

**PASSENGER TRAIN EMERGENCY PREPAREDNESS
49 CFR PARTS 223 AND 239
SUPPORTING JUSTIFICATION
OMB No. 2130-0545; RIN 2130-AC33**

Summary

- This is a revised collection of information associated with FRA's Notice of Proposed Rulemaking (NPRM) regarding Passenger Train Emergency Regulations (49 CFR Part 239).
- FRA is publishing this NPRM in the **Federal Register** on June 27, 2012. See 77 FR 38248.
- The total number of burden hours requested for this entire information collection submission is **15,838** hours.
- The total number of burden hours previously approved by OMB for this information collection is **11,520** hours.
- The change/increase in burden from the last approved submission is **4,318 hours**.
- Total **program changes** amount to/increased the burden by **1,832 hours** and responses by **896** (*see the response to question 15 of this document for details*).
- Total **adjustments** amount to/increased the burden by **2,486 hours** and responses by **25,096** (*see question 15 for details*).
- The total number of responses requested for this entire information collection submission is **69,528**, while the previously approved number is **43,536**.

** The answer to question **number 12** itemizes the hourly burden associated with each requirement of this rule (See pp. 16-37).

1. Circumstances that make collection of the information necessary.

On May 4, 1998, FRA published a final rule on passenger train emergency preparedness that was codified at 49 CFR Part 239. See 63 FR 24629 (May 4, 1998). The rule addresses passenger train emergencies of various kinds, including security situations, and sets minimum Federal safety standards for the preparation, adoption, and implementation of e-prep plans by railroads connected with the operation of passenger trains. The existing rule requires e-prep plans to include elements such as communication, employee training and qualification, joint operations, tunnel safety, liaison with emergency

responders, on-board emergency equipment, and passenger safety information. Under the requirements of the rule, each affected railroad is required to instruct its employees on the applicable provisions of its plan. In addition, the plan adopted by each railroad is subject to formal review and approval by FRA. The rule also requires each railroad operating passenger train service to conduct emergency simulations to determine its capability to execute the e-prep plan under the variety of emergency scenarios that could reasonably be expected to occur.

In promulgating the rule, FRA also established specific requirements for passenger train emergency systems. Among these are requirements that all emergency window exits and windows intended for rescue access by emergency responders be marked accordingly and that instructions be provided for their use. In addition, FRA established requirements that all door exits intended for egress be lighted or marked, all door exits intended for rescue access by emergency responders be marked, and that instructions be provided for their use.

In 2008, FRA revisited requirements for emergency systems on passenger trains by enhancing existing requirements for emergency window exits and establishing new requirements for rescue access windows used by emergency responders to evacuate passengers. See 73 FR 6369 (February 1, 2008). While this final rule did not make any changes to the passenger train emergency preparedness regulations, the rule expanded existing requirements that were previously only applicable to passenger trains operating at speeds in excess of 125 mph but not exceeding 150 mph (Tier II passenger trains) to passenger trains operating at speeds not exceeding 125 mph (Tier I passenger trains), see § 238.5. Specifically, Tier I passenger trains were required to be equipped with public address and intercom systems for emergency communication, as well as provide emergency roof access for use by emergency responders. FRA applied certain requirements to both existing and new passenger equipment, while other requirements applied only to new passenger equipment.

On January 3, 2012, FRA published an NPRM proposing to enhance existing requirements as well as create new requirements for passenger train emergency systems. See 77 FR 154 (January 3, 2012). The NPRM proposes to add emergency passage requirements for interior vestibule doors as well as enhance emergency egress and rescue access signage requirements. The NPRM also proposes requirements for low-location emergency exit path markings, the creation of minimum emergency lighting standards for existing passenger cars, and enhancements to existing requirements for the survivability of emergency lighting systems in new passenger cars.

Additionally, the NPRM proposes changes to FRA's passenger train emergency preparedness regulations in Part 239. These changes include clarifying existing requirements for participation in debriefing and critique sessions following both passenger train emergency situations and full-scale simulations. Under the current regulation, a debriefing and critique session is required after each passenger train

emergency situation or full-scale simulation to determine the effectiveness of the railroad's e-prep plan. See § 239.105. The railroad is then required to improve or amend its plan, or both, in accordance with the information gathered from the session. Language proposed in the PTES II NPRM clarifies that, to the extent practicable, all on-board personnel, control center personnel, and any other employee involved in the emergency situation or full-scale simulation shall participate in the debriefing and critique session. The proposed rule would also clarify that employees be provided flexibility to participate in the debrief and critique sessions through a variety of different methods.

Among FRA's reasons for initiating this rulemaking, FRA learned that there was confusion regarding certain requirements within FRA's passenger train emergency preparedness regulations. For example, FRA learned that some passenger railroads were confused as to which types of railroad personnel were required to be trained or be subjected to operational (efficiency) testing and inspections under Part 239. These railroads were unclear whether Part 239 required certain railroad personnel who directly coordinate with emergency responders and other outside organizations during emergency situations to be trained or be subjected to operational (efficiency) testing and inspections. As a result, FRA believes that it is necessary to clarify the regulatory language in Part 239 to ensure that railroad personnel who directly coordinate with emergency responders actually receive the proper training and are subject to operational (efficiency) testing and inspections. FRA also learned that many railroads were unclear whether operational (efficiency) testing under Part 239 could be considered for purposes of the railroad's efficiency testing program required under 49 CFR Part 217.

In addition, as a result of FRA's experience in reviewing and approving passenger railroads' e-prep plans that are updated periodically, FRA realized that a number of the changes were purely administrative in nature. While Part 239 currently subjects all changes to an e-prep plan to a formal review and approval process, FRA believes that such purely administrative changes should be excluded from the process so that the agency can focus its resources on more substantive matters.

Finally, FRA believed it was necessary to clarify Part 239 to address the requirements of Executive Order 13347. 69 FR 44573 (July 26, 2004). Executive Order 13347 requires, among other things, that Federal agencies encourage State, local, and tribal governments, private organizations, and individuals to consider in their emergency preparedness planning the unique needs of individuals with disabilities whom they serve. While under Part 239 the unique needs of passengers with disabilities must already be considered in the railroads' e-prep plans, the NPRM would clarify the railroads' responsibilities.

In sum, FRA is proposing to revise its regulations for passenger train emergency preparedness. These proposed revisions would accomplish the following: ensure that railroad personnel who communicate and coordinate with first responders during emergency situations receive initial and periodic training and are subject to operational (efficiency) tests and inspections; clarify that railroads must develop procedures in their

emergency preparedness plans (e-prep plans) addressing the safe evacuation of passengers with disabilities during emergency situations; limit the need for FRA to formally approve purely administrative changes to approved e-prep plans; specify new operational (efficiency) testing and inspection requirements for both operating and non-operating employees; and remove as unnecessary the section on the preemptive effect of the regulations.

Concerning the statutory basis for this proposed regulation, Congress enacted the Federal Railroad Safety Act of 1970 (Safety Act) (formerly 45 U.S.C. 421, 431 et seq., now found primarily in chapter 201 of Title 49) in order to further FRA's ability to respond effectively to contemporary safety problems and hazards as they arise in the railroad industry. (Until July 5, 1994, the Federal railroad safety statutes existed as separate acts found primarily in Title 45 of the United States Code. On that date, all of the acts were repealed, and their provisions were re-codified into Title 49 of the United States Code.) The Safety Act grants the Secretary of Transportation rulemaking authority over all areas of railroad safety (49 U.S.C. 20103(a)) and confers all powers necessary to detect and penalize violations of any rail safety law. This authority was subsequently delegated to the FRA Administrator (49 CFR 1.49). Accordingly, FRA is using this authority to initiate a rulemaking that would clarify and revise FRA's regulations for passenger train emergency preparedness. These standards are codified in Part 239, which was originally issued in May 1999 as part of FRA's implementation of rail passenger safety regulations required by Section 215 of the Federal Railroad Safety Authorization Act of 1994, Pub. L. No. 103-440, 108 Stat. 4619, 4623-4624 (November 2, 1994). Section 215 of this Act has been codified at 49 U.S.C. 20133.

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

Under the proposed rule, FRA is revising some of the requirements associated with several sections of Part 239. In particular, FRA is revising requirements pertaining to railroad Emergency Preparedness Plans. Currently, FRA reviews Emergency Preparedness Plans (EPPs) – and amendments to EPPs – filed with the agency to ensure that each railroad's plan covers the following essential parameters: communications, notifications by control center, emergency responder liaison, joint operations, special circumstances (e.g., tunnels, parallel operations, other operating considerations), employee training and qualification, passenger safety information, and on-board emergency equipment. FRA verifies that each EPP includes the name, title, address, and telephone number of the primary person on each railroad to be contacted with regard to review of the plan and that each EPP includes a summary of the railroad's analysis supporting each plan element and describing how every condition on the railroad's property that is likely to affect emergency response is addressed in the plan. FRA also reviews each EPP to confirm that each railroad control center maintains current emergency telephone numbers, in particular the emergency responder's telephone number and telephone numbers of the railroads which operate on adjacent track. Under the proposed rule's revised requirements, FRA will review Emergency

Preparedness Plans to ensure that they also include the following additional elements and procedures for implementing each plan element: (i) notifications by not only control center personnel but also by *emergency response communications center personnel*, as applicable under the plan, to emergency responders, adjacent rail modes of transportation, and appropriate railroad officials that a passenger train emergency has occurred; (ii) an initial training schedule not only for current employees of the railroad but also for *current employees of contractors and subcontractors to the railroad and individuals who are contracted or subcontracted by the railroad*; (iii) an initial training schedule for not only new on-board and control center employees who are hired by the railroad but also for *emergency response communications center personnel who are hired by the railroad, contracted or subcontracted by the railroad, or hired by the contractor or subcontractor to the railroad*; (iv) procedures for testing not only on-board and control center personnel but also *emergency response communications center railroad employees, contractor or subcontractor employees and contracted individuals* who are being evaluated for qualification under the Emergency Preparedness Plan; and (v) procedures in place to promote the safe evacuation of *passengers with disabilities* under all conditions identified in the Emergency Preparedness Plan.

Debriefing and critique sessions must be conducted by railroads after each emergency passenger situation/full scale simulation where there is a passenger or employee fatality, or an injury to one or more crew members or a passenger involving admission to a hospital, or the evacuation of a passenger train. FRA reviews required debriefing and critique session records to verify that railroads were able to determine, at a minimum, the following: whether the on-board communications equipment functioned properly; the elapsed time between the occurrence of the emergency situation/simulation and notification to emergency responders involved; whether the control center promptly initiated the required notifications; how quickly and effectively the emergency responders reacted after notification; and the efficiency of passenger egress from the car through the emergency exits. Also, FRA reviews these records to confirm that railroads improve/amend their emergency preparedness plans, as appropriate, based on the information developed from these sessions.

