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PASSENGER TRAIN EMERGENCY SYSTEMS
49 CFR PART 238
SUPPORTING JUSTIFICATION
RIN No. 2130-AC22; OMB No. 2130-0576

Summary

- The collection of information associated with this final rule is a revision to the last approval granted by OMB on **February 28, 2011**, which presently expires on February 28, 2014.
- FRA is publishing this Final Rule titled Passenger Train Emergency Systems II on **November 29, 2013**. See 78 FR 71786.
- The total number of burden **hours requested** for this submission is **23,325 hours**.
- The total number of burden **hours previously approved** for this submission was **1,999 hours**.
- The change/increase in burden from the last approved submission is **21,326 hours**.
- Total **program changes** amount to/increased the burden by **20,661 hours** (*see the answer to question 15 for details*).
- Total **adjustments** amount to/increased the burden by **665 hours** (*see the answer to question number 15 for details*).
- The total number of **responses requested** for this submission is **89,780**.
- The total number of **responses previously approved** for this submission was **3,554**.
- The change/increase in responses from the last approved submission is **86,226**.
- Total **program changes** amount to/**increased responses** by **78,185**.
- Total **adjustments** amount to/**increased responses** by **8,041**.
- ****The answer to question number 12 itemizes the hourly burden associated with each requirement of this proposed rule (See pp. 16-41).**
- ****The answer to question number 15 itemizes all program changes associated with each requirement of this proposed rule (See pp. 42-43).**

1. Circumstances that make collection of the information necessary.

In September of 1994, the Secretary of Transportation convened a meeting of representatives from all sectors of the rail industry with the goal of enhancing rail safety. As one of the initiatives arising from this Rail Safety Summit, the Secretary announced that DOT would begin developing safety standards for rail passenger equipment over a five-year period. In November of 1994, Congress adopted the Secretary's schedule for implementing rail passenger equipment safety regulations and included it in the Federal Railroad Safety Authorization Act of 1994 (the Act), Pub. L. No. 103-440, 108 Stat. 4619, 4623-4624 (November 2, 1994). Congress also authorized the Secretary to consult with various organizations involved in passenger train operations for purposes of prescribing and amending these regulations, as well as issuing orders pursuant to them. Section 215 of the Act is codified at 49 U.S.C. 20133. The Secretary of Transportation delegated these rulemaking responsibilities to the Federal Railroad Administrator, see 49 CFR 1.49(m).

On May 4, 1998, pursuant to § 215 of the Act, FRA issued a Passenger Train Emergency Preparedness (PTEP) final rule. See 63 FR 24629. The rule contains minimum Federal safety standards for the preparation, adoption, and implementation of emergency preparedness plans by railroads connected with the operation of passenger trains, including freight railroads hosting the operations of passenger rail service. Elements of the required emergency preparedness plan include: communication; employee training and qualification; joint operations; tunnel safety; liaison with emergency responders; on-board emergency equipment; and passenger safety information. This rule also established specific requirements for passenger train emergency systems. The requirements include: all emergency window exits and all windows intended for rescue access by emergency responders be marked and that instructions be provided for their use; all door exits intended for egress be lighted or marked; and all door exits intended for rescue access by emergency responders be marked and that instructions be provided for their use. In addition, the rule contained specific requirements for debrief and critique sessions following emergency situations and full-scale simulations.

On May 12, 1999, FRA issued the Passenger Equipment Safety Standards (PESS) final rule. See 64 FR 25540. This rule established comprehensive safety standards for railroad passenger equipment. After publication of the PESS final rule, interested parties filed petitions seeking FRA's reconsideration of certain requirements contained in the rule. These petitions generally related to the following subject areas: structural design; fire safety; training; inspection, testing, and maintenance; and movement of defective equipment. To address the petitions, FRA grouped issues together and published three sets of amendments to the final rule in the Federal Register. See 65 FR 41284; 67 FR 19970; and 67 FR 42892.

On February 1, 2008, FRA published a final rule on Passenger Train Emergency Systems (PTES) addressing: emergency communication, emergency egress, and rescue access. This rule expanded the applicability of requirements for public address systems to all

passenger cars, for intercom systems, and for emergency responder roof access to all new passenger cars. It also enhanced existing requirements for emergency window exits and established requirements for rescue access windows used by emergency responders. See 73 FR 6370.

During the development of the PESS rule and the PTES rule, FRA identified the following issues for possible future rulemaking: doors; emergency lighting; emergency signage and markings for egress, access, and emergency communication; and low-location emergency exit path markings. FRA determined that these issues would benefit from additional research, the gathering of additional operating experience, or the development of industry standards, or all three. FRA believes that these issues have sufficiently developed and is addressing these issues in this Final Rule.

This Final Rule is intended to further the safety of passenger train occupants through both enhancements and additions to FRA's existing requirements for emergency systems on passenger trains. In this Final Rule, FRA is adding requirements for interior vestibule doors and is enhancing emergency egress and rescue access signage requirements. FRA is also establishing requirements for low-location emergency exit path markings to assist occupants in reaching and operating primary emergency exits, particularly under conditions of darkness or smoke. Further, FRA is adding minimum emergency lighting standards for all existing passenger cars so that emergency lighting systems are provided in all passenger cars, and FRA is enhancing requirements for the survivability of emergency lighting systems in new passenger cars. Finally, FRA is clarifying existing requirements for participation in debriefing and critique sessions following emergency situations and full-scale simulations.

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

This is a revision to a currently approved collection of information. The collection of information will be used by members of the rail traveling public, and rail train and engine employees to safely and quickly exit passenger train cars in the event of a collision, derailment, fire, or other emergency situation. The collection of information will also be used by emergency responders to be able to swiftly locate and understand how to operate passenger car emergency access doors and windows in emergency situations. Quick egress of rail passengers and crew members in an emergency situation and quick ingress (where necessary) by emergency responders will save lives and will help to minimize the number and severity of injuries to all parties.

The collection of information will also be used by FRA for regulatory compliance and enforcement purposes. Specifically, the collection of information will be used by FRA inspectors to ensure that Tier I and Tier II rail passenger car doors intended for emergency egress are conspicuously and legibly marked on the inside of the car, and legible and understandable instructions are posted at or near each such door as specified in § 238.125. The required marking and instructions will enable train crews and

passengers to be aware of and to find these critical doors, move towards them in an emergency situation, and operate them to make a quick exit when necessary. FRA inspectors will also ensure that all doors intended for access by emergency responders are marked on the exterior of the car with retro-reflective material and have legible and understandable instructions posted at or near each such door. Quick entry by emergency responders into rail passenger cars may mean the difference between life and death for rail passenger and train crews and the difference between few and minor injuries or many and severe injuries to affected rail passengers and train crews.

FRA inspectors will also ensure that each removable panel or window in vestibule doors is conspicuously and legibly marked with luminescent material on both the vestibule side of the door and the passenger seating area side of the door, and that legible and understandable operating instructions are posted on both the vestibule and passenger seating area side of the door at each such panel or window. Again, the required markings and instructions will be used by train crews and rail travelers to facilitate egress in emergency situations.

The proposed collection of information will also be used by FRA inspectors to ensure that new Tier I passenger cars ordered on or after April 1, 2008, or placed in service on or after April 1, 2010, and all Tier II passenger cars passenger cars, are equipped with a Public Address (PA) system that have legible and understandable operating instructions posted at or near each such intercom and also that the location of each such intercom is conspicuously marked with luminescent material as specified under § 238.125. The posting of the required instructions will enable two-way communications between train crew members and passengers in an emergency, and will provide a means for a train crew member to communicate by voice to passengers of his or her train in an emergency situation.

The proposed collection of information will also be used by train passengers to:

- (1) recognize and immediately report potential emergencies to crewmembers;
- (2) recognize hazards;
- (3) 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) recognize the potential special needs of fellow passengers during an emergency, such as children, the elderly, and disabled persons; and
- (5) know how to quickly and safely evacuate the train in the event of an emergency, such as a collision, derailment, explosion, fire, or some other unanticipated occurrence.

Luminescent or lighted emergency exit markings will be 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 will be marked with retroreflective 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 will make such symbols distinguishable in conditions of poor visibility. Records of the inspection, maintenance, and repairs concerning emergency window and door exits and operational efficiency tests will be used by FRA inspectors to make sure the railroads are in compliance with the regulations, and will be extremely helpful in the event of an accident/incident.

3. Extent of automated information collection.

FRA strongly encourages and highly endorses the use of advance information technology, wherever possible, to reduce burden on respondents. FRA realizes that requiring railroads to retain records of the operational (efficiency) tests and inspections, 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 also enable railroads to immediately update any amendments to their operational testing and emergency window exit testing programs. Therefore, FRA has authorized railroads to retain their operation (efficiency) test records and their inspection, maintenance, and repair of emergency window and door exits by electronic record keeping, subject to the conditions set forth in this final rule. Thus, approximately nine (9) percent of all responses can be kept electronically by railroads.

It should be pointed out that the great majority of responses – and burden – involve markings/instructions of windows and doors. Also, the burden for this collection of information is very minimal.

4. Efforts to identify duplication.

The information collection requirements to our knowledge are not duplicated anywhere.

Similar data are 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.

For this discussion, there are only two intercity passenger railroads, Amtrak and the Alaska Railroad, neither of which is considered to be 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.

The level of costs incurred by each organization will generally vary in proportion to the size of their passenger car fleet. For instance, railroads with fewer passenger cars have lower overall costs associated with implementing these standards. There are currently 28 commuter railroad operations in the United States. Most commuter railroads are part of larger transportation organizations that receive Federal funds and serve major metropolitan areas with populations greater than 50,000. However, two commuter railroads do not fall in this category and are considered small entities.

The first small entity impacted by this regulation is a commuter train operation that provides express service to and from a sporting event approximately seven times per year. A Class III railroad owns and operates the 6 bi-level passenger cars used for this commuter operation. The impact on this entity may include upgrades related to achieving compliance with the 2007 APTA standards for emergency lighting, emergency signage, and low-location exit path markings. The initial costs associated with completing these upgrades for the railroad is estimated to range between \$14,482 and \$28,694, depending on the existing level of compliance and could be spread over two to three years. Since this railroad provides service under contract to a State institution, it may be able to pass some or all of the compliance cost on to that institution. Thus, the small entity itself is not significantly impacted.

The second small entity impacted by this regulation is a commuter railroad that is owned by a Class III railroad. Out of its entire fleet of nine cars, FRA estimates that four cars may need emergency lighting upgrades to comply with the new emergency lighting requirement. The costs associated with the upgrades of these four cars are estimated to be \$18,758, which could be spread over two to three years.

