will abuse alcohol or drugs while they are working.

In this information collection, as in all its information collection activities, FRA seeks to do its utmost to fulfill DOT Strategic Goals and to be an integral part of One DOT.