FRA reviews operational (efficiency) test records to ensure that (covered) railroads conduct these required tests of their on-board and control center employees which are essential to determining the extent of employee compliance with each railroad's emergency preparedness plan and their ability to carry out its provisions. In the event of an accident/incident, FRA can examine the test records of relevant employees to ascertain whether their routine performance has been monitored and who the railroad officer was who administered the operational (efficiency) test to a given employee and the relevant information relied on for that employee's evaluation.

Under the revised proposed rule, FRA will also review operational (efficiency) test records to confirm that such tests and inspections are periodically conducted for applicable emergency response communications center personnel as well. Additionally,

under the new requirement of section 239.301(d) of the proposed rule, FRA will review each railroad's written program of operational (efficiency) tests and inspections – and each amendment to the program – to ensure that railroads conduct these tests pursuant to a written program; that the written programs meet the requirements spelled out in section 239.301(a)(1); and that railroads adopt such a program within 30 days of beginning rail operations. Finally, under the new requirement of section 239.301(e) of the proposed rule, FRA will review each railroad's annual summary of operational (efficiency) tests and inspections to obtain a better understanding of how operational (efficiency) tests and inspections are being applied and how successful these programs are over different railroad divisions. Annual summaries would be required to be completed and in the possession of the railroad's division and system headquarters by March 1 of the year following the year covered by the summary.

Records of the inspection, maintenance, and repair of emergency window and door exits are used by FRA inspectors to ensure they are regularly tested; are properly maintained; and are promptly repaired if they are not in proper working order. Overall, records required under this rule are used by FRA to verify that railroads comply with this regulation.

Emergency responder liaison activities, including training and emergency simulations, are used to help emergency responders become familiar with the location and operation of a railroad's emergency windows and doors. Further, the information gained through these activities and simulations provides emergency responders with a working knowledge of the railroad's operations.

Passenger awareness educational material is used to inform passengers: (1) to recognize and immediately report potential emergencies to crew members; (2) to recognize hazards; (3) to recognize and know how and when to operate appropriate emergency-related features and equipment, such as fire extinguishers, train doors, and emergency exits; and (4) to recognize the potential special needs of fellow passengers during an emergency, such as children, the elderly, and disabled persons.

Luminescent or lighted emergency exit markings are used by passengers and emergency responders to determine where the closest and most accessible emergency exit route is located, as well as how to operate the emergency exit mechanisms. Windows and doors intended for emergency access by emergency responders for extrication of passengers are required to be marked with retro-reflective material so that the emergency responders can easily distinguish them from the less accessible doors and windows. Shining flashlights or other portable lighting on the marking or symbol selected by the railroad makes such symbols distinguishable in conditions of poor visibility.

3. Extent of automated information collection.

For many years, FRA has highly encouraged and strongly endorsed the use of electronic recordkeeping, wherever possible, to reduce burden. FRA realizes that requiring railroads to retain records of the operational (efficiency) tests and inspection, maintenance, and repair of emergency window and door exits in paper form would impose additional administrative and storage costs, and that computer storage of these documents would reduce these costs and also enable railroads to immediately update any amendments to their operational testing and emergency window exit testing programs. Accordingly – and in keeping with the requirements of the Paperwork Reduction Act (PRA) and the Government Paperwork Elimination Act (GPEA) – FRA has authorized railroads to retain their operational (efficiency) test records and their inspection, maintenance, and repair of emergency window and door exits by electronic recordkeeping, subject to the conditions set forth in the rule. Under the proposed rule, approximately 53,002 records of the estimated total of 69,528, responses or 76 percent of all responses would be able to be collected electronically.

4. Efforts to identify duplication.

To our knowledge, no information is duplicated anywhere.

Similar data is not available from any other source.

5. Efforts to minimize the burden on small businesses.

“Small entity” is defined in 5 U.S.C. 601. Section 601(3) defines a “small entity” 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 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 statement of agency policy that formally establishes “small entities” or “small businesses” as being 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.

See 68 FR 24891, May 9, 2003, codified at appendix C to 49 CFR Part 209. The \$20-million limit is based on the Surface Transportation Board's revenue threshold for a Class III railroad. Railroad revenue is adjusted for inflation by applying a revenue deflator formula in accordance with 49 CFR 1201.1-1. FRA is proposing to use this definition for this proposed rulemaking, which would directly affect commuter and intercity passenger railroads, and freight railroads hosting passenger rail operations.

There are only two intercity passenger railroads, Amtrak and the Alaska Railroad. Neither can be considered a small entity. Amtrak is a Class I railroad and the Alaska Railroad is a Class II railroad. The Alaska Railroad is owned by the State of Alaska, which has a population well in excess of 50,000.

There are 28 commuter or other short-haul passenger railroad operations in the U.S. Most of these railroads are part of larger transit organizations that receive Federal funds and serve major metropolitan areas with populations greater than 50,000. However, two of these railroads do not fall in this category, and are considered small entities. FRA is aware of two passenger railroads that qualify as small entities: Saratoga & North Creek Railway (SNC), and the Hawkeye Express, which is operated by the Iowa Northern Railway Company (IANR). All other passenger railroad operations in the United States are part of larger governmental entities whose service jurisdictions exceed 50,000 in population.

In 2010, Hawkeye Express transported approximately 5,000 passengers per game over a 7-mile round-trip distance to and from University of Iowa (University) football games. IANR has approximately 100 employees, and is primarily a freight operation totaling 184,385 freight train miles in 2010. The service is on a contractual arrangement with the University, a State of Iowa institution. (The population of Iowa City, Iowa, is approximately 69,000.) Iowa Northern, which is a Class III railroad, owns and operates the six bi-level passenger cars used for this passenger operation which runs, on average, seven days over a calendar year. FRA expects that any costs imposed on the railroad by this regulation will likely be passed on to the University as part of the transportation cost.

The SNC began operation in the summer of 2011, and currently provides daily rail service over a 57-mile line between Saratoga Springs and North Creek, New York. The SNC, a Class III railroad, is a limited liability company, wholly owned by San Luis & Rio Grande Railroad (SLRG). SLRG is a Class III rail carrier and a subsidiary of Permian Basin Railways, Inc. (Permian), which in turn is owned by Iowa Pacific Holdings, LLC (IPH). The SNC primarily transports visitors to Saratoga Springs, tourists seeking to sightsee along the Hudson River, and travelers connecting to and from Amtrak service. The railroad operates year round, with standard coach passenger trains. Additional service activity includes seasonal ski trains, and specials such as "Thomas The Train." This railroad operates under a five-year contract with the local government, and is restarting freight operations as well. The railroad has about 25 employees.

FRA believes that these two entities would not be impacted significantly. While, each of these entities would most likely have to file a new e-prep plan, FRA does not expect they would have to change how each railroad reacts to an emergency situation due to including ERCCs under Part 239's requirements. Their operating structure is small, and it is probable that employees with e-prep duties would continue to have the same emergency responsibilities. FRA expects that both railroads would see additional burden from inclusion of other provisions of the proposed regulation related to recordkeeping, and other training and testing requirements. This NPRM would not be a significant financial impact on these railroads and their operations. They could expect the total regulatory costs for this proposed rule, if adopted, to be less than \$6,500 for each of the railroads over the next 10 years. The Hawkeye Express and the SNC currently have e-prep plans that have been reviewed and approved by the FRA. Although this NPRM would change several requirements in Part 239, professional skills necessary for compliance with existing and new requirements would be the same. FRA believes that both entities have the professional knowledge to fulfill the requirements in the proposed rulemaking.

In conclusion, FRA believes that there are two small entities and that both could be impacted. Thus, a substantial number of small entities could be impacted by the proposed regulation. However, FRA has found that these entities that are directly burdened by the regulation would not be impacted significantly. FRA believes that the costs associated with the proposed rule are reasonable, and would not cause any significant financial impact on their operations.

6. Impact of less frequent collection of information.

If this information were not collected or collected less frequently, railroad safety nationwide would be considerably adversely impacted. In particular, the number and extent of casualties to train crews and the traveling public in the event of an accident/incident – such as a collision or derailment – would likely rise significantly. First, the number of injuries and deaths would likely increase if railroads did not have and did not file with FRA an Emergency Preparedness Plan (EPP). Without an EPP and necessary amendments to an EPP, different categories of railroad employees would not know their roles and responsibilities in the event of a collision, derailment, or other emergency situations. They would not be totally familiar with their railroad's operations, rules, and procedures in the event of an emergency, and would not be informed and trained on a number of critically important issues such as communications, notifications by the control center, emergency responder liaison, joint operations with another railroad, special circumstances (e.g., tunnels, bridges, and parallel operations, etc.), passenger safety awareness, and on-board safety equipment. Such a lack of training and knowledge would inevitably result in confusion, delays, inadequate response measures, and thus higher and more severe casualties to train crews and passengers. Without FRA review and approval of EPPs, railroads might feel such plans are unnecessary altogether, or they might decide to eliminate or cut corners on different aspects of their EPP, especially

employee training dealing with emergency situations. Such decisions by railroads would doubtless lead to higher train crew and passenger casualties. FRA review eliminates such detrimental revisions and ensures that EPPs will be comprehensive and current.

Second, the number of injuries and deaths would likely increase if railroads did not mark emergency exits and doors properly. Without clear and understandable instructions and markings at or near such exits, passengers would not know how to and where to exit the train quickly after a collision, derailment, or other emergency. Especially under conditions of poor visibility, door and window exits conspicuously and legibly marked with luminescent material on the inside of the car would be crucial for passengers to promptly and safely leave the train. Also, if door/window exits for emergency access by emergency responders were not marked with a retroreflective material, emergency responders might be impeded or delayed in safely extricating train crews and passengers in an accident that occurred at night or in fog. The consequence of any hindrance or delay might be more severe injuries and higher fatalities.

Third, the number of casualties would likely rise if emergency responders were not properly trained or if they did not participate periodically in emergency response simulations. Without such training and practice sessions, emergency responders might experience unnecessary difficulty in safely and quickly removing train crews and passengers from a train involved in a collision or derailment. A delay of even a few minutes might mean the difference between minor or serious injury and, more importantly, might mean the difference between life and death to train crews and passengers.

Fourth, the number of injuries and deaths would likely rise if there was no way to verify that railroads carry out scheduled inspections, maintenance, and repair of emergency window and door exits. Under this rule, all covered railroads are required to test a representative sample of emergency window exits on its cars once every 180 days to verify their proper operation, and are required to repair a defective unit before returning the car to service. Since each railroad operating passenger service is required to maintain records of its inspection, maintenance, and repair of emergency window and door exits at its system headquarters and applicable division headquarters, FRA inspectors can readily check these records to make sure railroads are fulfilling their responsibilities. Doors and window exits that were not working could result in more severe injuries and greater loss of life in the event of a grave emergency. In the investigation of an accident/incident, these records are an invaluable resource in helping to determine exactly what happened and may serve to highlight deficiencies that can be corrected so as to prevent future occurrences.