This final rule requires railroads to test a representative sample of passenger railcars in

accordance with the APTA LLEPM standard, using the procedures in Annex F or another statistically valid documented sampling method. The estimated cost of inspection/recordkeeping is \$1,500 per car over the 20-year period analyzed. This cost was included in the total cost for each of the small entities above. This regulation only requires that a small percentage of each fleet be tested. Due to the size of the fleet of each of these small entities, it is estimated that only one car per fleet will need to be tested. The recordkeeping burden on the railroad industry is estimated to be five additional minutes per new car introduced to the fleet. FRA assumed that a “Maintenance of Equipment & Stores” employee would prepare the records. Neither of these railroads is operating newly-built cars. They both operate cars purchased from other passenger railroads.

FRA believes that the two small entities directly impacted will not be affected significantly. One of the entities should be able to pass these costs on to a public entity. The other entity will likely only need to upgrade the emergency lighting in four cars, and FRA does not believe that will have a significant financial impact on their operations.

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 605(b)), FRA has certified that this final rule will not have a significant economic impact on a substantial number of small entities. Although a substantial number of small railroads will be affected by this final rule, none of these entities will be significantly impacted.

6. Impact of less frequent collection of information.

If this information were not collected or collected less frequently, railroad safety might be seriously jeopardized. Specifically, without this collection of information, the traveling public and train crews might suffer more serious injuries, and possibly death, if they could not quickly determine how to safely and efficiently evacuate a train after an accident/incident occurred. If single-level and multi-level passenger cars, including sleeping cars, did not have the prescribed minimum number of emergency window exits with legible and understandable operating instructions and if they were not readily accessible, clearly marked and well-maintained, railroad passengers might not know how and where to exit a passenger car in the event of an emergency such as a collision, derailment, fire, explosion, or other unexpected occurrences. Any delay in speedily exiting such passenger cars could potentially cause numerous injuries and fatalities to the American traveling public.

Also, without this final rule and associated collection of information, passenger cars might not have a sufficient number of clearly marked access windows for rescue workers to evacuate passengers in the event of a train emergency. In the event of an emergency, rescue workers must be able to find these passenger car access windows promptly and must be able to figure out how to open them once they do find them. Rescue workers need to be able to find where these rescue access windows are located on both single-level and multi-level passenger cars by means of clearly marked signs/placards that have understandable instructions and that are posted at or near each rescue access window in

high-performance photo-luminescent (HPPL) material. Delays caused by being unable to find or quickly open access windows on the part of rescue workers could result in serious injury and death to train crew members and to substantial numbers of railroad passengers.

Without a means of emergency communication, such as the prescribed public address and intercom systems that must be installed within new Tier I and all Tier II passenger cars, train crews could not quickly notify passengers about an emergency and necessary actions they must take, and railroad passengers and train crews would be unable to talk to one another in such an emergency situation. This could lead to a lack of awareness on the part of the train crew members of a passenger emergency or other serious safety/health problem and a corresponding lack of direction from the train crew to passengers on the proper actions they should immediately take to handle the situation or to ensure their safety. Passengers might panic or take the wrong action(s) if they were unable to receive instructions from the professional train crew members. Passengers need to know when and how they must promptly evacuate a passenger car, or when and what other type of action they must take to ensure their well-being. Train crews must have the capability to communicate urgent and necessary information to them efficiently and clearly.

As with emergency access windows, so too must emergency roof access be provided by means of a hatch or structural weak point in the roof that is a clearly marked so it can be found and operated by rescue personnel in the event of an emergency. It is imperative that each emergency roof access location be conspicuously marked with high-performance photo-luminescent (HPPL) material and that legible and understandable instructions be posted at or near each location. In the event of an emergency that prevents passengers from quickly exiting a car through the access windows, the ability of rescue workers to open the roof access quickly and easily might be the difference between life and death for train crew members and passengers.

Finally, without the requirements in §§ 238.303, 238.305, and 238.307 relating to the exterior and interior calendar day mechanical inspections and periodic mechanical inspection, which call for the replacement and recording of all rescue access-related exterior markings, signage, and instructions that are not conspicuous, legible, or both, and the repair and notification to the train crew of non-complying conditions regarding all end doors and side doors and a fully functioning public address and intercom system, there might be increased numbers of injuries and loss of life for railroad passengers because essential equipment such as doors, windows, and roof hatches did not operate properly and because instructions were not clear concerning how to quickly and safely evacuate the train after a serious accident/incident. Without the required records in § 238.303, FRA would have no way of ensuring that non-complying conditions are promptly corrected, and no way to enforce compliance with the requirements of this regulation.

In sum, this proposed collection of information assists FRA in its primary mission, which

is to promote and enhance rail safety throughout the United States.

7. **Special circumstances.**

All proposed information collection requirements are in compliance with this section.

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

FRA published a Notice of Proposed Rulemaking titled Passenger Train Emergency Systems II in the Federal Register on January 3, 2012, soliciting comment from the public, the railroad industry, and other interested parties on the proposed rule and its associated collection of information. See 77 FR 154. FRA received nine (9) comments in response to this publication. Among the parties that commented were Metra, the California Department of Transportation, (Caltrans), the City of Seattle, several private individuals, students from the Quinnipiac School of Law, and the National Transportation Safety Board (NTSB). Of the nine (9) comments received, most pertained to safety issues and none addressed the hourly burden estimates included in the proposed rule.

Two comments did address costs of specific rule requirements and costs of implementing the rule/enforcing the rule. Metra submitted comments stating that the proposed emergency lighting requirement, which would incorporate by reference APTA Standard SS-E-013-99, Rev. 1, effective January 1, 2015, would require Metra to expend \$4,700,000 to bring its equipment into compliance with the rule as proposed. When the NPRM was published, Metra had 386 cars that would have been considered non-compliant under the rule as proposed. Metra provided FRA with a schedule for bringing the cars into compliance. While Metra supports the emergency lighting requirement, it suggested that the applicability date be extended two years until January 1, 2017, to allow Metra to bring its 386 cars into compliance. Metra also believes that extending the applicability date would allow additional research and development that may yield an industry-wide standard with added benefits of energy and maintenance savings.

To mitigate the expense of compliance and permit time for additional research and development, FRA is modifying the proposal related to the emergency lighting requirement to phase-in compliance. The phased-in compliance schedule requires that by December 31, 2015, railroads retrofit 75% of their cars that are not in compliance with the emergency lighting requirements as of the date of publication of the final rule, and that by January 1, 2017, all cars are required to comply with the emergency lighting requirements.

The students from the Quinnipiac School of Law raised concerns about the costs of implementing the rule. FRA believes that the costs of investing in the safety systems required by this rule will have a nominal impact on ticket fares. According to the APTA Fact Book for 2012, all capital investment is funded only by government funds, and capital investment is defined as expenses related to the purchase of equipment. FRA

believes that as passenger railroads have a dedicated fund source for capital investment, that the railroads should not use passenger fare funds in order to implement the requirements of this rule. FRA recognizes that there may be an indirect impact on passenger fares due to potential increases in maintenance costs for the upkeep of the new safety systems. However, passenger rail riders take into account many things when determining their mode of transportation, in addition to fare price. Many value avoidance of traffic congestion associated with driving, or the convenience of being able to read or work. For peak-hour commuters who are less responsive to fare changes, it would take a significant increase in fares for such riders to switch modes of travel.

The students also sought clarification with enforcing the rule as proposed. By law, FRA is responsible for promoting the safety of railroads throughout the Nation, and FRA's enforcement policy is carried out through the support of its approximately 470 Federal inspectors and technical specialists who also coordinate their efforts with approximately 172 State inspectors. These inspectors work with railroads, shippers of hazardous materials, and other regulated entities to help ensure a safe railroad environment. The students' comment also recommended random inspections to verify proper installation and use of the new systems that would be required by the proposed rule. FRA and State inspectors routinely conduct inspections of railroad operations, property, and records to determine that safety is being properly maintained. Unannounced inspections are an important part of their work. Consequently, any costs associated with the enforcement of this and other regulations have been accounted for in FRA's budgeting process, and will not be impacted due to the issuance of this regulation.

Background

In March 1996, FRA established RSAC, which provides a forum for developing consensus recommendations to FRA's Administrator on rulemakings and other safety program issues. The Committee includes representation from all of the agency's major customer 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 (AARPCO);
American Association of State Highway & Transportation Officials (AASHTO);
American Chemistry Council (ACC);
American Petroleum Institute (API);
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 (ARM);
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 (HSGTA);
 Institute of Makers of Explosives;
 International Association of Machinists and Aerospace Workers;
 International Brotherhood of Electrical Workers (IBEW);
 Labor Council for Latin American Advancement (LCLAA)*;
 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;
 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); 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 task force then provides that information to the working group for consideration. If 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 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.

On May 4, 1998, pursuant to Section 215 of the Act, FRA published the Passenger Train Emergency Preparedness (PTEP) final rule. See 63 FR 24629. This rule contains minimum Federal safety standards for the preparation, adoption, and implementation of emergency preparedness plans by railroads connected with the operation of passenger trains, including freight railroads hosting the operations of passenger rail service. Elements of the required emergency preparedness plan include: communication; employee training and qualification; joint operations; tunnel safety; liaison with emergency responders; on-board emergency equipment; and passenger safety information. The rule also established specific requirements for passenger train emergency systems. The requirements include: conspicuous marking of all emergency window exits with luminescent material on the interior and marking on the exterior of all windows intended for rescue access by emergency responders with retroreflective material, along with instructions provided for their use; lighting or marking of all door exits intended for egress; and marking of all door exits intended for rescue access by emergency responders, along with providing instructions for their use. In addition, the rule contains specific requirements for debrief and critique sessions following emergency situations and full-scale simulations.

On May 12, 1999, FRA published the Passenger Equipment Safety Standards (PESS) final rule. See 64 FR 25540. The rule established comprehensive safety standards for railroad passenger equipment. The standards established various requirements for emergency systems, including requirements for the size, location, and operation of exterior side doors used for emergency egress or access for all passenger cars and for emergency lighting for new passenger cars. After publication of the PESS final rule, interested parties filed petitions seeking FRA's reconsideration of certain requirements contained in the rule. These petitions generally related to the following subject areas: structural design; location of emergency exit windows; fire safety; training; inspection, testing, and maintenance; and movement of defective equipment. To address the petitions, FRA grouped issues together and published three sets of amendments to the final rule in 2000 and 2002. See 65 FR 41284; 67 FR 19970; and 67 FR 42892.

