

**SUPPORTING JUSTIFICATION FOR
CERTIFICATION OF GLAZING MATERIALS
RIN No. 2130-AC43; OMB No. 2130-0525**

Summary

- This submission is a request for a revision of the last approval granted by OMB on **March 14, 2013**, and which expires **March 31, 2016**.
- FRA is publishing a Final Rule revising Part 223 titled Safety Glazing Standards in the **Federal Register** Notice on February 9, 2016. See 81 FR 6775.
- The total number of burden **hours requested** for this submission is **269 hours**.
- The total number of burden **hours previously approved** is **119 hours**.
- Total number of **responses requested** for this submission is **25,426**.
- Total number of **responses previously approved** for this submission is **25,211**.
- **Program changes** increased the burden by **150 hours**, and increased the number of **responses** by **215**.
- ****The answer to question number 12** itemizes the hourly burden associated with each requirement of this proposed rule (See pp. 10-15).

1. Circumstances that make collection of the information necessary.

Pursuant to its general statutory rulemaking authority, FRA promulgates and enforces rules as part of a comprehensive regulatory program to address all areas of railroad safety, including: railroad track, signal systems, communications, rolling stock, operating practices, passenger train emergency preparedness, alcohol and drug testing, locomotive engineer certification, and workplace safety. See 49 U.S.C. 20103 and 49 CFR 1.89. In the area of safety glazing, FRA has issued regulations, generally found at part 223. FRA continually reviews its regulations and revises them as needed to ensure that the regulatory burden on the rail industry is not excessive; to clarify the application of existing requirements and remove requirements that are no longer necessary; and to keep pace with emerging technology, changing operational realities and safety concerns.

On January 18, 2011, the President issued Executive Order (EO) 13563 (Improving Regulation and Regulatory Review). EO 13563 requires agencies to periodically conduct retrospective analysis of their existing rules to identify requirements that may be outmoded, ineffective, insufficient, or excessively burdensome. The EO further requires

that agencies modify, streamline, expand, or repeal any problematic regulatory provisions identified during the course of their review. During FRA's retrospective analysis of part 223, the agency identified requirements related to antiquated equipment in particular as being potentially burdensome to the regulated community. The language used in these requirements was broad and not explicitly defined in the rule text, and FRA's interpretive guidance had the potential of imposing a progressively larger burden on a small segment of the industry over time. This final rule clarifies the application of these requirements and reduces their potential economic burden on the rail industry.

Further, on May 10, 2012, the President issued Executive Order (EO) 13610 (Identifying and Reducing Regulatory Burdens). EO 13610 requires agencies to take continuing steps to reassess regulatory requirements, and where appropriate, to streamline, improve, or eliminate those requirements. EO 13610 emphasizes that agencies should prioritize "initiatives that will produce significant quantifiable monetary savings or significant quantifiable reductions in paperwork burdens." In response to these instructions, DOT carried out a Paperwork Reduction Act initiative that focused on identifying and eliminating paperwork burdens on the rail industry, when appropriate. FRA conducted a comprehensive review of its regulations based on the guidance provided in EO 13610 and determined that eliminating the stenciling requirement of § 223.17 was an opportunity to reduce the paperwork burden on the rail industry without adversely impacting safety. (Section 223.17 had also been identified as a candidate for elimination by EO 13563). This rule eliminates this stenciling requirement. Also, in addition to the changes being made in response to these EOs, FRA is making changes based on an RSAC recommendation addressing the application of the safety glazing standards for the next generation of high speed trainsets.

In sum, FRA is revising and clarifying existing regulations related to the use of glazing materials in the windows of locomotives, passenger cars, and cabooses. This final rule reduces paperwork and other economic burdens on the rail industry by removing a stenciling requirement for locomotives, passenger cars, and cabooses that are required to be equipped with glazing. This final rule also clarifies the application of the regulations to older equipment and to the end locations of all equipment to provide more certainty to the rail industry and more narrowly address FRA's safety concerns. In addition, this final rule clarifies the definition of passenger car, updates the rule by removing certain compliance dates that are no longer necessary, and, in response to comments on the proposed rule, modifies the application of the regulations to passenger cars and cabooses in a railroad's fleet that are used only for private transportation purposes and to older locomotives used in incidental freight service.

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

This information collection request is a revision to the current approval. This final rule and associated information collection will reduce paperwork and other economic burdens on the rail industry by removing a stenciling requirement for locomotives, passenger cars,

and cabooses that are required to be equipped with certified glazing (See § 223.17). FRA has deemed it no longer necessary to stencil the inside walls of locomotive cabs, passenger cars, and cabooses to indicate that the equipment contains certified glazing in compliance with this Part. The removal of this requirement will save railroad hundreds of thousands of dollars.