Fifth, the number of injuries and deaths would likely rise if railroads did not conduct debriefing and critique sessions after each emergency passenger situation or full scale simulation where there is a passenger or employee fatality, or an injury to one or more crewmembers or a passenger involving admission to a hospital, or the evacuation of a

passenger train. FRA reviews required debriefing and critique session records to verify that railroads were able to determine, at a minimum, whether the on-board communications equipment functioned properly; the elapsed time between the occurrence of the emergency situation/simulation and notification to emergency responders involved; whether the control center promptly initiated the required notifications; how quickly and effectively the emergency responders reacted after notification; and the efficiency of passenger egress from the car through the emergency exits. Also, FRA reviews these records to confirm that railroads improve/amend their emergency preparedness plans, as appropriate, based on the information developed from these sessions. Without these essential sessions and accompanying records, FRA and railroads could not detect emergency response deficiencies and could not develop necessary corrective measures. This could result in greater injuries and loss of life in future emergency situations.

Last, the number of injuries and deaths would likely rise if railroads did not conduct operational (efficiency) tests and keep records of these tests. FRA reviews these test records, which are essential to determining the extent of employee knowledge of each railroad's EPP, to ensure that covered railroads conduct the required tests of their on-board and control center employees. In the event of an accident/incident, FRA can examine the test records of various employees to ascertain who the railroad officer was who administered the operational (efficiency) test to a particular employee and the relevant information relied on for that employee's evaluation. Without these tests and corresponding records, there would be no way for FRA and railroads to know whether and to what extent on-board and control center employees actually complied with their railroad's EPP. As a consequence, railroads would have to hope that these employees knew what to do in emergency situations and that they responded appropriately and quickly. Many train crew members and passengers might pay a high price in terms of injuries and deaths relying on an unwarranted hope.

In sum, this information collection serves the agency's primary mission, and is a vital part of FRA's rail safety program.

7. **Special circumstances.**

All information collection requirements are in compliance with this section.

8. **Compliance with 5 CFR 1320.8.**

In March 1996, FRA established RSAC as a forum for collaborative rulemaking and program development. RSAC includes representatives from all of the agency's major stakeholder groups, including railroads, labor organizations, suppliers and manufacturers, and other interested parties. A list of member groups follows:

- American Association of Private Railroad Car Owners (AAPRCO);
- American Association of State Highway and Transportation Officials (AASHTO);
- American Chemistry Council;
- American Petroleum Institute;
- American Public Transportation Association (APTA);
- American Short Line and Regional Railroad Association (ASLRRA);
- American Train Dispatchers Association (ATDA);
- Association of American Railroads (AAR);
- Association of Railway Museums;
- Association of State Rail Safety Managers (ASRSM);
- Brotherhood of Locomotive Engineers and Trainmen (BLET);
- Brotherhood of Maintenance of Way Employees Division (BMWED);
- Brotherhood of Railroad Signalmen (BRS);
- Chlorine Institute;

- Federal Transit Administration (FTA);*
 - Fertilizer Institute;
 - High Speed Ground Transportation Association;
 - Institute of Makers of Explosives;
 - International Association of Machinists and Aerospace Workers;
 - International Brotherhood of Electrical Workers;
 - Labor Council for Latin American Advancement;*
 - League of Railway Industry Women;*
 - National Association of Railroad Passengers (NARP);
 - National Association of Railway Business Women;*
 - National Conference of Firemen & Oilers;
 - National Railroad Construction and Maintenance Association (NRCMA);
 - National Railroad Passenger Corporation (Amtrak);
 - National Transportation Safety Board (NTSB);*
 - Railway Supply Institute (RSI);
 - Safe Travel America (STA);
 - Secretaria de Comunicaciones y Transporte;*
 - Sheet Metal Workers International Association (SMWIA);
 - Tourist Railway Association, Inc.;
 - Transport Canada;*
 - Transport Workers Union of America (TWU);
 - Transportation Communications International Union/BRC (TCIU/BRC);
 - Transportation Security Administration (TSA);* and
 - United Transportation Union (UTU).
- * Indicates associate, non-voting membership.

When appropriate, FRA assigns a task to RSAC, and after consideration and debate, RSAC may accept or reject the task. If the task is accepted, RSAC establishes a working group that possesses the appropriate expertise and representation of interests to develop recommendations to FRA for action on the task. These recommendations are developed by consensus. A working group may establish one or more task forces to develop facts and options on a particular aspect of a given task. The individual task force then provides that information to the working group for consideration. When a working group comes to unanimous consensus on recommendations for action, the package is presented to the full RSAC for a vote. If the proposal is accepted by a simple majority of RSAC, the proposal is formally recommended to FRA. FRA then determines what action to take on the recommendation. Because FRA staff members play an active role at the working group level in discussing the issues and options and in drafting the language of the consensus proposal, FRA is often favorably inclined toward the RSAC recommendation. However, FRA is in no way bound to follow the recommendation, and the agency exercises its independent judgment on whether the recommended rule achieves the agency's regulatory goal, is soundly supported, and is in accordance with policy and legal requirements. Often, FRA varies in some respects from the RSAC recommendation in developing the actual

regulatory proposal or final rule. Any such variations would be noted and explained in the rulemaking document issued by FRA. However, to the maximum extent practicable, FRA utilizes RSAC to provide consensus recommendations with respect to both proposed and final agency action. If RSAC is unable to reach consensus on a recommendation for action, the task is withdrawn and FRA determines the best course of action.

The RSAC established the Passenger Safety Working Group (Working Group) to handle the task of reviewing passenger equipment safety needs and programs and recommending consideration of specific actions that could be useful in advancing the safety of rail passenger service and develop recommendations for the full RSAC to consider. Members of the Working Group, in addition to FRA, include the following:

- Association of American Railroads (AAR), including members from BNSF Railway Company (BNSF), CSX Transportation, Inc. (CSXT), and Union Pacific Railroad Company (UP);
- American Association of Private Railroad Car Owners (AAPRCO);
- American Association of State Highway and Transportation Officials (AASHTO);
- Amtrak;
- American Public Transportation Association (APTA), including members from Bombardier, Inc., Herzog Transit Services, Inc., Interfleet Technology, Inc. (Interfleet, formerly LDK Engineering, Inc.), Long Island Rail Road (LIRR), Maryland Transit Administration (MTA), Metro-North Commuter Railroad Company (Metro-North), Northeast Illinois Regional Commuter Railroad Corporation, Southern California Regional Rail Authority (Metrolink), and Southeastern Pennsylvania Transportation Authority (SEPTA);
- American Short Line and Regional Railroad Association (ASLRRA);
- Brotherhood of Locomotive Engineers and Trainmen (BLET);
- Brotherhood of Railroad Signalmen (BRS);
- Federal Transit Administration (FTA);
- National Association of Railroad Passengers (NARP);
- National Transportation Safety Board (NTSB);
- Railway Supply Institute (RSI);
- Sheet Metal Workers International Association (SMWIA);
- Safe Travel America (STA);
- Transportation Communications International Union/Brotherhood of Railway Carmen (TCIU/BRC);
- Transportation Security Administration (TSA);
- Transport Workers Union of America (TWU); and
- United Transportation Union (UTU).

In 2007, the Working Group tasked the Task Force (General Passenger Safety Task Force) to resolve four issues involving FRA's regulations related to passenger train emergency preparedness. The issues taken up by the Task Force were: (1) ensure that railroad

personnel who communicate and coordinate with first responders during emergency situations receive initial and periodic training and are subject to operational (efficiency) tests and inspections under part 239; (2) clarify that railroads must develop procedures in their e-prep plans addressing the safe evacuation of passengers with disabilities during an emergency situation; (3) limit the need for FRA to formally approve purely administrative changes to approved e-prep plans and update FRA headquarters' address; and (4) specify new operational (efficiency) testing and inspection requirements for both operating and non-operating employees for railroads covered by part 239.

While the Task Force was initially charged with updating FRA headquarters' address as it appeared in various regulations found in part 239, FRA has already amended its regulations to update the address of the physical headquarters of FRA and the U.S. Department of Transportation in Washington, DC. See 74 FR 25169 (May 27, 2009).

Members of the Task Force include representatives from various organizations that are part of the larger Working Group. Members of the Task Force, in addition to FRA, include the following:

- Association of American Railroads (AAR), including members from BNSF, CSXT, Norfolk Southern Railway Co., and UP;
- American Association of State Highway and Transportation Officials (AASHTO);
- Amtrak;
- American Public Transportation Association (APTA), including members from Alaska Railroad Corporation, Peninsula Corridor Joint Powers Board (Caltrain), LIRR, Massachusetts Bay Commuter Railroad Company, Metro-North, MTA, New Jersey Transit Corporation, New Mexico Rail Runner Express, Port Authority Trans-Hudson, SEPTA, Metrolink, and Utah Transit Authority;
- American Short Line and Regional Railroad Association (ASLRRA);
- American Train Dispatchers Association (ATDA);
- Brotherhood of Locomotive Engineers and Trainmen (BLET);
- Federal Transit Administration (FTA);
- National Association of Railroad Passengers (NARP);
- National Railroad Construction and Maintenance Association (NRCMA);
- National Transportation Safety Board (NTSB);
- Transport Canada; and
- United Transportation Union (UTU).

The full Task Force met together on the following dates and in the following locations to discuss the four e-prep-related issues charged to the Task Force:

- July 18-19, 2007, in Chicago, IL;
- December 12-13, 2007, in Ft. Lauderdale, FL;
- April 23-24, 2008, in San Diego, CA; and

- December 3, 2008, in Cambridge, MA.

Staff from the Volpe Center attended all of the meetings and contributed to the technical discussions through their comments and presentations. To aid the Task Force in its delegated task, FRA's Office of Chief Counsel drafted regulatory text for discussion purposes. Task Force members made changes to this draft text. Minutes of each of these Task Force meetings are part of the docket in this proceeding and are available for public inspection. The Task Force reached consensus on all four assigned tasks and adopted the draft text created from its meetings as a recommendation to the Working Group on December 4, 2008.

FRA's Office of Chief Counsel revised the Task Force's recommendation to conform to technical drafting guidelines and to clarify the intent of the recommendation. On June 8, 2009, the Task Force presented both its initial consensus language as well as the consensus language revised by FRA's Office of Chief Counsel to the Working Group. The Working Group approved the Task Force's initial and revised consensus language at its June 8, 2009 meeting in Washington, DC. The consensus language was then presented before the full RSAC on June 25, 2009, where it was approved by unanimous vote. Thus, the Working Group's recommendation was adopted by the full RSAC as a recommendation to FRA. While RSAC's recommendation has provided a strong basis for this proposed rule, FRA has varied from the recommendation principally in one substantive way: FRA has declined to adopt the RSAC's recommendation to add language to § 239.101(a)(2)(ii) that would require control center and ERCC personnel to receive initial and periodic training only on those portions of the railroad's e-prep plan that relate to their specific duties under the plan.