On February 1, 2008, FRA published a final rule on Passenger Train Emergency Systems (PTES) addressing: emergency communication, emergency egress, and rescue access. The rule expanded the applicability of requirements for public address systems to all passenger cars, and for intercom systems and emergency responder roof access to all new passenger cars. It also enhanced existing requirements for emergency window exits and

established requirements for rescue access windows used by emergency responders. See 73 FR 6370.

During the development of the PESS rule and the PTES rule, FRA identified the following issues for possible future rulemaking: doors; emergency lighting; emergency signage and markings for egress, access, and emergency communication; and low-location emergency exit path markings. FRA determined that these issues would benefit from additional research, the gathering of additional operating experience, or the development of industry standards, or all three. FRA believes that these issues have been sufficiently developed and is addressing these issues in this rule.

As such, FRA presented, and the RSAC accepted, the task of reviewing existing passenger equipment safety needs and programs and recommending consideration of specific actions that could be useful in advancing the safety of rail passenger service. The RSAC established the Working Group to handle this task 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, CSX Transportation, Inc., and Union Pacific Railroad Company;
American Association of Private Railroad Car Owners (AAPRCO);
American Association of State Highway & Transportation Officials (AASHTO);
American Public Transportation Association (APTA), including members from: Bombardier, Inc., Herzog Transit Services, Inc., Interfleet Technology Inc., Long Island Rail Road (LIRR), Metro-North Commuter Railroad Company (Metro-North), Northeast Illinois Regional Commuter Railroad Corporation (Metra), Southern California Regional Rail Authority (Metrolink), and Southeastern Pennsylvania Transportation Authority (SEPTA);
Brotherhood of Locomotive Engineers and Trainmen (BLET);
Brotherhood of Railroad Signalmen (BRS);
Federal Transit Administration (FTA);
High Speed Ground Transportation Association (HSGTA);
International Brotherhood of Electrical Workers (IBEW);
National Association of Railroad Passengers (NARP);
National Railroad Passenger Corporation (Amtrak);
National Transportation Safety Board (NTSB);
Railway Supply Institute (RSI);
Sheet Metal Workers International Association (SMWIA);
Safe Travel America (STA);
Transportation Communications International Union (TCIU)/Brotherhood of Railway Carmen (BRC)
Transport Workers Union of America (TWU); and
United Transportation Union (UTU)

Staff from DOT's John A. Volpe National Transportation Systems Center (Volpe Center) attended all of the meetings and contributed to the technical discussions. The Working Group has held meetings on the following dates and locations:

September 9-10, 2003, in Washington, DC;
November 6, 2003, in Philadelphia, PA;
May 11, 2004, in Schaumburg, IL;
October 26-27, 2004 in Linthicum/Baltimore, MD;
March 9-10, 2005, in Ft. Lauderdale, FL;
September 7, 2005 in Chicago, IL;
March 21-22, 2006 in Ft. Lauderdale, FL;
September 12-13, 2006 in Orlando, FL;
April 17-18, 2007 in Orlando, FL;
December 11, 2007 in Ft. Lauderdale, FL;
June 18, 2008 in Baltimore, MD;
November 13, 2008 in Washington, DC;
June 8, 2009 in Washington, DC; and
September 16, 2010 in Chicago, IL.

At the meetings in Chicago and Ft. Lauderdale in 2005, FRA met with representatives of Metra and the South Florida Regional Transportation Authority (Tri-Rail), respectively, and toured their passenger equipment. The visits, which included demonstrations of emergency system features, were open to all members of the Working Group, and FRA believes they have added to the collective understanding of the Group in identifying and addressing passenger train emergency system issues.

Due to the variety of issues involved, at its November 2003 meeting, the Working Group established four task forces: Emergency Systems, Vehicle/Track Interaction, Crashworthiness/Glazing, and Mechanical. Each task force was formed as a smaller group to develop recommendations on specific issues within each group's particular area of expertise. Members of the Emergency Systems Task Force (Task Force), in addition to FRA, include (or have included) the following:

American Public Transportation Association (APTA), including members from Bombardier, Ellcon National, Go Transit, Interfleet Technology, Inc, Jacobs Civil Engineering, Jessup Manufacturing Company, Kawasaki Rail Car, Inc., LIRR, LTK, Luminator, Maryland Transit Administration, Massachusetts Bay Transportation Authority (MBTA), Metrolink, Metro-North, Northern Indiana Commuter Transit District (NICTD), SEPTA, San Diego Northern Commuter Railroad (Coaster), Permalight, Po's Ability USA, Inc., Prolink, Transit Design Group (TDG), Transit Safety Management (TSM), Translite, STV Inc., and Visual Marking Systems, Inc.;
Brotherhood of Locomotive Engineers and Trainmen (BLET);
California Department of Transportation (Caltrans);
Federal Transit Administration (FTA);

National Association of Railroad Passengers (NARP);
National Railroad Passenger Corporation (Amtrak);
Railway Supply Institute (RSI), including Globe Transportation Graphics;
Transport Workers Union of America (TWU); and
United Transportation Union (UTU).

Representatives from Transportation Security Administration (TSA), of the U.S. Department of Homeland Security (DHS), while an advisory member and not a voting member of the Task Force, attended certain meetings and contributed to the discussions of the Task Force. In addition, staff from the Volpe Center attended all of the meetings and contributed to the technical discussions through their comments and presentations and by setting up various lighting, marking, and signage demonstrations.

The task force held 17 meetings on the following dates and locations:

February 25-26, 2004, in Los Angeles, CA;
April 14-15, 2004, in Cambridge, MA;
July 7-8, 2004, in Washington, DC;
September 13-14, 2004, in New York, NY;
December 1-2, 2004, in San Diego, CA;
February 16-17, 2005, in Philadelphia, PA;
April 19-20, 2005, in Cambridge, MA;
August 2-3, 2005, in Cambridge, MA;
December 13-14, 2005, in Baltimore, MD;
August 10, 2006, in Grapevine, TX;
October 25-26, 2006, in Philadelphia, PA;
December 6-7, 2006, in Washington, DC;
March 28-29, 2007, in Los Angeles, CA;
June 13-14, 2007, in San Francisco, CA;
October 17-18, 2007, in Arlington, VA;
May 13-14, 2008, in Arlington, VA; and
March 31, 2009, in Washington, DC.

At meetings in Los Angeles, Cambridge, Washington, New York, San Diego, Philadelphia, and San Francisco, FRA met with representatives of Metrolink, MBTA, Amtrak, LIRR, Coaster, SEPTA, and Caltrans, respectively, and toured their passenger equipment. The visits were open to all members of the Task Force (and Working Group) and included a demonstration of emergency system features. As in the case of the Working Group visits, FRA believes they have added to the collective understanding of RSAC members in identifying and addressing passenger train safety issues for not only this rulemaking, but for other RSAC initiatives as well. After reaching consensus on a variety of issues, and receiving formal recommendations from the RSAC, FRA issued the PTES rule. As noted above, the final rule was published on February 1, 2008, and it

addressed requirements for emergency window exits, rescue access windows, emergency communication, and roof access locations.

Like the first PTES rule, the Passenger Train Emergency Systems II (PTES II) rule was developed to address a number of the concerns raised, and issues discussed, during the various Task Force and Working Group meetings. The issues include: doors; emergency lighting; emergency marking and instruction for egress and access; emergency communication; low-location emergency exit path markings; and debriefing and critique of emergency situations and simulations. The Working Group reached full consensus on all the regulatory provisions contained in this rule at its meeting in December 2007. The Working Group presented its consensus recommendations to the full RSAC body for concurrence at its meeting on February 20, 2008. All of the members of the full RSAC body in attendance at its February 2008 meeting accepted the regulatory recommendations submitted by the Working Group. Thus, the Working Group's recommendations became the full RSAC body's recommendations to FRA. FRA subsequently met with the Task Force twice after that to make some non-substantive technical clarifications and review technical research findings related to potential enhancements of emergency systems. A Tier II Sub-Task Force also met to discuss the requirements affecting Tier II equipment, i.e., passenger equipment operating at speeds in excess of 125 mph but not exceeding 150 mph. It did not recommend any changes to the rule text. After reviewing the full RSAC body's recommendations, FRA agreed that the recommendations provided a sound basis for the final rule and adopted the recommendations with generally minor changes for purposes of clarity and Federal Register formatting.

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 is a matter of public record and, therefore, confidentially is not promised to any respondent.

11. Justification for any questions of a sensitive nature.

No information of this nature is collected.

12. Estimate of burden hours for information collected.

Note: Based on current FRA data, 28 commuter railroads and two (2) intercity railroads (Amtrak and the Alaska Railroads) will be affected by this final rule and associated information collection. The total number of existing fleet passenger cars affected by this

rule is estimated at 7,448. For purposes of this analysis, the existing fleet includes cars currently on order that are expected to be in service when this rulemaking is finalized as well as those already in service. Of the existing fleet of passenger cars, 5,214 (approximately 70%) are single level and 2,234 (approximately 30%) are multi-level. On average, passenger cars will have four (4) exterior side doors and two (2) end doors or a total of six (6) doors per car.

§ 223.9 Requirement for new or rebuilt equipment.

(c) Passenger cars, including self-propelled passenger cars, built or rebuilt after June 30, 1980, must be equipped with certified glazing in all windows and at least four emergency windows.

The burden for this requirement is included under OMB No. 2130-0525. Consequently, there is no additional burden associated with this requirement.

§ 238.17 Movement of passenger equipment with other than power brake defects.

(b) Limitations on movement of passenger equipment containing defects found at time of calendar day inspection. Except as provided in §§ 238.303(e)(15), (e)(17) and (e)(18), 238.305(c) and (d), and 238.307(c)(1), passenger equipment containing a condition not in conformity with this part at the time of its calendar day inspection may be moved from that location for repair if all of the following conditions are satisfied: (1) If the condition involves a running gear defect, the defective equipment is not used in passenger service and is moved in a non-revenue train; (2) If the condition involves a non-running gear defect, the defective equipment may be used in passenger service in a revenue train provided that a qualified maintenance person determines that it is safe to do so, and if so, the car is locked out and empty, and all movement restrictions are observed except that the car may be occupied by a member of the train crew or a railroad employee to the extent necessary to safely operate the train; (3) The requirements of paragraphs (c)(3) and (c)(4) of this section are met; and the (4) The special requirements of paragraph (e) of this section, if applicable, are met.