This information is not maintained for the purpose of information collection per se. The certification, marking, and supporting testing data assures railroads and FRA that the particular type of glazing material has been tested and verified for use as either FRA Type I or Type II glazing. If this information were not required, there would be no assurance that the glazing material would meet the minimum safety requirements established under 49 CFR 223. Also, in the event of an accident or incident where glazed train windows did not meet Federal standards or proved defective, FRA would be able to identify the manufacturer of the material as well as the type or brand of material. FRA could then ensure that the railroad industry was fully aware of any problems/deficiencies regarding a particular manufacturer or type of material.

3. Extent of automated information collection.

The amount and type of information required does not require elaborate information processing.

The majority of glazing manufacturers required to provide this information are already utilizing modern information technology, including word processors and associated automated data storage/retrieval methods which minimize the burden of providing this information when requested. In addition, the manufacturers have apparently developed an efficient, practical, and cost effective method of marking the glazing as required.

It should be noted as well that the burden for this information collection is extremely minimal (269 hours).

4. Efforts to identify duplication.

The source of this information is unique for each separate manufacturer and, therefore, there is no known duplication of this material. Further, FRA is the sole Federal agency requiring glazing certification for windows in locomotives, rail passenger cars, and cabooses.

There is no other information available. This information is particular to each manufacturer of glazing material, and only they can provide it when requested.

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

The term “small entity” is defined in 5 U.S.C. 601 (section 601). Section 601(6) defines “small entity” as having the same meaning as “the terms ‘small business’, ‘small organization’ and ‘small governmental jurisdiction’ defined in paragraphs (3), (4), and (5) of this section.” In turn, section 601(3) defines a “small business” as generally 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. Next, section 601(4) defines “small organization” as generally meaning any not-for-profit enterprise that is independently owned and operated, and not dominant in its field of operations. Additionally, section 601(5) defines “small governmental jurisdiction” in general to include governments of cities, counties, towns, townships, villages, school districts, or special districts with populations less than 50,000.

The U.S. Small Business Administration (SBA) stipulates “size standards” for small entities. It provides that the largest that a for-profit railroad business firm may be (and still be classified as a “small entity”) is 1,500 employees for “Line-Haul Operating” railroads, and 500 employees for “Short-Line Operating” railroads. See “Size Eligibility Provisions and Standards,” 13 CFR part 121, subpart A.

Under exceptions provided in section 601, Federal agencies may adopt their own size standards for small entities in consultation with SBA, and in conjunction with public comment. Pursuant to the authority provided to it by SBA, FRA has published a “Final Policy Statement Concerning Small Entities Subject to the Railroad Safety Laws,” which formally establishes small entities as including, among others, the following: (1) the railroads classified by the Surface Transportation Board as Class III; and (2) commuter railroads “that serve populations of 50,000 or less.”¹ See 68 FR 24891 (May 9, 2003) codified at appendix C to 49 CFR part 209. Currently, the revenue requirements are \$20 million or less in annual operating revenue, adjusted annually for inflation. The \$20 million limit (adjusted annually for inflation) is based on the Surface Transportation Board’s threshold of a Class III railroad, which is adjusted by applying the railroad revenue deflator adjustment.² For further information on the calculation of the specific

1 “In the Interim Policy Statement [62 FR 43024 (Aug. 11, 1997)], FRA defined ‘small entity,’ for the purpose of communication and enforcement policies, the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., and the Equal Access for Justice Act 5 U.S.C. 501 et seq., to include only railroads which are classified as Class III. FRA further clarified the definition to include, in addition to Class III railroads, hazardous materials shippers that meet the income level established for Class III railroads (those with annual operating revenues of \$20 million per year or less, as set forth in 49 CFR 1201.1-1); railroad contractors that meet the income level established for Class III railroads; and those commuter railroads or small governmental jurisdictions that serve populations of 50,000 or less.” 68 FR 24892 (May 9, 2003). “The Final Policy Statement issued today is substantially the same as the Interim Policy Statement.” 68 FR 24894.

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dollar limit, please see 49 CFR part 1201. FRA is using this definition of “small entity” for this final rule.

FRA estimates that there are 726 railroads that operate on standard gage track that is part of the general railroad system of transportation and that are, therefore, subject to Part 223, *see* 49 CFR 223.3. Of these railroads, 44 are Class I freight railroads, Class II freight railroads, commuter railroads serving populations of 50,000 or more, or intercity passenger railroads (i.e., Amtrak, a Class I railroad, and the Alaska Railroad, a Class II railroad). The remaining 681 railroads are, therefore, assumed to be small railroads for the purpose of this assessment. However, this final rule will not impact most of these railroads because locomotives acquired by small railroads are typically older Class I locomotives already equipped with compliant glazing and stenciling. Similarly, any passenger cars acquired by small railroads from intercity passenger or commuter railroads would already be equipped with compliant glazing and stenciling.