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.

The information contained on various report forms and records is a matter of public record and, therefore, not confidential. FRA pledges no confidentiality

11. Justification for any questions of a sensitive nature.

No sensitive information is requested.

12. Estimate of burden hours for information collected.

Note: Respondent universe for this collection of information is estimated at approximately 45 railroads.

§ 239.11 Penalties

Any person who knowingly and willfully falsifies a record or report required by this part may be subject to criminal penalties under 49 U.S.C. 21311 (formerly codified in 45 U.S.C. 438(e)).

To FRA’s knowledge, there were no (zero) falsified records or reports over the past three years regarding 49 CFR Part 239. FRA estimates that there will be zero (0) falsified records or reports over the next three years. Consequently, there is no burden associated with this requirement.

§ 239.13 Waivers

Any person subject to a requirement of this part may petition the Administrator for a waiver of compliance with such requirement. The filing of such a petition does not affect that person’s responsibility for compliance with that requirement while the petition is being considered. Each petition for waiver must be filed in the manner and contain the information required by part 211 of this chapter.

FRA estimates that the agency will receive approximately one (1) waiver per year under the above requirement. It is estimated that it will take approximately 20 hours to complete each waiver request and send it to the agency. Total annual burden for this requirement is 20 hours.

Respondent Universe:	45
	railroads
Burden time per response:	20
	hours
Frequency of Response:	Annually
Annual Responses:	1 waiver request
Annual Burden:	20 hours

Calculation: 1 waiver request x 20 hrs. = 20 hours

Marking of Emergency Exits (239.107)

- (a) **Marking.** Each railroad operating passenger train service must determine for each passenger car that is in service, except for self propelled cars designed to carry

baggage, mail, or express:

- (1) Each emergency window and all door exits intended for emergency egress are either lighted or conspicuously and legibly marked with luminescent material on the inside of each car to facilitate passenger egress. Each such railroad must post clear and legible/understandable operating instructions at or near each such exits.

FRA estimates that all of the approximately 36,600 decals will have to be replaced for one reason or another approximately every eight (8) years. If this replacement were spread uniformly over this eight year period, approximately 4,575 decals would be replaced annually.

FRA also estimates that an additional 325 cars will be purchased annually by railroads to either retain or expand their fleet of cars. It is also estimated that each new car will have an average of six (6) interior windows that will require labeling. Thus, an additional 1,950 decals will be required for these new cars. The grand total of labels/decals needed under this requirement then is 6,525. FRA estimates that it will take approximately 10 minutes per door/window to remove and replace current labels, and approximately five (5) minutes per door/window for the new car doors/windows. Total annual burden for this requirement is 706 hours.

Respondent Universe:

45 railroads

Burden time per response:

10
minute
s/5
minute
s

Frequency of Response:

On occasion

Annual Responses:

6,525 labels/decals

Annual Burden:

706 hours

Calculation: 4,575 decals x 5 min. + 1,950 decals x 10 min. = 706 hours

- (2) Each window (and door exit) intended for emergency access by emergency responders for extrication of passengers must be marked with a retroreflective, unique, and easily recognizable symbol or other clear marking. Each such railroad must post clear and understandable window-access instructions at each such window or at (each door) the end of the car.

FRA estimates that all of the approximately 31,600 emergency access decals will have to

be replaced for one reason or another approximately every five (5) years. If this replacement were spread uniformly over this five year period, an average of approximately 6,320 decals would be replaced annually. As mentioned earlier, FRA also estimates that an additional 325 cars will be purchased annually by railroads to either retain or expand their current fleet of passenger cars. It is also estimated that each new car will have approximately four (4) emergency access windows that will require labeling. Consequently, an additional 1,300 decals will be needed then for these new cars.

FRA estimates that it will take approximately five (5) minutes per window to remove and replace current labels, and it will take approximately 10 minutes for each new window or door to be marked or labeled. Total annual burden for this requirement is 744 hours.

Respondent Universe: 45 railroads

Burden time per response: 5 min./10 min.

Frequency of Response: On occasion

Annual Responses: 6,320/1,300 labels/decals
Annual Burden: 744 hours

Calculation: 6,320 decals x 5 min. + 1,300 decals x 10 min. = 744 hours

(b) **Records of Inspection, maintenance, and repair** - 239.107(b)

Consistent with the requirements of part 223 of this chapter, each railroad operating passenger train service must: (1) Provide for scheduled inspection, maintenance, and repair of emergency window and door exits; (2) Test a representative sample of emergency window exits on its cars at least once every 180 days to verify that they are operating properly; and (3) Repair each inoperative emergency window and door exit on a car before returning the car to service.

Each railroad operating passenger service must maintain records of its inspection, maintenance, and repair of emergency window and door exits at its system headquarters and applicable division headquarters for two calendar years after the end of the calendar year to which they relate. These records must be made available to representatives of

FRA and States participating under part 212 of this chapter for inspection and copying during normal business hours.

FRA estimates that approximately 1,800 emergency window exit tests and 1,200 door tests will be conducted annually. Thus, a total of 3,000 window/door tests will be conducted annually. It is estimated that it will take approximately 20 minutes to remove and install an exit window for testing purposes. Total annual burden for this requirement is 1,000 hours.

Respondent Universe: 45 railroads

Burden time per response:	20 minutes
Frequency of Response:	Annually
Annual number of Responses:	1,800 window tests/records + 1,200 door tests/records
Annual Burden:	1,000 hours

Calculation: 1,800 window tests/records x 20 min. + 1,200 door tests/records x 20 minutes = 1,000 hours

Total annual burden for this entire requirement is 2,450 hours (706 + 744 + 1,000).

Emergency Preparedness Plan (239.101, 239.201, 239.203)

(a) Each railroad to which this part applies shall adopt and comply with a written emergency preparedness plan approved by FRA under the procedures of §239.201. The plan shall include the following elements and procedures for implementing each plan element.

(1) *Communication.* (i) *Initial and on-board notification.* An on-board crewmember must quickly and accurately assess the passenger train emergency situation and then notify the control center as soon as practicable by the quickest available means. As appropriate, an on-board crewmember shall inform the passengers about the nature of the emergency and indicate what corrective countermeasures are in progress.

(ii) *Notifications by control center or emergency response communications center.* The control center or the emergency response center, as applicable under the plan, must promptly notify outside emergency responders, adjacent rail modes of transportation, and appropriate railroad officials that a passenger train emergency has occurred. Each

railroad shall designate an employee responsible for maintaining current emergency telephone numbers for use in making such notifications. **(Revised requirement)**

(2) *Employee training and qualification.* (i) *On-board personnel.* The railroad's emergency preparedness plan must address individual employee responsibilities and provide for initial training, as well as periodic training at least once every two calendar years thereafter, on the applicable plan provisions. As a minimum, the initial and periodic training must include: (A) Rail equipment familiarization; (B) Situational awareness; (C) Passenger evacuation; (D) Coordination of functions; and (E) "Hands-on" instruction concerning the location, function, and operation of on-board emergency equipment.

(ii) *Control center and emergency response communications center personnel.* The railroad's emergency preparedness plan shall require initial training of responsible control center personnel and any emergency response communications center personnel employed by the railroad, under contract of subcontract with the railroad, or employed by a contractor or subcontractor to the railroad, as well as periodic training at least once every two calendar years thereafter, on appropriate courses of action for each potential emergency situation under the plan. At a minimum, the initial and periodic training shall include: (A) Territory familiarization; (B) Procedures to retrieve and communicate information to aid emergency personnel in responding to an emergency situation; (C) Protocols governing internal communications between appropriate control center and emergency response communications center personnel whenever an imminent potential or actual emergency situation exists, as applicable under the plan; and (D) Protocols for establishing and maintaining external communications between the railroad's control center or emergency response communications center, or both, and emergency responders and adjacent modes of transportation, as applicable under the plan. **(Revised requirement)**

(iii) *Initial training schedule for current employees of the railroad, current employees of contractors and subcontractors to the railroad, and individuals who are contracted or subcontracted by the railroad.* The railroad's emergency preparedness plan shall provide for the completion of initial training of all on-board and control center employees, and any emergency response communications center personnel, who are employed by the railroad, under a contract or subcontract with the railroad, or employed by a contractor or subcontractor to the railroad on the date that the plan is conditionally approved under § 239.201(b)(1), in accordance with the following schedule: (A) For each railroad that provides commuter or other short-haul passenger train service and whose operations include less than 150 route miles and less than 200 million passenger miles annually, not more than one year after January 29, 1999, or not more than 90 days after commencing passenger operations, whichever is later; (B) For each railroad that provides commuter or other short-haul passenger train service and whose operations include at least 150 route miles or at least 200 million passenger miles annually, not more than two years after January 29, 1999, or not more than 180 days after commencing passenger operations,

whichever is later; (C) For each railroad that provides intercity passenger train service, regardless of the number of route miles or passenger miles, not more than two years after January 29, 1999, or not more than 180 days after commencing passenger operations, whichever is later; (D) For each freight railroad that hosts passenger train service, regardless of the number of route miles or passenger miles of that service, not more than one year after January 29, 1999, or not more than 90 days after the hosting begins, whichever is later. **(Revised requirement)**

(iv) *Initial training schedule for new railroad employees, contractor and subcontractor employees, and contracted individuals.* The railroad's emergency preparedness plan shall provide for the completion of initial training of all on-board and control center personnel, as well as any emergency response communications center personnel, who are hired by the railroad, contracted or subcontracted by the railroad, or hired by the contractor or subcontractor to the railroad after the date on which the plan is conditionally approved under § 239.201(b)(1). Each individual shall receive initial training within 90 days after the individual's initial date of service. **(Revised requirement)**

(v) *Testing of on-board, control center, and emergency response communications center railroad employees, contractor or subcontractor employees, and contracted individuals.* The railroad shall have procedures for testing a person being evaluated for qualification under the emergency preparedness plan who is employed by the railroad, under a contract or subcontract with the railroad, or employed by a contractor or subcontractor to the railroad. The types of testing selected by the railroad shall be: (A) Designed to accurately measure an individual's knowledge of his or her responsibilities under the plan; (B) Objective in nature; (C) Administered in written form; and (D) Conducted without reference by the person being tested to open reference books or other materials, except to the degree the person is being tested on his or her ability to use such reference books or materials. **(Revised requirement)**

(vi) *On-board staffing.* (A) Except as provided in paragraph (a)(2)(vi)(B), all crewmembers on board a passenger train must be qualified to perform the functions for which they are responsible under the provisions of the applicable emergency preparedness plan; (B) A freight train crew relieving an expired passenger train crew en route is not required to be qualified under the emergency preparedness plan, provided that at least one member of the expired passenger train crew remains on board and is available to perform excess service under the Federal hours of service laws in the event of an emergency.