(c) Limitations on movement of passenger equipment that develops defects en route. Except as provided in §§ 238.303(e)(15), (e)(17) and (e)(18), 238.305(c), 238.307(c)(1), and 238.503(f), passenger equipment that develops en route to its destination, after its calendar day mechanical inspection is performed and before its next calendar day mechanical inspection is performed, any condition not in compliance with this part, other than a power brake defect, may be moved only if the railroad complies with all of the following requirements or, if applicable, the specified requirements in paragraph (e) of this section:

(1) Prior to movement of equipment with a potential running gear defect, a qualified maintenance person must determine if it is safe to move the equipment in passenger

service and, if so, the maximum speed and other restrictions necessary for safely conducting the movement. If appropriate, these determinations may be made based on a description of the defective condition provided by a crewmember. If the determinations required by this paragraph are made by an off-site qualified maintenance person based on a description of the defective equipment by on-site personnel, then a qualified maintenance person must perform a physical inspection of the defective equipment, at the first location possible, to verify the description of the defect provided by the on-site personnel.

(2) Prior to movement of equipment with a non-running gear defect, a qualified person or a qualified maintenance person must determine if it is safe to move the equipment in passenger service and, if so, the maximum speed and other restrictions necessary for safely conducting the movement. If appropriate, these determinations may be made based upon a description of the defective condition provided by the on-site personnel.

(3) Prior to movement of any defective equipment, the qualified person or qualified maintenance person must notify the crewmember in charge of the movement of the defective equipment, who in turn must inform all other crew members of the presence of the defective condition(s) and the maximum speed and other restrictions determined under paragraph (c)(1) or (c)(2) of this section. The movement must be made in conformance with such restrictions.

(4) The railroad must maintain a record of all defects reported and their subsequent repair in the defect tracking system required in § 238.19. In addition, prior to movement of the defective equipment, a tag or card placed on both sides of the defective equipment, or an automated tracking system, must record the following information about the defective equipment:

- (i) The reporting mark and car or locomotive number;
- (ii) The name of the inspecting railroad;
- (iii) The name of the inspector, inspection location, and date;
- (iv) The nature of each defect;
- (v) Movement restrictions and safety restrictions, if any;
- (vi) The destination of the equipment where it will be repaired; and
- (vii) The signature, if possible, as well as the job title and location of the person making the determination required by this section.

(5) *Automated tracking system.* Automated tracking systems used to meet the tagging requirements contained in paragraph (c)(4) of this section may be reviewed and monitored by FRA at anytime to ensure the integrity of the system. FRA's Associate Administrator for Safety may prohibit or revoke a railroad's ability to utilize an automated tracking system in lieu of tagging if FRA finds that the automated tracking system is not properly secure; is inaccessible to FRA or a railroad's employees, or fails to adequately track or monitor the movement of defective equipment. Such a determination will be made in writing and will state the basis for such action.

The burden for § 238.17 requirements is covered under OMB No. 2130-0544. The burden for §§ 238.303(e)(15), (e)(17) and (e)(18) is covered below.

§ 238.112 Door Emergency Egress/Rescue Access Systems

(b) Each Tier I passenger car ordered on or after September 8, 2000, or placed in service for the first time on or after September 9, 2002, and all Tier II passenger cars shall have a minimum of two exterior side doors, one in each side of the car. Each such door shall provide a minimum clear opening with dimensions of 30 inches horizontally by 74 inches vertically. A set of dual-leafed doors is considered a single door for purposes of this paragraph. Each powered, exterior side door on each such passenger car shall have a manual override device that is: **(New Requirements)**

(1) Capable of releasing the door to permit it to be opened without power from both inside and outside the car;

(2) Located adjacent to the door which it controls; and

(3) Designed and maintained so that a person may access the override device from both inside and outside the car without requiring the use of a tool or other implement.

NOTE: The Americans with Disabilities Act (ADA) Accessibility Specifications for Transportation Vehicles also contain requirements for doorway clearance (See 49 CFR Part 38).

(c) A manual override device used to open a powered, exterior door may be protected with a cover or a screen capable of removal without requiring the use of a tool or other implement.

(d)(1) Prior to **[INSERT DATE 425 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, all door exits intended for emergency egress shall either be lighted or conspicuously and legibly marked with luminescent material on the inside of each car, and legible and understandable instructions shall be provided for their use at or near each such door.

(2) On or after [INSERT DATE 425 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER], all door exits intended for emergency egress shall be marked, and instructions provided for their use, as specified in § 238.125.

FRA estimates that approximately 7,634 cars (includes 100 percent of the current passenger rail fleet estimated at 7,448 cars minus an estimated 186 retired cars/.025 retirement rate or 7,262 existing cars plus an estimated 372 new cars/.05 growth rate) intended for emergency egress will be conspicuously and legibly marked on the inside and have understandable instructions provided for their use under the above requirement as specified in § 238.125. It is estimated that there will be six (6) signs per car for each of the doors (a total of 45,804 markings/instructions) and that it will take approximately 15 minutes to complete the markings/instructions. Total annual burden for this requirement is 11,451 hours.

Respondent Universe:

30
railroads

Burden time per response:

15
minute
s

Frequency of Response:

One-time

Annual number of Responses:

45,804 emergency egress door
markings/signs/instructions

Annual Hours:

11,451 hours

Calculation: 45,804 emergency egress door markings/signs/instructions x 15
min. = 11,451 hours

(e)(1) Prior to [INSERT DATE 425 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER], all doors intended for access by emergency responders shall be marked on the exterior of the car with retro-reflective material, and legible and understandable instructions shall be posted at or near each such door.

(2) On or after [INSERT DATE 425 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER], all doors intended for access by emergency responders shall be marked, and instructions provided for their use, as specified in § 238.125.

Again, FRA estimates that approximately 7,634 cars will need to have their exterior car doors that are intended for access by emergency responders marked with retro-reflective material and have legible and understandable instructions shall be posted at or near each such door, as specified in § 238.125. It is estimated that there will be four (4) signs per car for each of the exterior doors (a total of 30,536 markings/instructions) and that it will take approximately 15 minutes to properly mark each door. Total annual burden for this requirement is 7,634 hours.

Respondent Universe:

30
railroads

Burden time per response:

15
minute
s

Frequency of Response:

One-time

Annual number of Responses:

30,536 emergency access exterior door
markings

Annual Hours:

7,634 hours

Calculation: 30,536 emergency access exterior door markings x 15 min. =
7,634 hours

(f) Vestibule doors and other interior doors intended for passage through a passenger car. The requirements of paragraphs (f)(1) through (6) apply only to passenger cars ordered on or after [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER], or placed in service for the first time on or after [INSERT DATE 1520 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

(5) Marking and instructions.

(i) Each removable panel or window in a vestibule door or other interior door intended for passage through a passenger car shall be conspicuously and legibly marked with luminescent material on each side of the door as specified in section 5.4.2 of APTA Standard PR-PS-S-002-98, Rev. 3, “Standard for Emergency Signage for Egress/Access of Passenger Rail Equipment,” October 2007, or an alternative standard providing at least an equivalent level of safety, if approved by FRA pursuant to § 238.21. Legible and understandable operating instructions shall be posted on each side of the door at each such panel or window.

As noted previously, FRA estimates that approximately 372 new passenger cars will be built each year. Approximately 10 percent of these new cars (37 cars) will be cab cars that would not be required to have the specified panels or windows. Thus, a total of approximately 335 new passenger cars (372-37) will need to have legible and understandable operating instructions posted on each of its two vestibule doors (670 doors) on the vestibule and passenger seating area sides of the door (670 x 2 = 1,340 panel/window operating instructions) under the above requirement. It is estimated that it will take approximately 15 minutes to post the necessary operating instructions. Total annual burden for this requirement is 335 hours.

Respondent Universe:

30
railroads

Burden time per response:

15
minute
s

Frequency of Response:

Annually

Annual number of Responses: 1,340 panel/window operating instructions
Annual Burden: 335 hours

Calculation: 1,340 panel/window operating instructions x 15 min. = 335 hours

(ii) For bi-parting doors, each manual door override device and each retention mechanism shall be conspicuously and legibly marked with luminescent material. Legible and understandable operating instructions for each manual override device and each retention mechanism shall be posted at or near each such device or mechanism.

The burden for this requirement is included under that of § 238.112(f)(5)(i) above. Consequently, there is no additional burden associated with this requirement.

(6) Testing. At an interval not to exceed 184 days, as part of the periodic mechanical inspection, each railroad shall test a representative sample of the door removable panels, removable windows, manual override devices, and retention mechanisms on its cars, as applicable, to determine that they operate as intended. The sampling method must conform with a formalized statistical test method.

As noted above, this requirement would apply to approximately 335 new passenger cars. Of this number, approximately five (5) percent or 17 new cars would undergo the required testing that includes removable panels, removable windows, manual override devices, and door retention mechanisms. It is estimated that it will take approximately 90 minutes to test each car. Total annual burden for this requirement is 26 hours.

Respondent Universe: 30 railroads

Burden time per response: 90 minutes

Frequency of Response: Annually

Annual number of Responses: 17 tested cars/records
Annual Burden: 26 hours

Calculation: 17 tested cars/records x 90 min. = 26 hours

Total annual burden for this entire requirement is 19,446 (11,451 + 7,634 + 335 + 26).

§ 238.113 Emergency window exits

(a) Number and location. Except as provided in paragraph (a)(3) of this section, the following requirements apply on or after April 1, 2008.

(1) Single-level passenger cars. Each single-level passenger car shall have a minimum of four emergency window exits. At least one emergency window exit shall be located in

each side of each end (half) of the car, in a staggered configuration where practical.

(2) Multi-level passenger cars - main levels. Each main level in a multi-level passenger car is subject to the same requirements specified for single-level passenger cars in paragraph (a)(1) of this section.

(3) Multi-level passenger cars - levels with seating areas other than main levels.

(i) Except as in paragraphs (a)(3)(ii) and (iii) of this section, on or after August 1, 2009, any level other than a main level used for passenger seating in a multi-level passenger car, such as an intermediate level, must have a minimum of two emergency window exits in each seating area. The emergency window exits must be accessible to passengers in the seating area without requiring movement through an interior door or to another level of the car. At least one emergency window exit must be located in each side of the seating area. An emergency window exit may be located within an exterior side door in the passenger compartment if it is not practical to place the window exit in the side of the seating area.

(ii) Only one emergency window exit is required in a seating area in a passenger compartment if:

(A) It is not practical to place an emergency window exit in a side of the passenger compartment due to the need to provide accessible accommodations under the Americans with Disabilities Act of 1990; (B) There are no more than four (4) seats in the seating area; and (C) A suitable, alternate arrangement for emergency egress is provided.