Small railroads and private car owners will likely be affected by the clarification that certain equipment more than 50 years old is considered to be antiquated and thereby excluded from part 223’s requirements when operated in specified service. As a result of this change, the economic burden of preparing and submitting waiver petitions will be reduced for railroads and private car owners for equipment that is more than 50 years old but built after 1945 and operated in a train for an excursion, educational, recreational, or private transportation purpose. FRA estimates that it would receive approximately 140 initial requests for waiver of the glazing requirements over the next five years (28 per

? In general, under 49 CFR 1201.1-1, the class into which a railroad carrier falls is determined by comparing the carrier’s annual inflation-adjusted operating revenues for three consecutive years to the following scale after the dollar figures in the scale are adjusted by applying the railroad revenue deflator formula:

- Class I -- \$250 million or more;
- Class II -- more than \$20 million, but less than \$250 million; and
- Class III -- \$20 million or less.

49 CFR 1201.1-1(a), (b)(1). STB’s General Instructions at 1-1 state that carriers are grouped into three classes for purposes of accounting and reporting. The three classes are as follows:

- Class I: These carriers have annual carrier operating revenues of \$250 million or more after applying STB’s railroad revenue deflator formula.
- Class II: These carriers have annual carrier operating revenues of less than \$250 million but in excess of \$20 million after applying STB’s railroad revenue deflator formula.
- Class III: These carriers have annual carrier operating revenues of \$20 million or less after applying STB’s railroad revenue deflator formula.

See also 78 FR 21007 (Apr. 8, 2013). It should be noted that there are some exceptions to this general definition of the three classes of carriers. As one important example, STB treats families of railroads as a single carrier for classification purposes when those families operate within the United States as a single, integrated rail system. 49 CFR 1201-1.1(b)(1). As another example, STB considers all switching and terminal companies to be Class III carriers, regardless of their operating revenues. 49 CFR 1201-1.1(d).

year) if this change were not made, and the approximately 310 approved waivers of glazing requirements would also have to be renewed every five years if this change were not made. When including the avoided cost of renewing the additional 140 initial waiver requests by making this change—a total of approximately 900³ avoided waiver petitions—the total cost savings is \$240,985 over 10 years, discounted at 7 percent. Of course, the individually allocated savings to each affected railroad or private car owner will be a comparatively smaller portion of the total cost savings.

Further, for entities choosing to take advantage of the regulatory relief permitted by this change to the definition of “antiquated equipment,” FRA estimates that there may be a minimal cost burden associated with operation of such passenger cars in intercity passenger or commuter service, because they will continue to be required to have emergency windows. Some affected entities may choose to install small hammers or other small tools or implements to allow for emergency egress from passenger car windows when operated in an intercity passenger or commuter train. Hammers may be used to break these windows in case of an emergency. The population of private cars that operate in Amtrak trains is approximately 125 cars. FRA estimates that 80 percent of these cars would not have hammers or other tools already on board for emergency egress through windows. Therefore, for 100 of those private cars, car owners will have to purchase four hammers or other tools per car. That total cost will be approximately \$5,000. Additionally, a minimal cost to copy and laminate instructions for use of the hammers or other tools will also be incurred. FRA estimates this total cost to be \$1,000 (approximately \$10 per car). All of these costs will be incurred during the first year. Therefore, the present value of all total costs is approximately \$6,000. This \$6,000 cost will easily be offset by the total cost savings of \$240,985 by the definitional change to “antiquated equipment,” which is shared among all small entities. Consequently, FRA concludes that this final rule will not have a significant economic impact on a substantial number of small entities.

FRA certifies that this final rule is not expected to have a significant economic impact on a substantial number of small entities under the RFA or Executive Order 13272. Although a substantial number of small entities will be affected by this rule, none of these entities will be significantly impacted. In order to determine the significance of the economic impact for the final rule’s RFA requirements, FRA expressly invited comments on the NPRM from all interested parties concerning the potential economic impact on small entities resulting from this final rule. FRA did not receive comments on this issue.

6. Impact of less frequent collection of information.

³ A total of approximately 900 waiver petitions would be avoided: 140 initial petitions in the first five years + 140 initial petitions renewed in the next five years + 310 approved waiver petitions renewed in the first five years + 310 approved waiver petitions renewed in the next five years.

If this information collection were not conducted, rail safety throughout the U.S. might be significantly hindered. Specifically, if this information collection were not conducted, neither FRA nor the railroads could be assured that units of glazing material installed on freight cars, passenger cars, and cabooses met Federal safety standards. If such glazing material did not meet Federal standards and were installed on passenger or freight trains, the safety of train crews and the traveling public might be seriously jeopardized. In particular, train crews and passengers might suffer greater injuries – possibly even fatalities – in cases where projectiles hit trains traveling at a high rate of speed and the glazing material of these windows could not withstand the impact or in the event of an accident/incident where substandard glass shattered.

Also, the collection of information ensures that FRA and railroads can identify the manufacturer and type of various glazed materials. In the event of the discovery of defective or substandard glazed material, FRA could ensure that the entire railroad community is fully informed of any problems/deficiencies regarding a particular manufacturer or type of material, and that appropriate action is taken, such as finding another manufacturer or different type of glazed material, so as to protect both train crews and the traveling public.