(3) *Joint operations.* (i) Each railroad hosting passenger train service must address its specific responsibilities consistent with this Part. (ii) In order to achieve an optimum level of emergency preparedness, each railroad hosting passenger train service must communicate with each railroad that provides or operates such service and coordinate applicable portions of the emergency preparedness plan. All of the railroads involved in

hosting, providing, and operating a passenger train service operation must jointly adopt one emergency preparedness plan that addresses each entity's specific responsibilities consistent with this part. Nothing in this paragraph shall restrict the ability of the railroads to provide for an appropriate assignment of responsibility for compliance with this Part among those railroads through a joint operating agreement or other binding contract. However, the assignor shall not be relieved of responsibility for compliance with this Part.

(4) *Special circumstances.* (i) *Tunnels.* When applicable, the railroad's emergency preparedness plan must reflect readiness procedures designed to ensure passenger safety in an emergency situation occurring in a tunnel of 1,000 feet or more in length. The railroad's emergency preparedness plan must address, as a minimum, availability of emergency lighting, access to emergency evacuation exits, benchwall readiness, ladders for detraining, effective radio or other communication between on-board crewmembers and the control center, and options for assistance from other trains. (ii) *Other operating considerations.* When applicable, the railroad's emergency preparedness plan shall address passenger train emergency procedures involving operations on elevated structures, including drawbridges, and in electrified territory. (iii) *Parallel operations.* When applicable, the railroad's emergency preparedness plan shall require reasonable and prudent action to coordinate emergency efforts where adjacent rail modes of transportation run parallel to either the passenger railroad or the railroad hosting passenger operations.

(5) *Liaison with emergency responders.* Each railroad to which this Part applies must establish and maintain a working relationship with the on-line emergency responders by, as a minimum: (i) Developing and making available a training program for all on-line emergency responders who could reasonably be expected to respond during an emergency situation. The training program must include an emphasis on access to railroad equipment, location of railroad facilities, and communications interface, and provide information to emergency responders who may not have the opportunity to participate in an emergency simulation. Each affected railroad must either offer the training directly or provide the program information and materials to state training institutes, firefighter organizations, or police academies; (ii) Inviting emergency responders to participate in emergency simulations; and (iii) Distributing applicable portions of its current emergency preparedness plan at least once every three years, or whenever the railroad materially changes its plan in a manner that could reasonably be expected to affect the railroad's interface with the on-line emergency responders, whichever occurs earlier, including documentation concerning the railroad's equipment and the physical characteristics of its line, necessary maps, and the position titles and telephone numbers of relevant railroad officers to contact.

(6) *On-board emergency equipment.* (i) *General.* Each railroad's emergency preparedness plan must state the types of emergency equipment to be kept on board and

indicate their location(s) on each passenger car that is in service. Effective May 4, 1999, or not more than 120 days after commencing passenger operations, whichever is later, this equipment must include, at a minimum: (A) One fire extinguisher per passenger car; (B) One pry bar per passenger car; and (C) One flashlight per on-board crewmember.

(ii) Effective May 4, 1999, or not more than 120 days after commencing passenger operations, whichever is later, each railroad that provides intercity passenger train service must also equip each passenger train that is in service with at least one first-aid kit accessible to crewmembers that contains, at a minimum: (A) Two small gauze pads (at least 4x4 inches); (B) Two large gauze pads (at least 8x10 inches); (C) Two adhesive bandages; (D) Two triangular bandages; (E) One package of gauze roller bandage that is at least two inches wide; (F) Wound cleaning agent, such as sealed moistened towelettes; (G) One pair of scissors; (H) One set of tweezers; (I) One roll of adhesive tape; (J) Two pairs of latex gloves; and (K) One resuscitation mask.

(iii) *On-board emergency lighting.* Consistent with the requirements of Part 238 of this chapter, auxiliary portable lighting (e.g., a handheld flashlight) must be accessible and provide, at a minimum: (A) Brilliant illumination during the first 15 minutes after the onset of an emergency situation; and (B) Continuous or intermittent illumination during the next 60 minutes after the onset of an emergency situation.

(iv) *Maintenance.* Each railroad's emergency preparedness plan must provide for scheduled maintenance and replacement of first-aid kits, on-board emergency equipment, and on-board emergency lighting.

(7) *Passenger safety information.* (i) *General.* Each railroad's emergency preparedness plan must provide for passenger awareness of emergency procedures, to enable passengers to respond properly during an emergency.

(ii) *Passenger awareness program activities.* Each railroad must conspicuously and legibly post emergency instructions inside all passenger cars (e.g., on car bulkhead signs, seatback decals, or seat cards) and must utilize one or more additional methods to provide safety awareness information including, but not limited to, one of the following: (A) On-board announcements; (B) Laminated wallet cards; (C) Ticket envelopes; (D) Timetables; (E) Station signs or video monitors; (F) Public service announcements; or (G) Seat drops.

(8) Procedures regarding passengers with disabilities. The railroad shall have procedures in place to promote the safe evacuation of passengers with disabilities under all conditions identified in its emergency preparedness plan. These procedures shall include, but not be limited to, a process for notifying emergency responders in an emergency situation about the presence and general location of each such passenger when the railroad has knowledge that the passenger is on board the train. This paragraph does not require the railroad to maintain any list of train passengers. **(New requirement)**

Filing of Plan. Each passenger railroad to which this Part applies and all railroads hosting its passenger train service (if applicable) shall jointly adopt a single emergency preparedness plan for that service and the passenger railroad shall file one copy of that plan with the Associate Administrator for Safety, Federal Railroad Administration, 1200 New Jersey Avenue, SE., Mail Stop 25, Washington, D.C. 20590. Any passenger railroad that has an emergency preparedness plan approved by FRA as of (the effective date of the final rule) is considered to have timely-filed its plan. The emergency preparedness plan shall include the name, title, address, and telephone number of the primary person on each affected railroad to be contacted with regard to review of the plan, and shall include a summary of each railroad's analysis supporting each plan element and describing how every condition on the railroad's property that is likely to affect emergency response is addressed in the plan.

(2) *Filing of amendments to the plan.* (i) Except as provided in paragraph (a)(2)(ii) of this section, each subsequent amendment to a railroad's emergency preparedness plan shall be filed with FRA by the passenger railroad not less than 60 days prior to the proposed effective date. When filing an amendment, the railroad must include a written summary of the proposed changes to the previously approved plan and, as applicable, a training plan describing how and when current and new employees and contractors would be trained on any amendment. (ii) If the proposed amendment is limited to adding or changing the name, title, address, or telephone number of the primary person to be contacted on each affected railroad with regard to the review of the plan, approval is not required under the process in paragraph (b)(3)(i) of this section. These proposed amendments may be implemented by the railroad upon filing with FRA's Associate Administrator for Railroad Safety/Chief Safety Officer. All other proposed amendments must comply with the formal approval process in paragraph (b)(3)(i) of this section.

(b) *Approval – (1) Preliminary review.* (i) Within 90 days of receipt of each proposed emergency preparedness plan, and within 45 days of receipt of each plan for passenger operations to be commenced after the initial deadline for plan submissions, FRA will conduct a preliminary review of the proposed plan to determine if the elements prescribed in §239.101 are sufficiently addressed and discussed in the railroad's plan submission. FRA will then notify the primary contact person of each affected railroad in writing of the results of the review, whether the proposed plan has been conditionally approved by FRA, and if not conditionally approved, the specific points in which the plan is deficient.

(ii) If a proposed emergency preparedness plan is not conditionally approved by FRA, the affected railroad or railroads shall amend the proposed plan to correct all deficiencies identified by FRA (and provide FRA with a corrected copy) not later than 30 days following receipt of FRA's written notice that the proposed plan was not conditionally approved.

(2) *Final review.* (i) Within 18 months of receipt of each proposed plan, and within 180 days of receipt of each proposed plan for passenger operations to be commenced after the initial deadline for plan submissions, FRA will conduct a comprehensive review of the conditionally approved plan to evaluate implementation of the elements included. This review will include ongoing dialogues with rail management and labor representatives, and field analysis and verification. FRA will then notify the primary contact person of each affected railroad in writing of the results of the review, whether the conditionally approved plan has been finally approved by FRA, and if not approved, the specific points in which the plan is deficient.

(ii) If an emergency preparedness plan of a railroad or railroads is not finally approved by FRA, the affected railroad or railroads shall amend the plan to correct all deficiencies (and provide FRA with a corrected copy) not later than 30 days following receipt of FRA's written notice that the plan was not finally approved.

(b)(3) *Review of amendments.* (i) Except as provided in paragraph (a)(2)(ii) of this section, FRA will normally review each proposed plan amendment within 45 days of receipt. FRA will then notify the primary contact person of each affected railroad of the results of the review, whether the proposed amendment has been approved by FRA, and if not approved, the specific points in which the proposed amendment is deficient.

Each passenger railroad to which this Part applies, and all railroads hosting its passenger train service (if applicable), shall each retain one copy of the emergency preparedness plan required by § 239.201 and one copy of each subsequent amendment to that plan at the system and division headquarters of each, and shall make such records available to representatives of FRA and States participating under Part 212 of this chapter for inspection and copying during normal business hours.

Each individual railroad has been given the latitude to adopt a suitable emergency preparedness plan for its railroad. A railroad's emergency preparedness plan could consist of multiple documents, with a separate document detailing the responsibilities of each category of employee under its plan. The amount of time and effort it would take to complete this requirement will vary from operator to operator. There are certain issues which will be addressed by all emergency preparedness plans. However, there are other issues which will be addressed only as applicable. Some railroads will expend more effort, others less effort. Also, some railroads will have to address certain issues that others will not. For instance, some railroads may operate in tunnels but not over bridges, another over bridges but not in tunnels, etc. Some railroads may have no special circumstances; others may have more than one.

FRA assumes that all commuter and intercity railroads will have an average of one special circumstance. Amtrak and some commuter railroads have parallel track and joint operation issues.

First Year

Regarding railroads currently in existence which have previously submitted emergency preparedness plans and had them approved by FRA, the agency estimates that it will receive approximately 45 written amended emergency preparedness plans meeting all this section’s requirements. It is estimated that it will take approximately 20.33 hours to amend each emergency preparedness plan the rule’s requirements. Total annual burden for this requirement is 915 hours.

Respondent Universe: 45 railroads

Burden time per response: 20.33 hours (4 + 16 + .33)

Frequency of Response: One-time

Annual Responses: 45 amended plans
Annual Burden: 915 hours

Calculation: 45 amended plans x 20.33 hrs. = 915 hours

Subsequent Years

After the first year, FRA estimates that it will receive approximately nine (9) written amended emergency preparedness plans meeting all this section’s requirements. It is estimated that it will take approximately 20.33 hours to amend each emergency preparedness plan. Total annual burden for this requirement is 183 hours.

