

FEDERAL RAILROAD ADMINISTRATION
Metrics and Minimum Standards for Intercity Passenger Rail Service (49 CFR 273)
SUPPORTING JUSTIFICATION
RIN 2130-AC85; OMB No. 2130-NEW

Summary of Submission

- This an emergency information collection request.
- This is a new collection of information solely associated with the Federal Railroad Administration's (FRA) Final Notice of Rulemaking (FN) titled Metrics and Minimum Standards for Intercity Passenger Rail Service (49 CFR Part 273).
- FRA published this FN in the **Federal Register** on November 16, 2020. See 85 FR 72983. FRA published the emergency notice for this collection in the **Federal Register** on November 23, 2020. See 85 FR 74783.
- The total number of **burden hours requested** for this submission is **49 hours**.
- The total number of **responses requested** for this submission is **19**.

1. Circumstances that make collection of the information necessary.

On October 16, 2008, President George W. Bush signed the Passenger Rail Investment and Improvement Act of 2008, Pub. L. 110-432, 122 Stat. 4907 (PRIIA) into law. Section 207 of PRIIA requires FRA and Amtrak jointly to develop new or improved metrics and minimum standards for measuring the performance and service quality of intercity passenger train operations, including cost recovery, on-time performance and minutes of delay, ridership, on-board services, stations, facilities, equipment, and other services.

Section 207 also calls for consultation with the Surface Transportation Board (STB), rail carriers over whose rail lines Amtrak trains operate, States, Amtrak employees, and groups representing Amtrak passengers, as appropriate.

Section 207 further provides that the metrics, at a minimum, must include: the percentage of avoidable and fully allocated operating costs covered by passenger revenues on each route; ridership per train mile operated; measures of on-time performance and delays incurred by intercity passenger trains on the rail lines of each rail carrier; and, for long-distance routes, measures of connectivity with other routes in all regions currently receiving Amtrak service and the transportation needs of communities and populations that are not well-served by other forms of intercity transportation.

Section 207 also provides that the Federal Railroad Administrator must collect the necessary data and publish a quarterly report on the performance and service quality of intercity passenger train operations, including Amtrak's cost recovery, ridership, on-time performance and minutes of delay, causes of delay, on-board services, stations, facilities, equipment, and other services.

In connection with the Congressional mandate, FRA's Metrics and Minimum Standards for Intercity Passenger Rail Service final rule sets forth a number of metrics. This emergency information request is for only two (2) of those metrics. A separate information collection request will be submitted at a later date, covering all information collections required under the final rule, which includes Amtrak reporting data to FRA associated with a total 17 of these metrics on a quarterly basis and 4 on an annual basis.

This emergency request is only for Sections 273.5(b) Ridership data and 273.5(c) Certified schedule. The ridership data metric is the number of host railroads to whom Amtrak has provided ridership data, reported by host railroad and by month. This data must be submitted to FRA in December 2020 and then by the 15th day of each month thereafter. The Certified Schedule metric is the number of certified schedules, uncertified schedules, and disputed schedules reported by train, by route, and by host railroad (excluding switching and terminal railroads), identified in a notice to FRA by Amtrak. The Certified Schedule metric is due not later than December 16, 2020 and will subsequently be submitted monthly for six months, again in November 2020, and every 12 months thereafter.

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

This is a new collection of information. As stated, section 207 requires the Federal Railroad Administrator to collect data and publish a quarterly report on the performance and service quality of intercity passenger train operations, including Amtrak's cost recovery, ridership, on-time performance and minutes of delay, causes of delay, on-board services, stations, facilities, equipment, and other services.

3. Extent of automated information collection.

FRA strongly encourages and highly endorses the use of advanced information technology, wherever possible, to reduce burden on respondents. As such, with respect to all of Amtrak's reports to FRA, Amtrak may use advanced information technology.

4. Efforts to identify duplication.

FRA is not aware of any other relevant rules that may duplicate, overlap, or conflict with the final rule. Similar data are not available from any other source.

5. Efforts to minimize the burden on small businesses.

The Regulatory Flexibility Act of 1980 (RFA) (5 U.S.C. 601 et seq.) and Executive Order 13272 (67 FR 53461, Aug. 16, 2002) require agency review of proposed and final rules to assess their impacts on small entities. When an agency issues a rulemaking proposal, the RFA requires the agency to “prepare and make available for public comment an initial regulatory flexibility analysis” which will “describe the impact of the proposed rule on small entities.” (5 U.S.C. §. 603(a)).