7. **Special circumstances.**

All information collection requirements are in compliance with this section.

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

FRA published a Notice of Proposed Rulemaking (NPRM) titled Safety Glazing Standards in the Federal Register on September 26, 2014, see 79 FR 57856, soliciting comment on the proposed rule's requirements and associated information collection requirements from the public, railroads, and other interested parties. FRA received two sets of comments in response to this NPRM. The Association of American Railroads (AAR) and the Association of Railway Museums (ATRRM) each submitted a set of comments on the last day of the comment period. Neither comment addressed FRA cost estimates nor did their comments address burden hour estimates.

AAR's comments requested two changes in the final rule: (1) confirm and clarify the glazing requirements do not apply to business cars; and (2) remove the noise decal emissions testing decal requirement contained in part 210. In response to AAR's first comment, this final rule modifies the requirements to exclude certain business cars from the application of the glazing requirements. As background, in contrast to AAR's comments, FRA generally understands that both the existing glazing requirements and the **proposed** requirements apply to certain business cars as they are currently operated. However, after reviewing relevant safety data, FRA believes that the glazing requirements should not apply to business cars during ordinary operations.

AAR's second request to remove the noise **decal** is outside of the scope of the NPRM and, therefore, cannot be properly adopted as part of this final rule. According to the Administrative Procedure Act (APA), a final rule must be based on the subjects and issues identified in the NPRM. See 5 U.S.C. 553. The purpose for this requirement is to provide sufficient notice and opportunity for meaningful public participation in the rulemaking. The subjects and issues raised in the NPRM alert interested parties that rule changes are being considered, so they can take full advantage of the opportunity to comment on them. In this rulemaking, the NPRM did not raise any issues related to existing noise emissions testing requirements. Not having provided sufficient notice for this issue, FRA declines to make any changes based on this comment. Nevertheless, FRA continues to consider the merits of AAR's comment and will evaluate how to best address this issue in the future.

ATRRM's comments expressed support for FRA's proposal and requested two modifications in the final rule: (1) exclude locomotives that are used primarily in excursion service from the glazing requirements; and (2) confirm and clarify that § 223.3(c)(1) would not require open windows to be equipped with a tool or implement which may be used to break or remove a window during an emergency. In response to ATRRM's first comment, this final rule modifies the rule to exclude locomotives that are used primarily for excursion service and **are also used for other limited purposes**. Generally, FRA agrees that some flexibility is merited for locomotives used primarily in excursion service. Based on its thorough review of the issue, FRA believes that regulatory flexibility can be provided without having an adverse impact on rail safety.

In response to ATRRM's second comment, FRA confirms that § 223.3(c)(1) does not require open windows to be equipped with a tool or implement which may be used to break or remove a window during an emergency. FRA believes that the plain language of § 223.3(c)(1) is clear, and read in conjunction with existing §§ 223.9(c) and 223.15(c), it reasonably communicates to the audience that no tool or implement is required in such a case. Therefore, FRA believes that no change is necessary and is adopting § 223.3(c)(1) as proposed. Nevertheless, FRA is taking this opportunity to clarify the language and intent of the regulatory paragraph to avoid any confusion. The purpose for requiring an emergency window exit is to ensure that passengers aren't sealed inside the car during an emergency when they need to exit rapidly. If the window is open, passengers can rapidly exit the car through that window frame in the same manner that they would when an emergency exit window is removed. If a window frame does not contain glass, there is no need for a tool or implement to clear the space inside the window frame where the glass would typically be when the window is shut.

FRA carefully considered both sets of comments on the NPRM while developing this final rule. In order to further clarify written comments, they were discussed by the RSAC Tourist and Historic Railroads and Private Passenger Car Working Group during a meeting on December 13, 2014. The discussion, although limited in scope, furthered

FRA's understanding of the written comments. Obviously there can be a tremendous benefit to clarity when in-person oral communication is permitted, including: (1) An opportunity for a party to refine a comment based on one or more questions from the Agency or other party; (2) observations of verbal tone and physical expressions that facilitate better understanding; and (3) an opportunity to accommodate a party that is more effective at communicating orally than it is in writing. A copy of the transcript for the meeting has been added to the docket for this proceeding. The final rule text differs from the proposed rule text in part because of issues raised by AAR and ATRRM.

Note: Change in Definition Resulting in Cost and Burden Reduction. In this final rule, FRA is modifying the term "antiquated equipment" to reduce the burden on the rail industry. FRA believes that the use of a rolling 50-year period to determine whether equipment is antiquated significantly reduces the burden on the rail industry by eliminating the cost of fitting equipment with compliant glazing for equipment that is older than 50 years and used only for certain purposes. In other words, FRA believes that the term antiquated equipment, for purposes of part 223, should mean equipment that is more than 50 years old, not equipment that was more than 50 years old as of a certain, fixed date.

In commenting on the NPRM, ATRRM supports FRA's decision to clarify the term "antiquated equipment" through use of a rolling 50-year period rather than a fixed date of 1945 or earlier. ATRRM believes this will eliminate the need for most waivers of the glazing requirements, and waiver renewals, and remove a substantial burden on the industry.