Respondent Universe: 45 railroads

Burden time per response:

20.33
hours

Frequency of Response: One-time

Annual Responses: 9 amended plans
Annual Burden: 183 hours

Calculation: 9 amended plans x 20.33 hrs. = 183 hours

Additionally, FRA estimates that it will receive approximately four (4) non-substantive written amended emergency preparedness plans meeting under the above requirement. It is estimated that it will take approximately 60 minutes to amend each such non-substantive emergency preparedness plan. Total annual burden for this requirement is four (4) hours.

Respondent Universe: 45 railroads

Burden time per response: 60
minute
s

Frequency of Response: One-time

Annual Responses: 4 non-substantive amended
plans
Annual Burden: 4 hours

Calculation: 4 non-substantive amended plans x 60 min. = 4 hours

Furthermore, FRA estimates that approximately two (2) start-ups or new railroads will begin operation each year and thus approximately two (2) emergency preparedness plans will be developed and submitted to FRA by these railroads under the above requirements. It is estimated that it will take approximately 80 hours to develop and submit each emergency preparedness plan. Total annual burden for this requirement is 160 hours.

Respondent Universe: 45 railroads

Burden time per response: 80 hours

Frequency of Response: One-time

Annual Responses: 2 written emergency preparedness plans

Annual Burden: 160 hours

Calculation: 2 written emergency preparedness plan x 80 hrs. = 160 hours

Regarding the requirements above under sections 239.101(a)(2), 239.101(a)(2)(ii), and 239.101(a)(2)(iii), FRA estimates that approximately 540 employees will receive the required initial training. It is estimated that it will take approximately 60 minutes to train each employee. Total annual burden for this requirement is 540 hours.

Respondent Universe: 45 railroads

Burden time per response: 60 minutes

Frequency of Response: On occasion

Annual Responses: 540 initially trained employees

Annual Burden: 540 hours

Calculation: 540 initially trained employees x 60 min. = 540 hours

Additionally, FRA estimates that approximately 27 employees will receive the required periodic training under sections 239.101(a)(2) and 239.101(a)(2)(ii). It is estimated that it will take approximately four (4) hours to train each employee. Total annual burden for this requirement is 108 hours.

Respondent Universe: 45 railroads

Burden time per response: 4 hours

Frequency of Response: On occasion

Annual Responses: 27 periodically trained employees

Annual Burden: 108 hours

Calculation: 27 periodically trained employees x 4 hrs. = 108 hours

Regarding the requirement above under section 239.101(a)(2)(iv), FRA estimates that approximately 110 new railroad employees, contractor or subcontractor employees, and contracted individuals will receive the required initial training. It is estimated that it will take approximately 60 minutes to train each employee. Total annual burden for this requirement is 110 hours.

Respondent Universe: 45 railroads

Burden time per response: 60 minutes

Frequency of Response:	On occasion
Annual Responses:	110 initially trained new employees
Annual Burden:	110 hours

Calculation: 110 initially trained new employees x 60 min. = 110 hours

Total annual burden for this entire requirement is 2,020 hours (915 + 183 + 4 + 160 + 540 + 108 + 110).

Communication - Initial and on-board notification [239.101(a)(1)(i)]

An on-board crewmember must quickly and accurately assess the passenger train emergency situation and then notify the control center as soon as practicable by the quickest available means. As appropriate, an on-board crewmember must inform the passengers about the nature of the emergency and indicate what corrective countermeasures are in progress.

Currently, this is a usual and customary procedure for all passenger railroads, and would not impose an additional burden on the railroads.

Notifications by control center [239.101(a)(1)(ii)]

The control center or the emergency response center, as applicable under the plan, must promptly notify outside emergency responders, adjacent rail modes of transportation, and appropriate railroad officials that a passenger train emergency has occurred. Each railroad must designate an employee responsible for maintaining current emergency telephone numbers for use in making such notifications.

Currently, it is common practice for passenger train control centers to notify outside emergency responders when an emergency situation arises on their railroads. Since this is a usual and customary practice, this requirement would not add any additional paperwork burden on the respondents.

FRA estimates that approximately 45 designations will be made by railroads of an employee responsible for maintaining current emergency telephone numbers for use in making notifications by the control center or emergency response communications center under this requirement. It is estimated that it will take approximately five (5) minutes to make each designation. Total annual burden for this requirement is four (4) hours.

Respondent Universe:	45 railroads
----------------------	--------------

Burden time per response:

5
minute
s

Frequency of Response:

On occasion

Annual Responses:

45 designations

Annual Burden:

4 hours

Calculation: 45 designations x 5 min. = 4 hours

Maintenance of current emergency telephone numbers

FRA estimates that there will be approximately two (2) commuter/inner city passenger railroads operating adjacent to other rail modes that will need to gather and maintain current emergency telephone numbers. FRA estimates that it will take each of these two (2) commuter railroads approximately one (1) hour to complete the list/record of current emergency telephone numbers. Total annual burden for this requirement is two (2) hours.

Respondent Universe:

2 railroads

Burden time per response:

1 hour

Frequency of Response:

One-time

First Year number of Responses: 2 current lists/updated records

First Year Burden Hours: 2 hours

Calculation: 2 current lists/updated records x 1 hr. = 2 hours

Joint operations [239.101(a)(3)]

Each railroad hosting passenger train service must address its specific responsibilities consistent with this part. In other words, each covered railroad is required to have an emergency preparedness plan that meets its specific responsibilities prescribed in this part.

Respondent universe for this requirement is approximately two (2) host freight railroad/commuter railroad pairs and approximately two (2) host freight railroad/intercity pairs. FRA assumes emergency preparedness plans for host and operating railroads will require coordination between the two railroads for the development of one emergency preparedness plan addressing the different responsibilities of both railroads involved. *[Note: All burden hours for the development of actual EPPs of joint operations have been included under the emergency preparedness plans section above].*

In order to achieve an optimum level of emergency preparedness, each railroad hosting passenger train service must communicate with each railroad that provides or operates such service and coordinate applicable portions of the emergency preparedness plan. All of the railroads involved in hosting, providing, and operating a passenger train service operation must jointly adopt one emergency preparedness plan that addresses each entity's specific responsibilities consistent with this part. Nothing in this paragraph shall restrict the ability of the railroads to provide for an appropriate assignment of responsibility for compliance with this part among those railroads through a joint operating agreement or other binding contract. However, the assignor shall not be relieved of responsibility for compliance with this part.

It is assumed that host and operating railroads will initially have to negotiate between themselves what responsibilities each railroad will have in preparing their emergency preparedness plans to be in compliance with this regulation. FRA estimates that approximately one (1) coordinated plan will be developed under the above requirement. It is estimated that it will take approximately 16 hours complete the coordinated or joint emergency preparedness plan. Total annual burden for this requirement is 16 hours.

Respondent Universe:

5
railroad
pairs

Burden time per response:

16

hours

Frequency of Response:

Annually

Annual number of Responses: 1 coordinated plan
Annual Burden: 16 hours

Calculation: 1 coordinated plan x 16 hrs. = 16 hours

Total annual burden for this entire requirement is 16 hours.

Liaison with emergency responders [239.101(a)(5)]

Each railroad to which this regulation applies must establish and maintain a working relationship with the on-line emergency responders by, as a minimum:

- (i) Developing and making available a training program for all on-line emergency responders who could reasonably be expected to respond during an emergency situation. The training program must include an emphasis on access to railroad equipment, location of railroad facilities, and communications interface, and provide information to emergency responders who may not have the opportunity to participate in an emergency situation. Each affected railroad must either offer the training directly or provide the program information and materials to state training institutes, firefighter organizations, or police academies;
- (ii) Inviting emergency responders to participate in emergency simulations; and
- (iii) Distributing applicable portions of its current emergency preparedness plan at least once every three years, or whenever the railroad material changes its plan in a manner that could reasonably be expected to affect the railroad's interface with the on-line emergency responders, whichever occurs earlier, including documentation concerning the railroad's equipment and the physical characteristics of its line, necessary maps, and the position titles and telephone numbers of relevant railroad officers to contact.

All commuter and host railroads are required to update their emergency responder liaison information every three years and to conduct simulations. FRA estimates that it will take approximately 40 hours for each railroad to update/distribute applicable portions of its current emergency preparedness plan and to conduct the required simulation. Total

annual burden for requirement is 1,800 hours.

Respondent Universe:	45 Railroads	
Burden time per response:	40 hours	
Frequency of Response:		Annually
Annual number of Responses:	45 updated plans	
Annual Burden Hours:	1,800 hours	

Calculation: 45 updated plans x 40 hrs. = 1,800 hours

Total annual burden for this entire requirement is 1,800 hours.

Training Program for Emergency Responders

There is no paperwork burden associated with the training requirement because it is current industry practice (i.e., usual and customary procedure) to provide emergency responders with training prior to conducting emergency simulations. Railroads already have training programs in place for emergency responders.

Passenger safety information [239.101(a)(7)(ii)]

- (A) Each railroad's emergency preparedness plan must provide for passenger awareness of emergency procedures to enable passengers to respond properly during an emergency; and
- (B) Each railroad must conspicuously and legibly post emergency instructions inside all passenger cars (e.g., on bulkhead signs, seatback decals, or seat cards) and must utilize one or more additional methods to provide safety awareness information including, but not limited to, one of the following: (1) On-board announcements; (2) Laminated wallet cards; (3) Ticket envelopes; (4) Timetables; (5) Station signs or video monitors; (6) Public service announcements; or (7) Seat drops.

Currently, intercity and commuter rail operators already disseminate safety related information to passengers. The amount and type of information disseminated varies from operation to operation. The methods currently used are: seat cards, bulkhead signs with safety procedures, and/or print safety information on timetables or posters in train stations. Approximately 1,300 passenger cars (about one third of the commuter fleet) do not currently have permanent emergency situation procedures posted inside. FRA estimates that approximately 1,300 bulkhead cards will be printed and installed on the remaining passenger cars during the first year of the regulation. It is estimated that it will take approximately five (5) minutes to install each bulkhead card. First year burden for

this requirement is 108 hours.

Amtrak and commuter railroads also disseminate safety information annually. FRA estimates that an additional three (3) new railroads, which have not complied, will have to develop an emergency preparedness plan and post safety awareness messages using seat drops, public service announcements, station signs and videos, and onboard announcements to reinforce safety messages. It is estimated that it will take each railroad approximately 16 hours to develop an emergency preparedness (EPP) plan and an additional 48 hours to implement the safety awareness messages contained in its EPP. Moreover, FRA estimates that three (3) commuter railroads will enhance their emergency preparedness (EPPs) plans, including the required safety awareness messages such as seat drops, public announcements, station signs and videos, and onboard announcements. It is estimated that it will take each railroad approximately eight (8) hours to develop its enhanced EPP and an additional 24 hours to implement the safety awareness messages. Total annual burden for this requirement is 300 hours.