(iii) For passenger cars ordered prior to April 1, 2009, and placed in service prior to April 1, 2011, only one emergency window exit is required in a seating area in a passenger compartment if –

(A) It is not practicable to place a window exit in a side of the passenger compartment (due to the presence of a structure such as a bathroom, electrical locker, or kitchen) and

(B) There are no more than eight (8) seats in the seating area.

(4) Cars with a sleeping compartment or similar private compartment. (a) Each level of a passenger car with a sleeping compartment or a similar private compartment intended to be occupied by passengers or train crewmembers must have at least one emergency window exit in each such compartment. For purposes of this paragraph (a)(4), a bathroom, kitchen, or locomotive cab is not considered a “compartment.”

(b) Ease of operability. On or after November 8, 1999, each emergency window exit shall be designed to permit rapid and easy removal from the inside of the car during an emergency situation without requiring the use of a tool or other implement.

(c) Dimensions. Except as provided in paragraphs (c)(1) and (c)(2) of this section, each emergency window exit in a passenger car, including a sleeping car, ordered on or after September 8, 2000, or placed in service for the first time on or after September 9, 2002, shall have an unobstructed opening with minimum dimensions of 26 inches horizontally by 24 inches vertically. A seatback is not an obstruction if it can be moved away from the window opening without requiring the use of a tool or other implement.

(1) Emergency window exits in exterior side doors. An emergency window exit located within an exterior side door, in accordance with the requirements of paragraph (a)(3)(i) of this section, may have an unobstructed opening with minimum dimensions of 24 inches horizontally and 26 inches vertically.

(2) Additional emergency window exits. Any emergency window exit in addition to the minimum number required by paragraph (a) of this section that has been designated for use by the railroad need not comply with the minimum dimension requirements in paragraph (c) of this section, but must otherwise comply with all requirements in this part applicable to emergency window exits.

(d) Marking and instructions. (1) Prior to **[INSERT DATE 425 DAYS AFTER DATE OF PUBLICAITON IN FEDERAL REGISTER]**, each emergency window exit shall be conspicuously and legibly marked with luminescent material on the inside of each car to facilitate egress. Legible and understandable operating instructions, including instructions for removing the window, shall be posted at or near each such window exit.

(2) On or after **[INSERT DATE 425 DAYS AFTER DATE OF PUBLICAITON IN FEDERAL REGISTER]**, each emergency window exit shall be marked, and instructions provided for its use, as specified in § 238.125.

(3) If window removal may be hindered by the presence of a seatback, headrest, luggage rack, or other fixture, the instructions shall state the method for allowing rapid and easy removal of the window, taking into account the fixture(s), and this portion of the instructions may be in written or pictorial format. This paragraph (d)(3) applies to each emergency window exit subject to paragraph (d)(1) or (d)(2) of this section.

FRA estimates that approximately 143 passenger cars each year will be affected by the above requirements. FRA estimates that 45 of these cars will have two windows per car and will have pull handles that will take approximately one (1) hour to mark. FRA also estimates that 90 of these cars will have six windows per car, and will take approximately 90 minutes to mark. Additionally, FRA estimates that eight cars (8) will have four windows per car and will need to have pull handles installed and marked, and that this

will take approximately two (2) hours to complete. Thus, a total of approximately 662 windows will be needed to be marked as stipulated above. Total annual burden for this requirement is 964 hours.

Respondent Universe:

30
railroads

Burden time per response:

60
minute
s/90
minute
s/120
minute
s

Frequency of Response:

Annually

Annual number of Responses: 662 window markings
Annual Burden: 964 hours

Calculation: 90 window markings x 60 min. + 540 window markings x 90 min.
+ 32 window markings x 120 min. = 964 hours

(e) Periodic testing. At an interval not to exceed 184 days, as part of the periodic mechanical inspection, each railroad shall test a representative sample of emergency window exits on its cars to determine that they operate as intended. The sampling method must conform with a formalized statistical test method.

As noted above, this requirement would apply to approximately 335 new passenger cars. FRA estimates that approximately five (5) percent of these new passenger cars would be tested as a representative sample to ensure that their emergency window exits operate as intended. Thus, approximately 17 cars would be tested under the above requirement. It is estimated that it will take approximately 30 minutes to test each emergency window exits and record the result. Total annual burden for this requirement is nine (9) hours.

Respondent Universe:

30
railroads

Burden time per response:

30
minute
s

Frequency of Response:

Annually

Annual number of Responses: 17 tested cars

Annual Burden: 9 hours

Calculation: 17 tested cars x 30 min. = 9 hours

Total annual burden for this requirement is 973 hours (964 + 9).

§ 238.114 Rescue access windows

(a) Number and location. Except as provided in paragraph (a)(1)(ii) of this section, the following requirements apply on or after April 1, 2008 –

(1) Single-level passenger cars. Except as provided in paragraph (a)(1) and in paragraphs (a)(1)(i), (a)(1)(ii), and (a)(5) of this section, each single-level passenger car must have a minimum of two rescue access windows. At least one rescue access window must be located in each side of the car entirely within 15 feet of the car's centerline, or entirely within 7 ½ feet of the centerline if the car does not exceed 45 feet in length. If the seating level is obstructed by an interior door or otherwise partitioned into separate seating areas, each separate seating area must have a minimum of one rescue access window in each side of the seating area, located as near to the center of the car as practical.

(i) For a single-level passenger car ordered prior to April 1, 2009, and placed in service prior to April 1, 2011, rescue access windows may be located farther than the above prescribed distances from the car's centerline, or located within exterior side doors, or both, if at least one rescue access window is located within each side of each end (half) of the same passenger compartment.

(ii) For a single-level passenger car ordered prior to September 8, 2000, and placed in service prior to September 9, 2002, the requirements of paragraph (a)(1) apply on or after August 1, 2009, if the car has at least two exterior side doors (or door leaves), each with a manual override device, and such doors (or door leaves) are located one on each side of the car, in opposite ends (halves) of the car (i.e., in diagonally opposite quadrants). The manual override device must be:

(A) Capable of releasing the door (or door leaf) to permit it to be opened without power from outside the car;

(B) Located adjacent to the door (or door leaf) that it controls; and

(C) Designed and maintained so that a person can access the override device from outside the car without using a tool or other implement.

(2) Multi-level passenger cars - main levels. Each main level in a multi-level passenger car is subject to the same requirements specified for single-level passenger cars in paragraph (a)(1) of this section, with the exception of paragraph (a)(1)(ii), which is not applicable.

(3) Multi-level passenger cars - levels with seating areas other than main levels.

(i) Except as provided paragraphs (a)(3)(ii) and (a)(3)(iii) of this section, any level other than a main level used for passenger seating in a multi-level passenger car, such as an intermediate level, must have a minimum of two rescue access windows in each seating area. The rescue access windows must permit emergency responders to gain access to passengers in the seating area without requiring movement through an interior door or to another level of the car. At least one rescue access window must be located in each side of the seating area. A rescue access window may be located within an exterior side door in the passenger compartment if it is not practical to place the access window in the side of the seating area.

(ii) Only one rescue access window is required in a seating area in a passenger compartment if – (A) It is not practical to place a rescue access window in a side of the passenger compartment due to the need to provide accessible accommodations under the Americans with Disabilities Act of 1990; (B) There are no more than four (4) seats in the seating area; and (C) A suitable, alternate arrangement for rescue access is provided.

(iii) For passenger cars ordered prior to April 1, 2009, and placed in service prior to April 1, 2011, only one rescue access window is required in a seating area in a passenger compartment if – (A) It is not practicable to place an access window in a side of the passenger compartment (due to the presence of such structures as a bathroom, electrical locker, or kitchen); and (B) There are no more than eight (8) seats in the seating area.

(4) Cars with a sleeping compartment or similar private compartment. Each level of a passenger car with a sleeping compartment or a similar private compartment intended to be occupied by a passenger or train crewmember must have a minimum of one rescue access window in each such compartment. For purposes of this paragraph, a bathroom, kitchen, or locomotive cab is not considered a “compartment.”

(5) Dual-function windows. If, on any level of a passenger car, the emergency window exits installed to meet the minimum requirements of § 238.113 are also intended to function as rescue access windows, the minimum requirements for the number and location of rescue access windows in paragraphs (a)(1) through (a)(4) of this section are also met for that level.

(b) Ease of operability. On or after April 1, 2008, each rescue access window must be capable of being removed without unreasonable delay by an emergency responder using either: (1) A provided external mechanism; or (2) Tools or implements that are commonly available to the responder in a passenger train emergency.

(c) Dimensions. Each rescue access window in a passenger car, including a sleeping car, ordered on or after April 1, 2009, or placed in service for the first time on or after April 1, 2011, shall have an unobstructed opening with minimum dimensions of 26 inches horizontally by 24 inches vertically. A rescue access window located within an exterior side door, in accordance with the requirements of paragraph (a)(3)(i) of this section, may have an unobstructed opening with minimum dimensions of 24 inches horizontally by 26 inches vertically. A seatback is not an obstruction if it can be moved away from the window opening without requiring the use of a tool or other implement.

(d) Marking and instructions. (1) Prior to **[INSERT DATE 425 DAYS AFTER DATE OF PUBLICAITON IN FEDERAL REGISTER]**, each rescue access window must be marked with retro-reflective material on the exterior of each car. A unique, and easily recognizable symbol, sign, or other conspicuous marking must also be used to identify each such window. Legible and understandable window-access instructions, including instructions for removing the window, must be posted at or near each rescue access window.

(2) On or after **[INSERT DATE 425 DAYS AFTER DATE OF PUBLICATION IN FEDERAL REGISTER]**, each rescue access window shall be marked, and instructions provided for its use, as specified in § 238.125.

FRA estimates that 546 passenger cars, having two windows per car, will be affected by the above requirements and, as a result, approximately 1,092 windows will need to be marked as stipulated above. It is estimated that it will take car manufacturers/railroads approximately 45 minutes to properly mark each window. Total annual burden for this requirement is 819 hours.

Respondent Universe:

30
railroads

Burden time per response:

45
minute
s

Frequency of Response:

Annually

Annual number of Responses: 1,092 access window markings
Annual Burden: 819 hours

Calculation: 1,092 access window markings x 45 min. = 819 hours

Total annual burden for this requirement is 819 hours.

§ 238.115 Emergency Lighting.

(b)(1) As further specified in paragraph (b)(2) of this section, on or after January 1, 2017, emergency lighting shall be provided in each passenger car in accordance with the minimum requirements specified in APTA Standard PR-E-S-013-99, Rev. 1, "Standard for Emergency Lighting System Design for Passenger Cars," Authorized October 7, 2007, or an alternative standard providing at least an equivalent level of safety if approved by FRA pursuant to § 238.21.