Section 605 of the RFA allows an agency to certify a rule, in lieu of preparing an analysis, if the proposed rulemaking is not expected to have a significant economic impact on a substantial number of small entities. Out of an abundance of caution, FRA prepared an initial regulatory flexibility analysis to accompany the NPRM, which noted no expected significant economic impact on a substantial number of small entities. In the final rule, FRA certified that it will not have a significant economic impact on a substantial number of small entities.

Description of Small Entities Impacted by the Final Rule

In consultation with the SBA, FRA has published a final statement of agency policy that formally establishes “small entities” or “small businesses” as railroads, contractors, and hazardous materials shippers that meet the revenue requirements of a Class III railroad as set forth in 49 CFR 1201.1-1, which is \$20 million or less in inflation-adjusted annual revenues, and commuter railroads or small governmental jurisdictions that serve populations of 50,000 or less. See 68 FR 24891 (May 9, 2003) (codified at appendix C to 49 CFR part 209). FRA is using this definition for the final rule.

This final rule impacts Amtrak and Amtrak’s host railroads. This rule establishes a customer OTP metric and a certified schedule metric, which will likely result in modifications to some of Amtrak’s published train schedules. Amtrak is not a small entity and the majority of the host railroads are Class I railroads or State Departments of Transportation, none of which are small entities. There are currently 12 host railroads that are small entities, including approximately 8 switching and terminal railroads and 4 short line or regional railroads. There are approximately 695 class III railroads on the general system. Therefore, the 12 small entities potentially affected by this final rule are not considered a substantial number of small entities.

6. Impact of less frequent collection of information.

By law, Amtrak is required to report information in connection with the metrics to FRA on a quarterly basis. The collections that are the subject of this emergency request are monthly collections that begin in December, 2020 to ensure that: the host railroads have sufficient information to review the Amtrak train schedules in connection with the customer on-time performance metric and standard in the final rule; and that FRA is kept

regularly informed of the progress being made in connection with the important schedule certification process. The ridership data metric enables host railroads to better understand their performance in hosting Amtrak trains under the customer on-time performance metric and standard. In addition, as to the certified schedule metric, while it includes monthly reporting for the first six months after enactment of the final rule, the metric then provides for annual reporting beginning one year after enactment.

7. Special circumstances.

All information collection requirements are in compliance with this section.

8. Compliance with 5 CFR 1320.8.

FRA published a final rule in the **Federal Register** on November 16, 2020, titled Metrics and Minimum Standards for Intercity Passenger Rail Service.

9. Payments or gifts to respondents.

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

10. Assurance of confidentiality.

The agency is required to make available documents and information collected in compliance with the regulation to those individuals making formal requests under the Freedom of Information Act. FRA does not actively solicit or encourage such requests.

Information collected is not of a confidential nature, and FRA pledges no confidentiality.

11. Justification for any questions of a sensitive nature.

There are no questions or information of a sensitive nature or data that would normally be considered private matters contained in this rule.

12. Estimate of burden hours for information collected.

The following chart lists the specific information that must be provided to FRA from Amtrak and the frequency in which it must be submitted. The details of each metric and how it should be calculated are listed in the Final Rule as indicated by the CFR section citation provided. There are no forms associated with the collection of this information.

CFR Section	Respondent universe	Total Annual responses	Average time per responses	Total annual burden hours	Total cost equivalent¹
273.5(b)—Ridership data	1 railroad	12	1 hour	22 hours (10 hour start-up burden + average response time)	\$1,704
273.5(c)—Certified schedule	1 railroad	7	1 hour	27 hours (20 hour start-up burden + average response time)	\$2,092
Total	1 railroad	19	1 hour	49 hours	\$3,796

The total estimated annual burden for this entire information collection is **49** hours. The dollar equivalent cost for these estimated burden hours is **\$3,796**.

13. Estimate of total annual costs to respondents.

There are no additional costs to respondents other than the hour burden costs.

14. Estimate of Cost to Federal Government.

This proposed rule does not increase the cost to the Federal Government.

15. Explanation of program changes and adjustments.

This is a new collection of information associated with FRA’s final rule that adds new sections under Part 273. The total burden requested for this submission amounts to 49 hours, and the total number of responses requested is 19. By definition, the entire requested burden is a program change.

16. Publication of results of data collection.

FRA will include the results of this data collection in the FRA quarterly reports required by Congress under section 207(c) of PRIIA.

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 a Notice in the Federal Register.

18. Exception to certification statement.

No exceptions are taken at this time regarding this information collection.

¹ The dollar equivalent cost is derived from the Surface Transportation Board’s Full Year Wage A&B data series using the appropriate employee group hourly wage rate that includes a 75-percent overhead charge.