Respondent Universe:	2 new railroads/2 commuter railroads
Burden time per response:	5 minutes/16 hours/48 hours/8 hrs./24 hrs
Frequency of Response:	One-time
First Year number of Responses:	1,300 cards/2 programs/2 safety messages/2 programs/2 safety messages
First Year Burden:	300 hours

Calculation: 1,300 cards x 5 min. + 2 programs x 16 hrs. + 2 safety messages x 48 hrs. + 2 programs x 8 hrs. + 2 saf. mess. x 24 hrs. = 396 hours

Total annual burden for this entire requirement is 300 hours.

Debriefing and Critique (239.105)

(a) Except as provided in paragraph (b) of this section, each railroad operating passenger train service must conduct a debriefing and critique session after each passenger train emergency situation or full scale simulation to determine the effectiveness of its emergency preparedness plan, and must improve or amend its plan, or both, as appropriate, in accordance with the information developed. The debriefing and critique session must be conducted within 60 days of the date of the passenger train emergency situation or full scale simulation.

(b) *Exceptions.* No debriefing and critique session shall be required in the case of an

emergency situation involving only a collision between passenger railroad rolling stock and: a pedestrian; a trespasser; or a motor vehicle or other highway conveyance at a highway-rail grade crossing, provided that the collision does not result in: a passenger or employee fatality, or an injury to one or more crew members or passengers requiring admission to a hospital; or the evacuation of a passenger train.

(c) The debriefing and critique session shall be designed to determine, at a minimum:

(1) Whether the on-board communications equipment functioned properly;

(2) How much time elapsed between the occurrence of the emergency situation or full scale simulation and notification to the emergency responders involved;

(3) Whether the control center or emergency response communications center promptly initiated the required notifications, as applicable under the plan;

(4) How quickly and effectively the emergency responders responded after notification; and

(5) How efficiently the passengers exited from the car through the emergency exits.

(d) Each railroad must maintain records of its debriefing and critique sessions at its system headquarters and applicable division headquarters for two calendar years after the calendar year to which they relate, including the following information: (i) Date and location of the passenger train emergency situation or full-scale simulation; (ii) Date and location of the debriefing and critique session; and (iii) Names of all participants in the debriefing and critique session. These records must be made available to representatives of FRA and States participating under part 212 of this chapter for inspection and copying during normal business hours.

Most commuter railroads already conduct at least one full-scale simulation every two years. Amtrak conducts an average of six (6) full-scale simulations annually by request from various local emergency responders. A simulation that is not followed by proper debrief and critique sessions loses value. Information available to FRA indicates that commuter railroads already conduct debrief and critique sessions following emergency simulations and accidents. Commuter railroads maintain records of these sessions and use them to develop training courses and company bulletins. Amtrak normally debriefs train crews involved in emergencies informally. Amtrak does not ordinarily conduct formal critique sessions or keep records of debrief sessions.

Because Amtrak simulations and actual emergencies usually involve more passengers and crewmembers than commuter railroad simulations, its debrief and critique sessions usually require more effort. However, it is assumed that only half the compliance cost

would be compulsory, because Amtrak already conducts informal debrief and critique sessions annually. In all, FRA estimates that there will be approximately 79 debrief and critiques sessions annually. Total annual burden for this requirement is 2,133 hours.

Respondent Universe: 45 railroads

Burden time per response: 27 hours

Frequency of Response: Annually

Annual number of Responses: 79 debrief/critique sessions
Annual Burden Hours: 2,133 hours

Calculation: 79 debrief/critique sessions x 27 hrs. = 2,133 hours

Operational (efficiency) tests (239.301)

(a) *Requirement to conduct operational (efficiency) tests and inspections.* Each railroad to which this Part applies shall periodically conduct operational (efficiency) tests and inspections of its on-board, control center, and, as applicable, emergency response communications center personnel employed by the railroad, under a contract or subcontract with the railroad, or employed by a contractor or subcontractor, to determine the extent of compliance with its emergency preparedness plan.

FRA estimates that approximately 25,000 operational (efficiency) tests/inspections of employees/contractors/subcontractors will be conducted by railroads under the above requirement. It is estimated that it will take approximately 15 minutes to conduct each operational (efficiency) tests/inspection. Total annual burden for this requirement is 6, 250 hours.

Respondent Universe: 45 railroads

Burden time per response:

15
minute
s

Frequency of Response: On occasion

Annual Responses: 25,000 operational
(efficiency) tests/inspections

Annual Burden: 6, 250 hours

Calculation: 25,000 operational (efficiency) tests/inspections x 15 min. =
6, 250 hours

(1) Written program of operational (efficiency) tests and inspections. Operational (efficiency) tests and inspections shall be conducted pursuant to a written program. New railroads shall adopt such a program within 30 days of commencing rail operations. The program shall --

(i) Provide for operational (efficiency) testing and inspection on appropriate courses of action in response to various potential emergency situations and on the responsibilities of an employee of the railroad, of an individual who is a contractor or subcontractor to the railroad, or an employee of a contractor or subcontractor to the railroad, as they relate to the railroad's emergency preparedness plan.

(ii) Describe each type of operational (efficiency) test and inspection required, including the means and procedures used to carry it out.

(iii) State the purpose of each type of operational (efficiency) test and inspection.

(iv) State, according to operating divisions where applicable, the frequency with which each type of operational (efficiency) test and inspection is to be conducted.

(v) Identify the officer(s) by name, job title, and, division or system, who shall be responsible for ensuring that the program of operational (efficiency) tests and inspections is properly implemented. A railroad with operating divisions shall identify at least one officer at the system headquarters who is responsible for overseeing the entire program and the implementation by each division.

(vi) Require that each railroad officer who conducts operational (efficiency) tests and inspections be trained on those aspects of the railroad's emergency preparedness plan that are relevant to the operational (efficiency) tests and inspections that the officer conducts, and that the officer be qualified on the procedures for conducting such operational

(efficiency) tests and inspections in accordance with the railroad's written program of operational (efficiency) tests and inspections and the requirements of this section.

(2) The operational (efficiency) testing program required by paragraph (a)(1) of this section may be combined with the written program of operational (efficiency) tests and inspections required by § 217.9(c) of this chapter.

The burden for this requirement is already included under section 239.101/201 above. Consequently, there is no additional burden associated with this requirement.

(b) Keeping records of operational (efficiency) tests and inspections. Each railroad to which this Part applies shall maintain a record of the date, time, place, and result of each operational (efficiency) test and inspection that was performed in accordance with paragraph (a) of this section. Each record must also specify the name of the railroad officer who administered the test or inspection, the name of each employee tested, and sufficient information to identify the relevant facts relied on for evaluation purposes.

(c) Retention of operational (efficiency) test and inspection records. Each record required by paragraph (a) of this section shall be retained at the system headquarters of the railroad and, as applicable, at the division headquarters for the division where the test was conducted for one calendar year after the end of the calendar year to which the test or inspection relates. Each such record shall be made available to representatives of FRA and States participating under Part 212 of this chapter for inspection and copying during normal business hours.

An employee who has not been trained to react properly during an emergency situation may present a significant risk to railroad personnel and passengers. Currently, federal regulations require all railroads to conduct operational tests to determine compliance with their operating rules. It is expected that these operational tests will be revised to include some emergency preparedness planning questions. FRA estimates that approximately 25,000 operational (efficiency) tests will be conducted annually. It is estimated that it will take approximately two (2) minutes for an employee to answer a couple of emergency preparedness planning questions included on the currently required operational tests and for a rail official to record the date, time, place, result, and name of the person taking the test. Total annual burden for this requirement is 833 hours.

Respondent Universe:

45
railroa
ds

Burden time per response: 2 minutes

Frequency of Response: Annually

Annual number of Responses: 25,000 tests/records
Annual Burden Hours: 833 hours

Calculation: 25,000 tests/records x 2 min. = 833 hours

(d) Keeping records of written program of operational (efficiency) tests and inspections. Each railroad shall retain one copy of its current operational (efficiency) testing and inspection program required by paragraph (a) of this section and one copy of each subsequent amendment to such program. These records shall be retained at the system headquarters, and, as applicable, at each division headquarters where the operational (efficiency) tests and inspections are conducted, for three calendar years after the end of the calendar year to which they relate. These records shall be made available to representatives of FRA and States participating under Part 212 of this chapter for inspection and copying during normal business hours.

FRA estimates that approximately 90 program records of written operational (efficiency) tests and inspections programs and amendments to the written operational (efficiency) tests and inspections programs will be kept under the above requirement. It is estimated that it will take approximately three (3) minutes to keep each record. Total annual burden for this requirement is five (5) hours.

Respondent Universe:

45
railroads

Burden time per response: 3

minutes

Frequency of Response: On occasion

Annual number of Responses: 90 program records

Annual Burden Hours: 5 hours

Calculation: 90 program records x 3 min. = 5 hours

(e) Annual summary of operational (efficiency) tests and inspections. Before March 1 of each calendar year, each railroad to which this Part applies shall retain at the system headquarters of the railroad and, as applicable, at each of its division headquarters, one copy of a written summary of the following with respect to its previous calendar year activities: the number, type, and result of each operational (efficiency) test and inspection, stated according to operating divisions as applicable, that was conducted as required by paragraph (a) of this section. These records shall be retained for three calendar years after the end of the calendar year to which they relate and shall be made available to representatives of FRA and States participating under Part 212 of this chapter for inspection and copying during normal business hours.

FRA estimates that approximately 45 annual summaries will be completed and approximately 30 annual summary copies retained under the above requirement. It is estimated that it will take approximately five (5) minutes to complete each annual summary and approximately one (1) minute to complete/retain each copy. Total annual burden for this requirement is five (5) hours.

Respondent Universe:

45
railroads

Burden time per response: 5
minutes + 1
minute

Frequency of Response: On occasion

Annual number of Responses: 45 annual summaries + 30 annual summary copies

Annual Burden Hours: 5 hours

Calculation: 45 annual summaries x 5 min. + 30 annual summary copies x 1 min = 5hours

Total annual burden for this entire requirement is five (5) hours.

Total annual burden for this entire information collection is 15,838 hours.

13. Estimate of total annual costs to respondents.

RESPONDENT COST

Additional costs to respondents besides the burden hour estimates listed above include the following:

\$ 1,181	Manufacture of interior decals
10,532	Manufacture of exterior decals
325	Postage
100	Copying charges
<u>2,778</u>	Miscellaneous
\$ 14,916	

14. Estimate of Cost to Federal Government.

The cost to the Federal government will be for reviewing the Emergency Preparedness Plans and any amendments submitted to FRA.