The burden for alternative standard is included under that of § 238.21 under OMB No. 2130-0544. Consequently, there is no additional burden associated with this requirement.

§ 238.121 Emergency Communications.

PA system (public address system).

(a)(1) Existing Tier I passenger cars. On or after January 1, 2012, each Tier I passenger car must be equipped with a PA system that provides a means for a crewmember to communicate by voice to passengers of his or her train in an emergency situation.

(a)(2) New Tier I and all Tier II passenger cars. Each Tier I passenger car ordered on or after April 1, 2008, or placed in service for the first time on or after April 1, 2010, and all Tier II passenger cars must be equipped with an PA system that provides a means for a train crewmember to communicate by voice to passengers of his or her train in an emergency situation. The PA system must also provide a means for a train crewmember

to communicate by voice in an emergency situation to persons in the immediate vicinity of his or her train (e.g., on the station platform). The PA system may be part of the same system as the intercom system.

(b) Intercom system.

(1) New Tier I and all Tier II passenger cars. Each Tier I passenger car ordered on or after April 1, 2008, or placed in service for the first time on or after April 1, 2010, and all Tier II passenger cars must be equipped with an intercom system that provides a means for passengers and crewmembers to communicate by voice with each other in an emergency situation. Except as further specified, at least one intercom that is accessible to passengers without requiring the use of a tool or other implement shall be located in each end (half) of each car. If any passenger car does not exceed 45 feet in length, or if a Tier II passenger car was ordered prior to May 12, 1999, only one such intercom is required. The intercom system may be part of the same system as the PA system.

(2) Marking and instructions. The following requirements to apply to each passenger car:

(i) Prior to **[INSERT DATE 790 DAYS AFTER DATE OF PUBLICATION IN FEDERAL REGISTER]**, the location of each intercom intended for passenger use shall be conspicuously marked with luminescent material, and legible and understandable operating instructions shall be posted at or near each such intercom.

(ii) On or after **[INSERT DATE 790 DAYS AFTER DATE OF PUBLICATION IN FEDERAL REGISTER]**, each intercom intended for passenger use shall be marked in accordance with section 5.4.2 of APTA Standard PR-PS-S-002-98, Rev. 3, "Standard for Emergency Signage for Egress/Access of Passenger Rail Equipment," Authorized October 7, 2007, or an alternative standard providing at least an equivalent level of safety, if approved by FRA pursuant to § 238.21. Legible and understandable operating instructions shall be posted at or near each such intercom. *(Note: The burden for alternative standards is included under that of § 238.21 above. Consequently, there is no additional burden associated with this requirement.)*

FRA estimates that approximately 58 passenger cars, having two locations per car, will need to be marked each year by the above requirements. It is estimated that it will railroad personnel approximately five (5) minutes to properly mark each intercom location. Total annual burden for this requirement is 10 hours.

Respondent Universe:

30
railroads

Burden time per response:

31

5
minute
s

Frequency of Response: Annually

Annual number of Responses: 116 marked intercom locations

Annual Burden: 10 hours

Calculation: 116 marked intercom locations x 5 min. = 10 hours

Total annual burden for this entire requirement is 10 hours.

§ 238.123 Emergency roof access

Except as provided in § 238.441–

(a) Number and dimensions. Each passenger car ordered on or after **[INSERT DATE 14 MONTHS AFTER DATE OF PUBLICATION OF THE FINAL RULE IN THE FEDERAL REGISTER]**, or placed in service for the first time on or after **[INSERT DATE 38 MONTHS AFTER DATE OF PUBLICATION OF THE FINAL RULE IN THE FEDERAL REGISTER]**, must have a minimum of two emergency roof access locations, each with a minimum opening of 26 inches longitudinally (*i.e.*, parallel to the longitudinal axis of the car) by 24 inches laterally.

(b) Means of access. Emergency roof access must be provided by means of a hatch, or a conspicuously marked structural weak point in the roof for access by properly equipped emergency response personnel.

(c) Location. Emergency roof access locations must be situated as practical so that when a car is on its side – (1) One emergency access location is wholly within each half of the roof as divided top from bottom; and (2) One emergency access location is wholly within each half of the roof as divided left from right.

(d) Obstructions. The ceiling space below each emergency roof access location must be free from wire, cabling, conduit, and piping. This space must also be free of any rigid secondary structure (*e.g.*, a diffuser or diffuser support, lighting back fixture, mounted PA equipment, luggage rack) where practicable. If emergency roof access is provided by means of a hatch, it must be possible to push interior panels or liners out of their retention devices and into the interior of the vehicle after removing the hatch. If emergency roof access is provided by means of a structural weak point, it must be permissible to cut

through interior panels, liners, or other non-rigid secondary structures after making the cutout hole in the roof, provided any such additional cutting necessary to access the interior of the vehicle permits a minimum opening of the dimensions specified in paragraph (a) to be maintained.

(e) Marking and instructions. Prior to [INSERT DATE 425 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER], each emergency roof access location shall be conspicuously marked with retro-reflective material of contrasting color. and (2) Legible and understandable instructions must be posted at or near each emergency roof access location.

(2) On or after [INSERT DATE 425 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER], each emergency roof access location shall be marked, and instructions provided for its use, as specified in § 238.125.

FRA estimates that approximately 116 passenger cars that have two emergency access locations per car will be affected each year by the above requirements. Thus, 232 emergency roof access locations will need to be marked. It is estimated that it will railroad personnel approximately 30 minutes to properly mark each emergency roof access location. Total annual burden for this requirement is 116 hours.

Respondent Universe:

30
railroads

Burden time per response:

30
minute
s

Frequency of Response:

Annually

Annual number of Responses:
Annual Burden:

232 marked emergency roof access locations
116 hours

Calculation: 232 marked emergency roof access locations x 30 min. =
116 hours

§ 238.125 Markings and instruction for emergency egress and rescue access.

On or after [**INSERT DATE 425 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER**], emergency signage and markings shall be provided for each passenger car in accordance with the minimum requirements specified in APTA Standard PR-PS-S-002-98, Rev. 3, “Standard for Emergency Signage for Egress/Access of Passenger Rail Equipment,” Authorized October 7, 2007, or an alternative standard providing at least an equivalent level of safety, if approved by FRA pursuant to § 238.21.

The burden for emergency signage and markings is included separately in each of the requirements of this rule. The burden for alternative standards is included under that of § 238.21 under OMB No. 2130-0544. Consequently, there is no additional burden associated with this requirement.

§ 238.127 Low-location emergency path marking.

On or after [**INSERT DATE 425 DAYS AFTER DATE OF PUBLICATION OF THE FINAL RULE**], low-location emergency exit path marking shall be provided in each passenger car in accordance with the minimum requirements specified in APTA Standard PR-PS-S-004-99, Rev. 2. “Standard for Low-Location Exit Path Marking,” Authorized October 7, 2007, or an alternative standard providing at least an equivalent level of safety, if approved by FRA pursuant to § 238.21.

The burden for alternative standard is included under that of § 238.21 under OMB No. 2130-0544. Consequently, there is no additional burden associated with this requirement.

§ 238.303 Exterior calendar day mechanical inspection of passenger equipment

(e) As part of the exterior calendar day mechanical inspection, the railroad must verify conformity with the following conditions, and nonconformity with any such condition renders the passenger car or unpowered vehicle used in a passenger train defective whenever discovered in service.

(18) All rescue-access related exterior markings, signage, and instructions required by § 238.112 and § 238.114 must be in place and, as applicable, conspicuous, legible, or both.

(i) Except as provided in paragraphs (e)(18)(ii) and (iii) of this section, passenger equipment that has any required rescue-access related exterior marking, signage, or instructions that is missing, illegible, or inconspicuous may remain in passenger service until no later than the equipment’s fourth exterior calendar day mechanical inspection or next periodic mechanical inspection required under § 238.307, whichever occurs first,

after the non-complying condition is discovered, where the car shall be repaired or removed from service.

FRA estimates that approximately 150 passenger cars will be affected by the above requirement each year and that each car will have approximately one (1) location where markings/signage/instructions that are missing, illegible, or inconspicuous will be need to be replaced under the above requirement. It is estimated that it will take railroads approximately 20 minutes to properly replace each required marking/sign/instructions. Total annual burden for this requirement is 50 hours.

Respondent Universe:

30
railroads

Burden time per response:

20
minute
s

Frequency of Response:

Annually

Annual number of Responses: 150 replacement required markings
Annual Burden: 50 hours

Calculation: 150 replacement required markings x 20 min. = 50 hours

(ii) A passenger car having more than 50 percent of the windows on a side of a level of the car designated and properly marked for rescue access that has any required rescue access-related exterior marking, signage, or instructions that is missing, illegible, or inconspicuous on any of the other windows on that side and level of the car may remain in passenger service until no later than the car's next periodic mechanical inspection required under § 238.307, where the car shall be repaired or removed from service.

The burden for this requirement is included under that of § 238.303(i) above. Consequently, there is no additional burden associated with this requirement.

(iii) A passenger car that is a sleeping car that has more than two consecutive windows with any required rescue access-related exterior marking, signage, or instruction at or

near their locations that is missing, illegible, or inconspicuous may remain in passenger service until no later than the car's next periodic mechanical inspection required under § 238.307, where the car shall be repaired or removed from service.

The burden for this requirement is included under that of § 238.303(i) above. Consequently, there is no additional burden associated with this requirement.

(iv) A record must be maintained of any non-complying marking, signage, or instruction described in paragraphs (e)(18)(i) through (iii) of this section that contains the date and time that the defective condition was first discovered. This record must be retained until all necessary repairs are completed.

Based on the above, FRA estimates that approximately 150 non-compliance records will be kept annually under the above requirement. It is estimated that it will take approximately two (2) minutes to record and maintain each record. Total annual burden for this requirement is five (5) hours.

Respondent Universe: 30 railroads
Burden time per response:

2
minute
s

Frequency of Response: Annually

Annual number of Responses: 150 non-compliance records
Annual Burden: 5 hours

Calculation: 150 non-compliance records x 2 min. = 5 hours

Total annual burden for this entire requirement is 55 hours (50 + 5).

§ 238.305 Interior calendar day mechanical inspection of passenger cars.

(c) As part of the interior calendar day interior mechanical inspection, the railroad must verify conformity with the following conditions, and nonconformity with any such condition renders the car defective whenever discovered in service, except as provided in paragraphs (c)(8) through (c)(13), and paragraph (d) of this section.

(10) All end doors and side doors operate safely and as intended. A non-complying car may continue in passenger service pursuant to paragraph (d) of this section if – (i) At least one operative and accessible door is available on each side of the car; (ii) The train crew is provided written notification of the non-complying condition; and (iii) A notice is prominently displayed directly on the defective door indicating that the door is defective.

