

1111 FEDERAL RAILROAD ADMINISTRATION
Railroad Noise Emission Compliance Regulations
(Title 49 Code of Federal Regulations (CFR) Part 210)
SUPPORTING JUSTIFICATION
OMB Control No. 2130-0527

Summary of Submission

- This submission is a request for an extension without change (with changes in estimates) of the last three-year approval granted by the Office of Management and Budget (OMB) on May 23, 2019, which expires May 31, 2022.
- The Federal Railroad Administration (FRA) published the required 60-day Federal Register Notice on January 14, 2022. See 87 FR 2482. FRA received no comments in response to this Notice.
- Overall, the adjustments decreased the burden by 2,235 hours and decreased responses by 745 after a thorough review of the data.
- The answer to question number 12 itemizes all information collection requirements.
- The answer to question number 15 itemizes all adjustments.

1. Circumstances that make collection of the information necessary.

Under authority granted by the Noise Control Act of 1972 (86 Stat. 1234, Pub. L. 92-574), the Environmental Protection Agency (EPA) has established limits for noise emissions related to rail carriers in 40 CFR part 201. Those limits are enforced by FRA under 49 CFR part 210.¹ Part 210 requires railroads to certify that locomotives built after December 31, 1979 comply with locomotive noise emission standards.

FRA continually reviews and revises its regulations to ensure the regulatory burden on the rail industry is not excessive, to clarify the application of existing requirements, to remove requirements no longer necessary, and to keep pace with emerging technology, changing operational realities, and safety concerns. For instance, in 2019, FRA published a final rule eliminating the requirement that certain locomotives display a badge or tag to demonstrate the railroad has certified the locomotives comply with noise emission standards.² By removing the badge or tag requirement, it reduced economic burdens on the rail industry.³

¹ 41 FR 49183 (Nov. 8, 1976).

² 84 FR 15142 (April 15, 2019).

³ Id.

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

The information collection under § 210.27 is necessary to ensure compliance with EPA noise standards for new locomotives. Although railroads no longer need to display a certification badge or tag in the locomotive cab, as was previously required by now-removed § 210.27(d), the locomotives still need to be tested and certified to comply with the noise emission standards, as required under § 210.27(a)-(c).

3. Extent of automated information collection.

FRA strongly encourages the use of advanced information technology, wherever feasible, to reduce burden on respondents.

The amount and type of information required by this collection does not require elaborate information processing. Additionally, new technology has already been developed to reduce noise emissions of new locomotives by the use of exhaust silencers. As a result, there has been no additional paperwork burden because of failures caused by the certification requirement.

4. Efforts to identify duplication.

This information is not duplicated anywhere. FRA is the sole Federal agency requiring noise emission certification for new locomotives.

Similar data are not available for 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 § 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) includes not-for-profit enterprises that are independently owned and operated, and are not dominant in their field of operations within the definition of “small entities.” Additionally, § 601(5) defines as “small entities” 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 a for-profit railroad business firm may be (and still classify as a “small entity”) is 1,500 employees for “Line-Haul Operating” railroads, and 500 employees for “Short-Line Operating” railroads.

SBA size standards may be altered by Federal agencies 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, which formally establishes small entities as railroads that meet the line haulage revenue requirements of a Class III railroad. 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 carrier, which is adjusted by applying the railroad revenue deflator adjustment. The same dollar limit on revenues is established to determine whether a railroad shipper or contractor is a small entity.

FRA estimates there are 704 Class III railroads, most of which will be affected by this final rule. Most Class III railroads do not purchase new locomotives; rather, they purchase used locomotives from Class I and Class II railroads. Therefore, any badges required will have already been installed by the larger railroad. If a small railroad did purchase a new locomotive, however, they will save money because the badge will no longer be required. Small railroads will benefit since they will not need to replace badges as they age or when locomotives are overhauled. Therefore, any impact on small railroads will likely be small and entirely beneficial.

6. Impact of less frequent collection of information.

If this information is not collected or is collected less frequently, communities around the nation might suffer from excessive locomotive and rail car noise and the deleterious effects on health and quality of life that such noise brings. Requiring new locomotives to be certified as meeting certain minimum standards can aid in reducing harmful noise levels.

Additionally, this information collection provides a necessary and important monitoring tool for both FRA and the EPA.

7. Special circumstances.

All information collection requirements are in compliance with this section.