Within 90 days of receipt of each proposed emergency preparedness plan and within 45 days of receipt of each plan for passenger operations to be commenced after the initial deadline for plan submissions, FRA will conduct a preliminary review of the proposed plan to determine if the elements prescribed in § 239.101 are sufficiently addressed and discussed in the railroad's plan submission. FRA will then notify the primary contact person of each affected railroad of the results of the review.

Within 18 months of receipt of each proposed plan and within 180 days of receipt of each

proposed plan for passenger operations to be commenced after the initial deadline for plan submissions, FRA will conduct a comprehensive review of the conditionally approved plan to evaluate implementation of the elements included. This review will include ongoing dialogues with rail management and labor representatives, and field analysis and verification. FRA will then notify the primary contact person of each affected railroad of the results of the review.

Labor Rate used to estimate paperwork burden is \$85/hour, including 75% overhead.

First year cost associated with this requirement: An FRA, Office of Safety, Operating Practices Division (GS-13-5) employee will review EPP's.

Labor (10 hours) x 1 EPP submission = \$850
 \$850 x 2 EPP submissions = **\$1,700**

Amended EPPs
 Labor (5 hours) x 1 EPP submission = \$425
 13 EPPs x \$425 **\$5,525**

Second and third year costs will be: Ongoing dialogues w/ management & labor.

2 EPPs-- (2 1-hour sessions; 2 people FRA): \$680
 2 EPPs-- Field analysis/verification (1 person; 4 hrs.): \$680
 2 EPPs -- Notification of results (1 hr.): \$170
\$1,530

Total Cost to Federal Government (3 years) \$8,755
Total Annual Cost to Federal Government \$2,918

15. Explanation of program changes and adjustments.

The burden for this **revised** information collection has increased by 4,318 hours. The change in burden is due both to **program changes** and **adjustments**. **Program changes** are itemized in the table below:

TABLE FOR Program Changes

Part 239 Sec./ Form Number	Responses & Avg. Time (Previous Submission)	Responses & Avg. Time (This Submission)	Burden Hours (Previous Submission)	Burden Hours (This Submission)	Difference (plus/minus)
239.101/201/203 -	5 amended	45 amended plans	40 hours	915 hours	+ 875 hours

<u>Existing Railroads</u> -- Amendments to Emergency Preparedness Plans	plans 8 hours	20.33 hours			+ 40 responses
Amendments to Plans in Subsequent Years	0 amended plans 0 hours	9 amended plans 20.33 hours	0 hours	183 hours	+ 183 hours + 9 responses
Non-Substantive Amended Plans in Subsequent Years	0 amended plans 0 hours	4 amended plans 1 hour	0 hours	4 hours	+ 4 hours + 4 responses
Emergency Preparedness Plans – <u>New Railroads</u>	1 plan 158 hours	2 plans 80 hours	158 hours	160 hours	+ 2 hours + 1 plan
Initially Trained RR Employees	0 employees 0 hours	540 employees 60 minutes	0 hours	540 hours	+ 540 hours + 540 resp.
Periodically Trained RR Employees	0 employees 0 hours	27 employees 4 hours	0 hours	108 hours	+108 hours + 27 resp.
Initially Trained New RR Employees	0 employees 0 hours	110 employees	0 hours	110 hours	+110 hours +110 resp.
239.301(d) – Record of written program of operational (efficiency) tests and Inspections	0 programs 0 hours	90 program records 3 minutes	0 hours	5 hours	+ 5 hours + 90 resp.
(e) Annual summary of operational (efficiency) tests and inspections + copies of summaries	0 summaries 0 hours	45 summaries + 30 copies 5 minutes + 1 min.	0 hours	5 hours	+ 5 hours + 75 resp.

Total **program changes** above increased the burden by *1,832 hours* and responses by *896*.

Adjustments are itemized in the table below:

TABLE FOR ADJUSTMENTS

Part 239 Sec./ Form Number	Responses & Avg. Time (Previous Submission)	Responses & Avg. Time (This Submission)	Burden Hours (Previous Submission)	Burden Hours (This Submission)	Difference (plus/minus)
239.101(a)(1)(ii) – RR designation of employee responsible for maintaining current emergency phone numbers for	0 designations 0 minutes	45 designations 5 minutes	0 hours	4 hours	+ 4 hours + 45 responses

notifications					
239.101(a)(5) – Liaison with emergency responders – updating plans	25 plans 40 hours	45 plans 40 hours	1,000 hours	1,800 hours	+ 800 hours + 20 resp.
239.101(a)(7)(ii) – Passenger train safety information – RR programs and dissemination of information by cards, and messages	1,300 cards 3 new program 3 saf. messages 3 enhanced programs 3 saf. Messages 5 minutes/ 16 hours/ 48 hours/ 24 hours	1,300 cards 2 new programs 2 saf. messages 2 enhanced programs 2 saf. messages 5 minutes/ 16 hours/ 48 hours/ 24 hours	396 hours	300 hours	--96 hours --4 responses
239.105 – Debriefing and Critique – RR Sessions after passenger train emergency situation or simulation	44 debrief sessions 27 hours	79 debrief sessions 27 hours	1,188 hours	2,133 hours	+ 945 hours + 35 resp.
239.301 (c) -- Retention of operational (efficiency) tests and inspections	0 tests/records 0 minutes	25,000 tests/records 2 minutes	0 hours	833 hours	+ 833 hours + 25,000 resp.

Total **adjustments** increased the burden by 2,486 hours and responses by 25,096.

The current OMB inventory shows a burden total of 11,520 hours, while the present submission exhibits a total of 15,838 hours. Hence, there is a burden increase of 4,318 hours.

There is no change in cost to respondents since the last submission.

16. Publication of results of data collection.

FRA plans no publication of this information.

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 main DOT strategic goal, namely transportation safety. Without this collection of information, rail safety throughout the U.S. might be seriously jeopardized. Specifically, the number of accidents/incidents – such as derailments, and collisions – and the severity of injuries might increase because railroads did not have an approved Emergency Preparedness Plan (EPP) and railroad employees did not respond adequately and in a timely fashion. Without an EPP and necessary amendments to an EPP, different categories of railroad workers would not know their roles and responsibilities in the event of a collision, derailment, or other emergency situations. They would not be totally familiar with their railroad’s operations, rules, and procedures in the event of an emergency, and would be uninformed and untrained on a number of critically important issues such as communications, notifications by the control center, emergency responder liaison, joint operations with another railroad, special circumstances, passenger safety awareness, and on-board safety equipment. Such a lack of training and knowledge would inevitably result in confusion, delays, inadequate response measures, and thus higher fatalities and more severe injuries to train crews and passengers. Because of this information collection, FRA reviews and approves the EPPs of covered railroads. Consequently, it can ensure that railroads have comprehensive emergency preparedness plans; can ensure that railroads do not cut corners on different aspects of their EPP; and can ensure that railroad employees receive training dealing with various types of emergency situations.

The collection of information contributes to rail safety by ensuring that railroads mark emergency exits and doors properly. Without clear and understandable instructions and markings at or near such exits, passengers would not know how and where to exit the

train quickly after a collision, derailment, or other emergency. Especially under conditions of poor visibility, door and window exits conspicuously and legibly marked with luminescent material on the inside of the car would be crucial for passengers to promptly and safely leave the train. Also, if door/window exits for emergency access by emergency responders were not marked with a retro-reflective material, emergency responders might be impeded or delayed in safely extricating train crews and passengers in an accident that occurred at night or in fog. The consequence of any hindrance or delay might be greater injuries and deaths.

The collection of information also contributes to rail safety by ensuring that emergency responders participate periodically in emergency response simulations. Without such training and practice sessions, emergency responders might experience unnecessary difficulty in safely and quickly removing train crews and passengers from a train involved in a collision or derailment. A delay of even a few minutes might mean the difference between minor or serious injury and, more importantly, might mean the difference between life and death to train crews and passengers.

Additionally, the collection of information contributes to rail safety because FRA can verify that railroads carry out scheduled inspections, maintenance, and repair of emergency window and door exits. Under this rule, all covered railroads are required to test a representative sample of emergency window exits on its cars once every 180 days to verify their proper operation, and are required to repair a defective unit before returning the car to service. Since each railroad operating passenger service is required to maintain records of its inspection, maintenance, and repair of emergency window and door exits at its system headquarters and applicable division headquarters, FRA inspectors can readily check these records to make sure railroads are fulfilling their responsibilities. Doors and window exits that were not working could result in more severe injuries and greater loss of life in the event of a grave emergency. In the investigation of an accident/incident, these records are an invaluable resource in helping to determine exactly what happened and may serve to highlight deficiencies that can be corrected so as to prevent future occurrences.

Furthermore, the collection of information contributes to rail safety because FRA can verify that railroads conduct debriefing and critique sessions after each emergency passenger situation or full scale simulation where there is a passenger or employee fatality, or an injury to one or more crewmembers or a passenger involving admission to a hospital, or the evacuation of a passenger train. FRA reviews required debriefing and critique session records to verify that railroads were able to determine, at a minimum, whether the on-board communications equipment functioned properly; the elapsed time between the occurrence of the emergency situation/simulation and notification to emergency responders involved; whether the control center promptly initiated the required notifications; how quickly and effectively the emergency responders reacted after notification; and the efficiency of passenger egress from the car through the

emergency exits. Because FRA reviews these records, it can confirm that railroads improve/amend their emergency preparedness plans, as appropriate, based on the information developed from these debriefing and critique sessions. Without these essential sessions and accompanying records, FRA and railroads could not detect emergency response deficiencies and could not develop necessary corrective measures. This could result in greater injuries and loss of life in future emergency situations.

Lastly, the collection of information contributes to rail safety because FRA can verify that railroads conduct operational (efficiency) tests and keep records of these tests. FRA reviews these test records, which are essential to determining the extent of employee compliance with each railroad's emergency preparedness plan (EPP), to ensure that covered railroads conduct the required tests of their on-board and control center employees. In the event of an accident/incident, FRA can examine the test records of various employees to ascertain who the railroad officer was who administered the operational (efficiency) test to a particular employee and the relevant information relied on for that employee's evaluation. Without such tests and records, FRA and railroads would have no way of knowing whether or to what extent railroad workers complied with their employer's EPP, or whether and to what extent on-board and control center employees actually complied with their railroad's EPP. As a consequence, railroads would have to hope that these employees knew what to do in emergency situations and that they responded appropriately and quickly. The required records give FRA another tool to ensure that train crews and emergency responders will react appropriately and quickly to extract passengers in emergency situations. This will not only help to reduce the extent of injuries to passengers and crews but also save lives.

In summary, this collection of information enhances railroad safety by providing an additional layer of protection through which the agency can closely monitor railroads full compliance with all the requirements of Passenger Train Emergency Preparedness regulation. It furthers DOT's goal of promoting the public health and safety by working toward the elimination of transportation-related deaths, injuries, and property damage.

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.