Background

In March 1996, FRA established RSAC, which provides a forum for developing consensus recommendations to the Administrator of FRA on rulemakings and other safety program issues. 61 FR 9740 (Mar. 11, 1996). RSAC's charter under the Federal Advisory Committee Act (Public Law 92-463) was most recently renewed in 2012. 77 FR 28421 (May 14, 2012).

RSAC includes representation from all of FRA's major stakeholders, including railroads, labor organizations, suppliers and manufacturers, and other interested parties. An alphabetical list of RSAC members includes the following:

Association of American Railroads (AAR);
American Association of Private Railroad Car Owners (AAPRCO);
American Association of State Highway and 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 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);
The Chlorine Institute, Inc.;
Federal Transit Administration (FTA);*
The Fertilizer Institute;
High Speed Ground Transportation Association;
Institute of Makers of Explosives;
International Association of Machinists and Aerospace Workers;
International Brotherhood of Electrical Workers (IBEW);
Labor Council for Latin American Advancement;*
League of Railway Industry Women;*
National Association of Railroad Passengers;
National Association of Railway Business Women;*
National Conference of Firemen & Oilers;
National Railroad Passenger Corporation (Amtrak);
National Railroad Construction and Maintenance Association (NRCMA);
National Transportation Safety Board (NTSB);*
Railway Passenger Car Alliance;
Railway Supply Institute;
Safe Travel America;
Secretaria de Comunicaciones y Transporte;*
Sheet Metal Workers International Association;
Tourist Railway Association Inc.;
Transport Canada;*
Transport Workers Union of America;
Transportation Communications International Union/BRC (TCIU);
Transportation Security Administration (TSA); and
United Transportation Union (UTU)

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 a unanimous consensus on recommendations for action, the proposal is presented to the full RSAC for a vote. If the proposal is accepted by a simple majority of RSAC, the proposal is formally recommended to FRA. FRA then determines

what action to take on the recommendation. Because FRA staff members play an active role at the working group level in discussing the issues and options and in drafting the language of the consensus proposal, FRA is often favorably inclined toward the RSAC recommendation.

However, FRA is in no way bound to follow the RSAC 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. If the working group or RSAC is unable to reach consensus on recommendations for action, FRA will proceed to resolve the issue through traditional rulemaking proceedings.

In March 2013, after the RSAC accepted a task related to high speed rail, the Engineering Task Force Tier III Cab Glazing Task Group (Task Group) was established to assist the RSAC's Engineering Task Force with issues concerning safety glazing. The Task Group discussed glazing during four meetings held throughout 2013. During the Task Group's last meeting, the Group reached consensus on a recommendation to apply safety glazing standards to trainsets operating at speeds up to 220 miles per hour, including requirements applicable to end facing glazing locations that focus on the exposed exterior of the trainsets.

On June 14, 2013, the full RSAC adopted the Task Group's recommendation and presented it to FRA for consideration. Based on FRA's experience enforcing the requirements related to passenger equipment, FRA believes that aspects of the RSAC recommendation are appropriate to adopt generally for all equipment, not only high speed trainsets and is, therefore, proposing to do so in this NPRM. FRA believes it would be helpful to clarify for equipment operating at conventional speeds what exterior locations are intended to be considered end facing glazing locations, so as to reduce the economic burden on the rail industry without adversely impacting safety.

Finally, FRA's review of part 223 identified several compliance phase-in dates in the regulation that have passed and are no longer necessary. To improve the plain language of these requirements and make the regulation more clear and concise, FRA is proposing to remove the dates that have passed.

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.

This is not an information collection per se, and no confidentiality is promised any

respondent.

11. Justification for any questions of a sensitive nature.

Again, this is not an information collection activity per se. The record-keeping does not involve information of a personal nature.

12. Estimate of burden hours for information collected.

Note: There are approximately four (4) manufacturers of locomotives/cars and approximately five (5) manufacturers of glass for locomotives, cabooses, and passenger cars. According to the most recent reporting data in FRA's database, there are approximately 722 railroads operating in the United States on the general system of transportation. Of these, approximately 673 are Class III railroads. The final rule will affect only the Class III railroads. FRA has consulted with both the final rule economist and the agency staff director responsible for Part 223 compliance to determine burden estimates/ any changes to burden estimates from the last approved submission.

223.3 Application

(c) Except as provided in paragraph (b)(3) of this section, this paragraph (c) applies, as specified, to each locomotive, passenger car, and caboose built after 1945 that is more than 50 years old and is used only for excursion, educational, recreational, or private transportation purposes. **(New Requirement)**

(1) Each such passenger car must comply with the emergency window requirements contained in § 223.9(c) or § 223.15(c), as appropriate, when it is occupied and operates in an intercity passenger or commuter train subject to Part 238 of this Chapter. A tool or other instrument may be used to remove or break an emergency window if the tool or other instrument is clearly marked and legible and understandable instructions are provided for its use.