8. Compliance with 5 CFR 1320.8.

As required by the Paperwork Reduction Act of 1995 (PRA) and 5 CFR 1320, FRA published a notice in the Federal Register on January 14, 2022, soliciting comment on these information collection requirements from the public, railroads, and other interested parties.⁴ FRA received no comments in response to this notice.

Consultations with representatives of the affected population:

⁴ 87 FR 2482.

As a part of FRA's oversight and enforcement of the Noise Emission Compliance Regulations, individuals from the railroad industry are generally in direct contact with the FRA's inspectors at the time of the site inspection and can provide any comments or concerns to them.

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.

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

11. Justification for any questions of a sensitive nature.

This information collection does not contain any questions of a personal or sensitive nature.

12. Estimate of burden hours for information collected.

The estimates for the respondent universe, annual responses, and average time per responses are based on the experience and expertise of FRA's Office of Railroad Infrastructure and Mechanical Equipment.

The total annual burden hours, under the fifth column, is calculated by multiplying total annual responses by average time per responses. For example, 4 requests * 30 minutes = 2 hours.

The total cost equivalent, under the sixth column, is calculated by multiplying total annual burden hours by the appropriate employee group hourly wage rate that includes a 75-percent overhead charge.⁵ For example, 2 hours * \$77.44 = \$155 (rounded to the nearest dollar).

CFR Section	Respondent universe	Total annual responses (A)	Average time per response (B)	Total annual burden hours (C) = A * B	Total cost equivalent (D) = C * wage rate	PRA Analyses and Estimates
210.11—Waivers	FRA anticipates zero waivers.					
210.27(a)-(c)—New	4 locomotive	4	30	2	\$155	A railroad shall not operate a

⁵ Source: Surface Transportation Board's 2020 Full Year Wage A&B data series.

locomotive certification— Request for certification	manufacturers	requests	minutes	hours		locomotive built after December 31, 1979, unless the locomotive has been certified to be in compliance with the Standards. It is estimated that it will take the locomotive manufacturers about 30 minutes to send the required information.
210.31—Operation standards (stationary locomotives at 30 meters)—Recorded locomotive noise emission test under the "Remarks" section on the reverse side of Form FRA F 6180.49	The estimated paperwork burden for recording locomotive noise emission tests is under OMB control number 2130-0004 under the "Remarks" section on the reverse side of Form FRA F 6180.49A.					
Total	4 locomotive manufacturers	4 responses	N/A	2 hours	\$155	

13. Estimate of total annual costs to respondents.

There is no additional cost to the respondents in connection with the certification of noise emissions.

14. Estimate of Cost to Federal Government.

There is no cost to the Federal government in connection with the certification of noise emissions.

15. Explanation of program changes and adjustments.

This is an extension without change (with changes in estimates) to a current collection of information (ICR).

The current OMB inventory for this information collection shows a total burden of 2,237 hours and 749 responses, while the requesting inventory estimates a total burden of 2 hours and 4 responses. Overall, the burden for this submission has decreased by 2,235 hours and increased by 745 responses. There is no change in the method of the collection. The decrease in burden hours is solely the result of adjustments.

As part of its review of this ICR renewal, FRA determined the 2018 estimates incorrectly included the time associated with the testing. For instance, under § 210.31, the burdens

associated with testing have been addressed when FRA calculated the economic costs of the regulatory requirements. Additionally, the burden associated with the test records are covered under OMB control number 2130-0004. Thus, FRA has adjusted the estimated paperwork burden for this ICR accordingly so that it does not include activities outside of the scope of the PRA.

CFR Section	Total annual responses			Total annual burden hours		
	Previous submission (Average time per response)	Current submission (Average time per response)	Difference	Previous submission	Current submission	Difference
210.31— Operation standards (stationary locomotives at 30 meters)— Recorded locomotive noise emission test under the "Remarks" section on the reverse side of Form F 6180.49	745 Forms/records (3 hours)	0	-745 records	2,235 hours	0	-2,235 hours
PRA Analyses and Estimates	The estimated paperwork burden for this regulatory requirement is covered under OMB control number 2130-0004. Specifically, the estimated paperwork burden for recording locomotive noise emission test is covered under the "Remarks" section on the reverse side of Form FRA F 6180.49A.					

16. Publication of results of data collection.

FRA does not plan to publish the information collected.

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

FRA is not seeking approval to not display the expiration date.

18. Exception to certification statement.

No exceptions are taken at this time.