FRA estimates that approximately 260 passenger cars per year will be affected by the above requirement and that each car will have approximately one (1) non-complying condition. Consequently, it is estimated that 260 written notifications and 260 notices will be completed. It is estimated that each written notification and each notice will take approximately one (1) minute to complete. Total annual burden for this requirement is nine (9) hours.

Respondent Universe:

30
railroads

Burden time per response:

1
minute

Frequency of Response:

Annually

Annual number of Responses: 260 written notifications + 260 notices

Annual Burden: 9 hours

Calculation: 260 written notifications x 1 min. + 260 notices x 1 min. = 9 hours

(12) On passenger cars so equipped, public address and intercom systems must be operative and function as intended. A passenger car with an inoperative or non-functioning public address or intercom system may remain in passenger service until no later than the car's fourth interior calendar day mechanical inspection or next periodic mechanical inspection required under § 238.307, whichever occurs first, or for a passenger car used in long-distance intercity train service until the eighth interior calendar day mechanical inspection or next periodic mechanical inspection required under § 238.307, whichever occurs first, after the non-complying condition is discovered, where it must be repaired or removed from service; provided, the train crew is given written notification of the non-complying condition, and all of the requirements contained

in paragraph (d)(3) of this section are met.

FRA estimates that approximately 300 passenger cars having a non-complying condition will be found each year under the above requirement and, as a result, approximately 300 written notifications will be provided to train crews about the non-complying condition. It is estimated that it will take approximately one (1) minute to complete each written notification. Total annual burden for this requirement is five (5) hours.

Respondent Universe:

30
railroads

Burden time per response:

1
minute

Frequency of Response:

Annually

Annual number of Responses:

300 written notifications

Annual Burden:

5 hours

Calculation: 300 written notifications x 1 min. = 5 hours

Additionally, FRA estimates that approximately 300 records of the non-complying condition will be kept to comply with the requirements of § 238.305(d)(3). It is estimated that it will take approximately two (2) minutes to complete each record. Total annual burden for this requirement is 10 hours.

Respondent Universe:

30
railroads

Burden time per response:

2
minutes

Frequency of Response:	Annually
Annual number of Responses:	300 records
Annual Burden:	10 hours

Calculation: 300 records x 2 min. = 10 hours

(13) Removable panels and removable windows in vestibule doors and in other interior doors used for passage through a passenger car are properly in place and secured, based on a visual inspection. A non-complying passenger car may remain in passenger service until no later than the car’s fourth interior calendar day mechanical inspection or next periodic mechanical inspection required under § 238.307, whichever occurs first, or for a passenger car used in long-distance intercity train service until the eighth interior calendar day mechanical inspection or next periodic mechanical inspection required under § 238.307, whichever occurs first, after the non-complying condition is discovered, where it shall be repaired or removed from service; provided — **(New Requirements)**

(i) The railroad has developed and follows written procedures for mitigating the hazard(s) caused by the non-complying condition. The railroad’s procedures shall include consideration of the type of door in which the removable panel or window is located, the manner in which the door is normally opened, and the risk of personal injury resulting from a missing, broken, or improperly secured removal panel or window; and

FRA estimates that approximately 30 written procedures will be developed under the above requirement. It is estimated that it will take approximately 40 hours for each railroad to develop its written procedures. Total annual burden for this requirement is 1,200 hours.

Respondent Universe:	30 railroads
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Burden time per response:	40 hours
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Frequency of Response:	One-time
Annual number of Responses:	30 written procedures
Annual Burden:	1,200 hours

Calculation: 30 written procedures x 40 hrs. = 1,200 hours

(ii) The train crew is provided written notification of the non-complying condition.

As noted previously, a total of approximately 7,634 passenger cars will be affected by this proposed rule’s requirements and each car will have approximately six (6) doors (a total of 45,804 doors). FRA estimates that approximately one (1) percent of these doors will be found with non-complying conditions and thus 458 written notifications will be provided to train crews under the above requirement. It is estimated that it will take approximately two (2) minutes to provide each written notification. Total annual burden for this requirement is 15 hours.

Respondent Universe:	30 railroads
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Burden time per response:	2 minutes
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Frequency of Response:	On occasion
Annual number of Responses:	458 written notifications
Annual Burden:	15 hours

Calculation: 458 written notifications x 2 min. = 15 hours

Total annual burden for this entire requirement is 1,239 hours (9 + 5 + 10 + 1,200 + 15).

§ 238.307 Periodic mechanical inspection of passenger cars and unpowered vehicles used in passenger trains.

(c) The periodic mechanical inspection must specifically include the following interior and exterior mechanical components, which must be inspected not less frequently than every 184 days. At a minimum, this inspection shall determine that:

* * * * *

(4)(iii) Each railroad must retain records of the inspection, testing, and maintenance of the emergency window exits for two calendar years after the end of the calendar year to which they relate.

FRA estimates that approximately 7,634 emergency window exits will be inspected and tested and correspondingly 7,634 records will be kept each year under the above requirement. It is estimated that it will take approximately five (5) minutes to complete the necessary inspection/testing and required record. Total annual burden for this requirement is 636 hours.

Respondent Universe:

30
railroads

Burden time per response:

5
minute
s

Frequency of Response:

On occasion

Annual number of Responses:

7,634 emergency window exits inspection
and testing records

Annual Burden:

636 hours

Calculation: 7,634 emergency window exits inspection/testing records x 5 min.
= 636 hours

(5) With regard to the following emergency systems:

(i) Emergency lighting systems required under § 238.115 are in place and operational;

and

(ii) Low-location emergency exit path markings required under § 238.127 are operational.

(iii) Emergency roof access markings and instructions required under § 238.123(e) are in place and, as applicable, conspicuous, or legible, or both.

FRA estimates that approximately 32 passenger cars will be affected by the above requirement each year and that each car will have approximately one (1) location where markings/signage/instructions that are missing, illegible, or inconspicuous will be need to be replaced under the above requirement. It is estimated that it will take railroads approximately 20 minutes to properly replace each required marking/sign/instructions. Total annual burden for this requirement is 11 hours.

Respondent Universe:

30
railroads

Burden time per response:

20
minute
s

Frequency of Response:

Annually

Annual number of Responses: 32 replacement required markings
Annual Burden: 11 hours

Calculation: 32 replacement required markings x 20 min. = 11 hours

(d) At an interval not to exceed 368 days, the periodic mechanical inspection must specifically include inspection of the following:

(1) Manual door releases, to determine that all manual door releases operate as intended;

(2) The hand or parking brake as well as its parts and connections, to determine that they are in proper condition and operate as intended. The date of the last inspection must be

entered on Form FRA F 6180.49A, suitably stenciled or tagged on the equipment, or maintained electronically, provided FRA has access to the record upon request; and

(3) Emergency roof access markings and instructions required § 128.123(e), to determine that they are in place and, as applicable, conspicuous or legible, or both.

Railroads currently keep these records as a usual and customary practice. Consequently, there is no additional burden associated with these requirements.

(e)(1) A record must be maintained of each periodic mechanical inspection required to be performed by this section. This record must be maintained in writing or electronically, provided FRA has access to the record upon request. The record must be maintained either in the railroad's files, the cab of the locomotive, or a designated location in the passenger car. Except as provided in paragraph (c)(4) of this section, the record must be retained until the next periodic mechanical inspection of the same type is performed and must contain the following information:

(i) The date of the inspection;

(ii) The location where the inspection was performed;

(iii) The signature or electronic identification of the inspector; and

(iv) The signature or electronic identification of the inspector's supervisor.

(2) Detailed documentation of any reliability assessments depended upon for implementing an alternative inspection interval under paragraph (a)(2) of this section, including underlying data, shall be retained during the period that the alternative inspection interval is in effect. Data documenting inspections, tests, component replacement and renewals, and failures shall be retained for not less than three (3) inspection intervals.

The burden for these requirements is included under that of § 238.307 under OMB No. 2130-0544. Consequently, there is no additional burden associated with this requirement.

Total annual burden for this entire requirement is 647 hours (636 + 11).

§ 238.311 Single car test.

(a) Except for self-propelled passenger cars, single car tests of all passenger cars and all unpowered vehicles used in passenger trains shall be performed in accordance with either APTA Standard SS-M-005-98, "Code of Tests for Passenger Car Equipment Using Single Car Testing Device," published March, 1998; or an alternative procedure

approved by FRA pursuant to Sec. 238.21. The incorporation by reference of this APTA standard was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You may obtain a copy of the incorporated document from the American Public Transportation Association, 1666 K Street, NW, Washington, DC 20006. You may inspect a copy of the document at the Federal Railroad Administration, Docket Clerk, 1200 New Jersey Avenue, SE, Washington, DC or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to:

http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html

The burden for alternative standard is included under that of § 238.21 under OMB No. 2130-0544. Consequently, there is no additional burden associated with this requirement.

The incorporated document will only take a few seconds to access on line for members of the public or anyone else interested in obtaining/viewing it, and thus there is no real burden to do that. However, the head trainers for each of the 30 railroads will need a copy of the incorporated document. FRA estimates that it will take approximately 15 minutes for the head trainer to review and print out a master copy of the APTA standard to be used as a reference tool in railroad training sessions. Total annual burden for this requirement is eight (8) hours.

Respondent Universe:

30
railroads

Burden time per response:

15
minute
s

Frequency of Response:

On occasion

Annual number of Responses:

30 APTA standard copies

Annual Burden:

8 hours

Calculation: 30 APTA standard copies x 15 min. = 8 hours

Additionally, FRA estimates that approximately 12 copies per railroad of the

incorporated document or at total of 360 copies (12 copies x 30 railroads) will be made under the above requirement. It is estimated that it will take approximately two (2) minutes to copy the incorporated document. Total annual burden for this requirement is 12 hours.

Respondent Universe:

30
railroads

Burden time per response:

2
minute
s

Frequency of Response:	On occasion
Annual number of Responses:	360 copies
Annual Burden:	12 hours

Calculation: 360 copies x 2 min. = 12 hours

Total annual burden for this entire requirement is 20 hours (8 + 12).

§ 238.439 Doors.

In addition to the requirements of § 238.112—

(a) The status of each powered, exterior side door in a passenger car shall be displayed to the crew in the operating cab. If door interlocks are used, the sensors used to detect train motion shall be nominally set to operate at 3 mph.

The status of each powered exterior door is displayed automatically to the train crew. Consequently, there is no burden associated with this requirement.