FRA estimates that this requirement will affect approximately 100 railroad cars. Each car will have a minimum of four (4) emergency windows. A total of 400 windows then will need to have tools (usually a small hammer) marked with clear and legible instructions on how to use them mounted near the emergency window. It is estimated that it will take approximately 15 minutes to mark each hammer with instructions and another 15 minutes to mount the hammer with instructions on the wall near the emergency window. Total annual burden for this requirement is 200 hours.

Respondent Universe:	673 railroads
Burden time per response:	30 minutes
Frequency of Response:	On occasion

Annual number of Responses: 400 marked tools (small hammers)
with instructions

Annual Burden:

200
hours

Calculation: 400 marked tools with instructions x
30 min. = 200 hours

§ 223.11 – Requirements for Existing Locomotives

- A. (c) Except for yard locomotives and locomotives equipped as described in paragraphs (a) and (b) of this section, locomotives built or rebuilt prior to July 1, 1980, shall be equipped with certified glazing in all locomotive cab windows. **(Revised Requirement)**

This requirement essentially affects short line railroads that purchase/have purchased locomotives from Class I railroads or large Class II railroads. In total, FRA estimates that approximately 150 locomotives would be impacted by the above requirement. However, these 150 locomotives are already compliant with the above requirement or the railroads owning these 150 locomotives already have FRA approved waivers granted under 49 CFR 209.11. Consequently, there is no additional burden associated with this requirement.

- B. (d) Except for yard locomotives, each locomotive that has a locomotive cab window that is broken or damaged so that the window fails to permit good visibility shall be — **(Revised Requirement)**

(1) Placed in Designated Service within 48 hours of the time of breakage or damage; or

FRA estimates that approximately 15 locomotives with broken or damaged cab windows will be placed in Designated Service within 48 hours of the time of breakage or damage under the above requirement. It is estimated that it will take approximately 30 seconds to place each locomotive in Designated Service. Total annual burden for this requirement is 0.125 hour.

Respondent Universe: 673 Railroads
Burden time per response: 30 seconds
Frequency of Response: On occasion
Annual number of Responses: 15 locomotives placed in Designated

Annual Burden: Service
0.125 hour

Calculation: 15 locomotives placed in Designated Service x 30 sec.
0.125 hour.

(2) Removed from service until the broken or damaged window is replaced with certified glazing. **(Revised Requirement)**

Certified glazing for locomotive replacement windows is done instantly at the time of manufacturing. Consequently, there is no burden associated with this requirement.

Total annual burden for this entire requirement is 0.125 hour.

§ 223.13 - Requirements for Existing Cabooses

- A. (c) Except for yard cabooses and cabooses equipped as described in paragraphs (a) and (b) of this section, cabooses built or rebuilt prior to July 1, 1980, shall be equipped with certified glazing in all windows. **(Revised Requirement)**

As noted previously, this requirement essentially affects short line railroads. In total, FRA estimates that approximately 35 cabooses would be impacted by the above requirement. However, 35 cabooses are already compliant with the above requirement or the railroads owning these 35 cabooses already have FRA approved waivers granted under 49 CFR 209.11. Consequently, there is no additional burden associated with this requirement.

- B. (d) Except for yard cabooses, each caboose that has a window that is broken or damaged so that the window fails to permit good visibility shall be removed from service until the broken or damaged window is replaced with certified glazing. **(Revised Requirement)**

Certified glazing for caboose replacement windows is done instantly at the time of manufacturing. Consequently, there is no burden associated with this requirement.

§ 223.15 – Requirements for Existing Passenger Cars

- A. (c) Except for passenger cars described in paragraphs (a) and (b) of this section, passenger cars built or rebuilt prior to July 1, 1980, shall be equipped with certified glazing in all windows and a minimum of four emergency windows. **(Revised Requirement)**

As noted previously, this requirement essentially affects short line railroads. Any passenger cars affected by this requirement are already compliant or already have FRA approved waivers granted under 49 CFR 209.11. Consequently, there is no additional burden associated with this requirement.

- B. (d) Each passenger car that has a window that is broken or damaged so that the window fails to permit good visibility shall be removed from service until the broken or damaged window is replaced with certified glazing. **(Revised Requirement)**

Certified glazing for passenger car replacement windows is done instantly at the time of manufacturing. Consequently, there is no burden associated with this requirement.

§ 223.17 - Identification of Equipped Locomotives, Passenger Cars, and Caboose

Each locomotive, passenger car, and caboose that is fully equipped with glazing materials that meets the requirements of this Part must be stenciled on an interior wall as follows: “Fully equipped FRA Part 223 glazing” or similar words conveying that meaning in letters at least 3/8 inch high.

This requirement is being eliminated in the revised rule. Consequently, there is no additional burden associated with this requirement.