§ 238.441 Emergency roof access

(a) Existing passenger cars and power cars. Each passenger car and power car ordered on or after [INSERT DATE 425 DAYS AFTER DATE OF PUBLICATION IN

FEDERAL REGISTER], must have a minimum of one roof hatch emergency access location with a minimum opening of 26 inches by 24 inches, or at least one structural weak point in the roof providing a minimum opening of the same dimensions, to provide access for properly equipped emergency response personnel. Each emergency roof access location must be conspicuously marked, and legible and understandable operating instructions must be posted at or near each such location. Such marking shall also conform to the requirements specified in § 238.125.

(b) New passenger cars. Each passenger car ordered on or after **[INSERT DATE 14 MONTHS AFTER DATE OF PUBLICATION OF THE FINAL RULE IN THE FEDERAL REGISTER]** or placed in service for the first time on or after **[INSERT DATE 38 MONTHS AFTER DATE OF PUBLICATION OF THE FINAL RULE IN THE FEDERAL REGISTER]**, must comply with the emergency roof access requirements specified in § 238.123.

FRA believes that railroads will not be increasing their fleet of passenger cars. Also, the burden for this requirement is already included under that of § 238.118 (e) above. Consequently, there is no additional burden associated with this requirement.

(c) New power cars. Each power car ordered on or after April 1, 2009, or placed in service for the first time on or after April 1, 2011, must have a minimum of one emergency roof access location, with a minimum opening of 26 inches longitudinally by 24 inches laterally, and comply with the emergency roof access requirements specified in § 238.123(b) and (d). Each emergency roof access location must be conspicuously marked with retro-reflective material of contrasting color meeting the minimum requirements specified in § 238.125 or an alternative standard providing at least an equivalent level of safety, if approved by FRA pursuant to § 238.21. Legible and understandable instructions must be posted at or near each such location.

FRA estimates that there will be no new purchases for power cars over the next three years. As a result, no emergency roof access locations will need to be marked and have legible and understandable instructions posted at or near such locations. Consequently, there is no burden associated with this requirement.

§ 239.105 Debriefing and critique.

(a) General. 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 shall improve or amend its plan, or both, as appropriate, in accordance with the information developed. The debriefing and critique session shall be conducted within 60 days of the date of the passenger train emergency situation or full-scale simulation. To the extent practicable, all on-board personnel, control center personnel, and any other employees involved in the emergency situation or full-scale simulation must participate in the session either:

(1) In person;

(2) Offsite via teleconference; or

(3) In writing, by a statement responding to questions provided prior to the session, and by responding to any follow-up questions.

The burden for this requirement is included under that of § 239.105 under OMB No. 2130-0545. Consequently, there is no burden associated with this requirement.

Total annual burden for this entire information collection submission is 23,325 hours.

13. Estimate of total annual costs to respondents.

There are some additional costs besides those listed in question number 12 above. Specifically, there is the cost that railroads will incur to meet the new requirements under section 238.112 associated with marking and posting instructions on emergency egress doors and marking/posting instructions on removable panels in car vestibule doors. As noted in the answer to question number 12 regarding the number of cars affected by the door marking requirements under section 238.112 and in the regulatory impact analysis associated with this rulemaking, FRA estimates that 7,634 cars will be affected. The agency estimates that it will cost \$101 per car to complete the marking requirements [(\$5 per sign/markings + (15 minutes labor * \$47.60 per hour/60 min. p/hr.) * 6 signs/markings per car = \$101.40]. Wage adjustment for 2014 brings the cost per car to \$102.95.

TOTAL COST = \$785,844 (7,634 cars x \$102.94)

14. Estimate of Cost to Federal Government.

Since the information collection requirements associated with this final rule do not entail any reporting and only extremely minimal record keeping, there is no additional cost to the Federal Government (FRA) beyond the normal salaries that it pays its inspectors to do their jobs.

15. Explanation of program changes and adjustments.

The burden for this information collection has increased by 21,326 hours from the last approved submission. The increase in hours is due to both to **program changes and adjustments**. The **program changes and adjustments** are listed in the following tables:

TABLE FOR PROGRAM CHANGES

Part 238 Sec./ Form Number	Responses & Avg. Time (Previous Submission)	Responses & Avg. Time (This Submission)	Burden Hours (Previous Submission)	Burden Hours (This Submission)	Difference (plus/minus)
238.112 – Doors – Conspicuously marking/posting instructions on emergency egress doors - Marking/posting instructions on emergency responder access doors - Marking/posting instructions on removable panel in car vestibule doors - Testing: Representative sample – removable panels/windows/etc.	0 markings 0 minutes	45,804 markings 15 minutes	0 hours	11,451 hours	+ 11,451 hours + 45,804 resp.
	0 markings 0 minutes	30,536 markings 15 minutes	0 hours	7,634 hours	+ 7,634 hours + 30,536 resp.
	0 markings 0 minutes	1,340 panel markings 15 minutes	0 hours	335 hours	+ 335 hours + 1,340 resp.
	0 tested cars 0 minutes	17 tested cars 90 minutes	0 hours	26 hours	+ 26 hours + 17 responses
238.305 – Written procedure for mitigating hazards of non- complying conditions relating to removable panels/windows in vestibule doors -Written notification to train crew of non- complying condition relating to panels/windows in vestibule doors	0 written procedures 0 hours	30 written procedures 40 hours	0 hours	1,200 hours	+ 1,200 hours + 30 responses
	0 notices 0 minutes	458 notices 2 minutes	0 hours	15 hours	+ 15 hours + 458 resp.

Program changes above increased the burden by *20,661 hours* from the previously submission, and increased the number of responses by *78,185*.

TABLE FOR ADJUSTMENTS

Part 238 Sec./ Form Number	Responses & Avg. Time (Previous Submission)	Responses & Avg. Time (This Submission)	Burden Hours (Previous Submission)	Burden Hours (This Submission)	Difference (plus/minus)
238.113 –Periodic Testing of representative sample of emergency exit	0 tested cars 0 minutes	17 tested cars 30 minutes	0 hours	9 hours	+ 9 hours + 17 responses

windows on passenger cars					
238.307 – Periodic mechanical inspection of passenger cars - Records of inspection, testing, & maintenance of emergency window exits	0 car inspections/rcd. 0 minutes	7,634 car inspections/records 5 minutes	0 hours	636 hours	+ 636 hours + 7,634 resp.
238.311-- Single car test - Copies of APTA Standard SS-M-005-98 to Railroad Head Training Person - Copies to Other Railroad Personnel	0 copies 0 minutes 0 copies 0 minutes	30 copies 15 minutes 360 copies 2 minutes	0 hours 0 hours	8 hours 12 hours	+ 8 hours + 30 responses + 12 hours + 360 resp.

Adjustments above increased the burden by *665 hours* from the previously submission, and increased the number of responses by *8,041*.

The current OMB inventory for this information collection exhibits a total of *1,999 hours* while the present submission shows a total of *23,325 hours*. Hence, there is a total increase of *21,326 hours* in burden.

There was no cost to respondents in the previously approved collection of information. As noted in the answer to question number 12 regarding the number of cars affected by the door marking requirements under section 238.112 and in the regulatory impact analysis associated with this rulemaking, FRA estimates that 7,634 cars will be affected. The agency estimates that it will cost \$101 per car to complete the marking requirements [(\$5 per sign/markings + (15 minutes labor * \$47.60 per hour/60 min. p/hr.) * 6 signs/markings per car = \$101.40]. Wage adjustment for 2014 brings the cost per car to \$102.95. This increase in cost is a **program change**.

TOTAL COST = \$785,844 (7,634 cars x \$102.94)

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 DOT main strategic goals, safety. Without this collection of information, the traveling public and train crews might suffer more serious injuries and possibly death if they could not quickly determine how to safely and quickly evacuate a train after an accident/incident occurred. If single-level and multi-level passenger cars, including sleeping cars, did not have the prescribed minimum of emergency window exits with legible and understandable operating instructions and if

they were not readily accessible, clearly marked and well-maintained, railroad passengers might not know how and where to exit a passenger car in the event of an emergency such as a collision, derailment, fire, explosion, and other unexpected occurrences. Any delay in quickly exiting such a passenger car could potentially cause numerous injuries and fatalities to the American traveling public.

Also, without this proposed rule and associated collection of information, passenger cars might not have a sufficient number of clearly marked access windows for rescue workers to evacuate passengers in the event of a train emergency. In the event of an emergency, rescue workers must be able to find these passenger car access windows quickly and must be able to figure out how to open them once they do find them. Rescue workers need to be able to find where these rescue access windows are located on both single-level and multi-level passenger cars by means of clearly marked signs/placard that have understandable instructions and that are posted at or near each rescue access window in retroreflective material. Delays caused by being unable to find or quickly open access windows on the part of rescue workers could result in serious injury and death to substantial numbers of railroad passengers.

Without a means of emergency communication such as the prescribed intercom system that must be installed within new Tier I and all Tier II passenger cars, railroad passengers and train crews would not be able to talk to one another in the event of a train emergency. This could lead a lack of awareness on the part of the train crew in the event of serious problem or emergency and a corresponding lack of direction from the train crew to passengers on the proper actions they should take to ensure their safety. Passengers might panic or take the wrong action(s) if they were unable to receive instructions from the professional train crew members. Passengers need to know when and how they must quickly evacuate a passenger car, or when and what other type of action they must take to ensure their well-being. Train crews must have the capability to communicate urgent and necessary information to them quickly and clearly.

As with emergency access windows, so too must emergency roof access be provided by means of a hatch or structural weak point in the roof that is a clearly marked so it can be found and operated by rescue personnel in the event of an emergency. It is imperative that each emergency roof access location be conspicuously marked with retroreflective material of contrasting color and that legible and understandable instructions be posted at or near each location. In the event of an emergency that prevents passengers from quickly exiting a car through the access windows, the ability of rescue workers to open the roof access quickly and easily might be the difference between life and death for train passengers.

Finally, without the requirements in §§ 238.303, 238.305, and 238.307 relating to the exterior and interior calendar day mechanical inspections and periodic mechanical inspection, which call for the replacement and recording of all rescue access-related exterior markings, signage, and instructions that are not conspicuous, legible, or both and

the repair and notification to the train crew of non-complying conditions regarding all end doors and side doors and a fully functioning public address and intercom system, there might be greater injuries and loss of life for railroad passengers because essential equipment such as doors, windows, and roof hatches did not operate properly and because instructions were not clear concerning how to quickly and safely evacuate the train. Without the required records in § 238.303, FRA would have no way of ensuring that non-complying conditions are promptly corrected, as well as no way to enforce compliance.

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