§ 223.17 - Appendix A

As provided in this Part, certified glazing materials installed in locomotives, passenger cars, or cabooses must be certified by the glazing manufacturer in accordance with the following procedures:

(a) General Requirements. (1) Each manufacturer that provides glazing materials, intended by the manufacturer for use in achieving compliance with the requirements of this Part, shall certify that each type of glazing material being supplied for this purpose has been successfully tested in accordance with this appendix and that test verification data is available to a railroad or to FRA upon request; (2) The test verification data shall contain all pertinent original data logs and documentation that the selection of material samples, test set-ups, test measuring devices, and test procedures were performed by qualified personnel using recognized and acceptable practices and in accordance with this appendix.

(b) Testing Requirements. (1) The material to be tested (Target Materials) shall be a full scale sample of the largest dimension intended to be produced and installed; (2) The Target Material shall be representative of production material and shall be selected on a documented random choice basis . . . (b)(16) After successful completion of the prescribed set of required consecutive tests, a manufacturer may certify in writing that a particular glazing material meets the requirements of these standards.

There are approximately five (5) manufacturers of glazing materials. FRA estimates that each manufacturer will receive approximately two (2) requests per year (or a total of 10) for glazing certification information from the railroads and/or FRA. These figures are

based on conversations with knowledgeable FRA staff. It is estimated that it will take approximately 15 minutes (on average) to respond to a certification request. Total annual burden for this requirement is three (3) hours.

Respondent Universe:	5 manufacturers
Burden time per response:	15 minutes
Frequency of Response:	On occasion
Annual number of Responses:	10 requests
Annual Burden:	

3 hours

Calculation: 10 requests x 15 min. = 3 hours

c. Material Identification. (1) Each individual unit of glazing material must be permanently marked, prior to installation, to indicate that this type of material has been successfully tested as set forth in this appendix and that marking must be done in such a manner that it is clearly visible after the material has been installed; (2) Each individual unit of glazing material that has successfully passed the Type I testing regimen must be marked to indicate: (i) “FRA Type I” material; (ii) the manufacturer of the material; (iii) the type or brand identification of the material; (3) each individual unit of a glazing material that has successfully passed the Type II testing regimen must be marked to indicate: (i) “FRA Type II” material ; (ii) the manufacturer of the material; and (iii) the type or brand identification of the material.

FRA estimates that approximately 25,000 pieces of glass will be identified each year. It is estimated that approximately 480 pieces per hour will be appropriately marked. Total annual burden for this requirement is 52 hours.

Respondent Universe:	5 manufacturers
Burden time per response:	480 pieces per hour
Frequency of Response:	On occasion
Annual number of Responses:	25,000 pieces of glass
Annual Burden:	52 hours

Calculation: 25,000 pieces of glass ÷ 480 p/hr. = 52 hours

Approximately every five years, a new manufacturer is added, or a current manufacturer tests a new material. FRA estimates that it will take approximately 70 man-hours to

conduct the necessary tests, and produce the required test verification data. Total annual burden for this requirement is 14 hours (70 hours divided by 5 years).

Respondent Universe:	5 manufacturers
Burden time per response:	14 hours (5 yr. average)
Frequency of Response:	On occasion
Annual number of Responses:	1 test
Annual Burden:	14 hours

Calculation: 1 test x 14 hrs. = 14 hours

Total annual burden for this entire information collection is 69 hours (0.125 + 3 + 52 + 14).

Total annual burden for this entire information collection is 269 hours (200 + 0.125 + 3 + 52 + 14).

13. Estimate of total annual costs to respondents.

Total estimated cost to the respondents for certification of glazing material is based on the annual cost for providing the certification information to either the railroad or FRA; the manufacturers annual cost associated with marking the individual glazing pieces; and a portion of the cost associated with the testing and certification of new glazing material.

The glazing certification testing for the majority of the existing manufacturers was performed at government expense by FRA at the Transportation Test Center in Pueblo, Colorado. There have been no new certification tests conducted in the last several years to our knowledge. FRA anticipates, however, that approximately every five years a new manufacturer of glazing will be added or a current manufacturer will test a new material and conduct certification tests. The estimated cost is \$7,000 total for Type I and Type II certification (material). Since FRA anticipates that this will only occur once every five years, the total annual cost associated with certification testing will be \$1,400 (\$7,000 divided by 5).

The estimated annual cost to the glazing manufacturers in providing certification information when requested includes the cost to store the results from proof testing in addition to the cost to prepare and forward a statement of certification, including a copy of the test results. Several of the glazing manufacturers have pre-printed copies of the test results which are available upon request; some are included as part of sales promotion information packets. The average annual cost to the respondents to maintain and provide certification information is estimated to be \$3,000 (costs for printing/copying and mailing test data).

The estimated annual cost to the glazing manufacturers associated with marking each

piece of glazing includes the cost necessary to prepare the marking labels along with recordkeeping associated with retaining the required marking information. No additional cost is estimated to affix the label in the material since this is accomplished in conjunction with normal manufacturing processes and requires no special setup time or delays. The average estimated annual cost to the respondents for glazing marking is \$750, which includes the cost for marking material (25,000 labels at \$.03 each).

This is also a new/additional cost under this final rule. Under the new requirement in § 223.3(c), car manufacturers will incur a cost of \$15 for each small hammer marked with instructions (\$10 per hammer + \$5 for instructions) mounted near each emergency windows of the 100 affected cars. This cost comes to **\$6,000** (400 emergency windows with marked tools x \$15).

The total estimated additional cost to respondents is **\$11,150** (1,400 + 3,000 + 750 + 6,000).

14. Estimate of Cost to Federal Government.

Currently, there is no cost to the Federal Government in connection with the certification of glazing materials.

15. Explanation of program changes and adjustments.

Total burden for this information collection submission has increased by **150 hours** from the last approved submission. The change in burden hours and responses is due solely to three (3) **program changes**, detailed in the table below:

TABLE FOR PROGRAM CHANGES

Part 223	Responses & Avg. Time (Previous Submission)	Responses & Avg. Time (This Submission)	Burden Hours (Previous Submission)	Burden Hours (This Submission)	Difference (plus/minus)
223.3(c) – Passenger Car Emergency Windows: Marked Tools with Legible and Understandable Instructions Near Them to Remove/Break Window in Case of Emergency for Passenger Cars	N/A	400 marked tools with legible & clear instructions 30 minutes	0 hours	200 hours	+ 200 hours + 400 responses

Built After 1945 that are More than 50 Years Old (New Requirement)					
223 .11(d)– Locomotives with broken or damaged windows placed in Designated Service w/in 48 hours of breakage/ Damage (Revised Requirement)	0 locomotive designations	15 locomotive designations 30 seconds	0 seconds	30 seconds	+ 0.125 hour + 15 responses
223 .17– ID by Stenciling on interior wall of locomotives, passenger cars, and cabooses fully equipped with glazing materials that meets Part 223 requirements (Eliminated)	N/A	200 stencils/metal plates 15 minutes	0 hours	50 hours	-- 50 hours -- 200 responses

The **program changes** above increased the burden by *150 hours* and increased the number of *responses* by *215*.

The correct current inventory exhibits a burden total of *119 hours*, while the present submission reflects a burden total of *269 hours*. Hence, there is a total burden increase of *150 hours*.

The cost to respondents has increased by \$4,600 from the last approved submission (from a total cost of \$6,550 to \$11,150). This change in cost is due to two **program changes**. First, FRA removed the glazing requirement under § 223.17 for stenciling the interior walls of locomotives, passenger cars, and cabooses deeming this requirement no longer necessary. This decreased the cost by **\$1,400** (for purchasing 200 preprinted metal plates). Second, under the final rule, FRA added a new requirement under § 223.23(c) regarding the provision of marked tools (usually small hammers with instructions) near each emergency window in locomotives, passenger cars, and cabooses. This requirement increased the cost by **\$6,000**. Hence, there is a net increase in cost of **\$4,600** to respondents. (Note: In the OMB inventory, the cost to respondents for the previous submission was rounded off to \$7,000 although the actual cost to respondents was \$6,550. So, ROCIS will show a cost difference of \$4,150 when the actual cost difference is \$4,600. This discrepancy of \$450 then is nothing more than a rounding difference or error.)

16. Publication of results of data collection.

This is not an information collection activity per se, and the agency does not plan to publish this information for statistical use.

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

Once OMB approval is received, FRA will publish the approval number for these information collection requirements in the Federal Register.

18. Exception to certification statement.

No exceptions are taken at this time.

Meeting Department of Transportation (DOT) Strategic Goals

This information collection supports the main DOT strategic goal, namely transportation safety. Without this collection of information, rail safety throughout the U.S. might be significantly impeded. Specifically, the safety of train crews and the traveling public might be jeopardized because units of glazing material were installed on the windows of freight, passenger cars, and cabooses which did not meet Federal safety standards. If such glazing materials were used, train crews and passengers might suffer greater injuries – possibly higher fatalities – in the event of an accident/incident where substandard or defective glass shattered. Also, train crews and passengers might suffer significant injuries – possibly even fatalities – in cases where projectiles hit trains traveling at a high rate of speed, and the glazing material of these windows could not withstand the impact.

The collection of information promotes safety by assuring railroads and FRA that the glazing materials used on the windows of every passenger car, freight car, and caboose have been tested and meet Federal safety standards. The collection of information further promotes safety by providing FRA and railroads with the name of the manufacturer and the type of material should problems/deficiencies arise with a given glazing material. In the event defective glazing material is discovered, FRA could then apprise the entire railroad community so that they could take appropriate action to protect passengers and train crews.

In summary, this collection of information enhances railroad safety by providing an additional layer of protection relating to a key component of all locomotives, passenger cars, and freight cars that comprise the totality of passenger and freight movement in this country. It furthers DOT's goal of promoting the public health and safety by working toward the elimination of transportation-related deaths, injuries, and property damage.

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