

1 FEDERAL RAILROAD ADMINISTRATION
Passenger Train Emergency Systems
(Title 49 Code of Federal Regulations Part 238)
SUPPORTING JUSTIFICATION
OMB Control No. 2130-0576

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 October 15, 2020, which now expires on October 31, 2023.
- The Federal Railroad Administration (hereafter “FRA” or “the Agency”) published the required 60-day Notice in the Federal Register (FR) on August 8, 2023. See 88 FR 53582. FRA received no comments in response to this Notice.
- Overall, the adjustments decreased the burden by 104 hours and increased responses by 25 after a thorough review of the data.
- The answer to question 12 itemizes all information collection requirements.
- The answer to question 15 itemizes all adjustments.

1. Circumstances that make collection of the information necessary.

In September of 1994, the Secretary of Transportation (the Secretary) 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.⁷ The Secretary of Transportation delegated these rulemaking responsibilities to the Federal Railroad Administrator.⁸

Pursuant to § 215 of the Act, FRA issued a Passenger Train Emergency Preparedness final rule on May 4, 1998.⁹

⁷ 49 U.S.C. 20133.

⁸ See 49 CFR 1.49(m).

⁹ 63 FR 24629.

The rule contained 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. In addition, this rule established specific requirements for passenger train emergency systems, as well as specific requirements for debrief and critique sessions following emergency situations and full-scale simulations.

In 1999, FRA issued the Passenger Equipment Safety Standards (PESS) final rule¹⁰. This rule established comprehensive safety standards for railroad passenger equipment. FRA responded to the petitions and published three sets of amendments to the final rule in the Federal Register.¹¹

In 2008, FRA published a final rule¹² on Passenger Train Emergency Systems addressing emergency communication, emergency egress, and rescue access. The rule expanded the applicability of requirements for public address systems and intercom systems to all passenger cars, and for emergency responder roof access to all new passenger cars. Furthermore, the rule enhanced existing requirements for emergency window exits and established requirements for rescue access windows used by emergency responders.

In 2013, FRA issued a final rule that added requirements for emergency passage through vestibule and other interior passageway doors and enhanced emergency egress and rescue signage requirements.¹³ FRA also established requirements for low-location emergency exit path markings to assist occupants in reaching and operating emergency exits, particularly under conditions of limited visibility. Moreover, FRA added standards to ensure that emergency lighting systems are provided in all passenger cars and enhanced requirements for the survivability of emergency lighting systems in new passenger cars.

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

FRA will use the information collected under 49 CFR part 238 to prevent collisions, derailments, and other occurrences involving railroad passenger equipment that cause injury or death to railroad employees, railroad passengers, or the general public, and to mitigate the consequences of such occurrences to the extent they cannot be prevented. Part 238 prescribes the minimum Federal safety standards for

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64 FR 25540 (May 12, 1999).

¹¹65 FR 41284; 67 FR 19970; and 67 FR 42892.

¹²73 FR 6370 (Feb. 1, 2008).

¹³78 FR 71785 (November 29, 2013).

railroad passenger equipment, and all railroads subject to this part are responsible for compliance with such standards.

The information collected under part 238 supports FRA's efforts to improve railroad safety by promoting the safe resolution of emergency situations involving passenger trains, including the evacuation of passengers and crewmembers in the event of an emergency.

The details of each paperwork requirement are covered under question 12 of this document.

3. Extent of automated information collection.

FRA strongly encourages the use of advanced information technology, wherever feasible, to reduce the burden on respondents. It should be noted that the great majority of responses, and associated estimated paperwork burdens, involve markings/instructions of windows and doors.

4. Efforts to identify duplication.

We are not aware of any duplication of the information collection requirements in this ICR. Similar data are not available from any other source.

5. Efforts to minimize the burden on small businesses.

With respect to passenger emergency systems, there are two intercity passenger railroads subject to this information collection request (ICR), the National Railroad Passenger Corporation (Amtrak) and Alaska Railroad, of which, neither can be considered a small entity. Amtrak is a Class I railroad and Alaska Railroad is a Class II railroad. Alaska Railroad is owned by the State of Alaska, which has a population well above 50,000. There are 34 commuter or other short-haul passenger railroad operations in the United States also subject to this ICR. Most of these commuter railroads are part of larger transit organizations that receive Federal funds and serve major metropolitan areas with populations greater than 50,000. All other passenger railroad operations in the United States are part of larger governmental entities, whose service jurisdictions exceed 50,000 in population. Based on the definition, they are not considered to be small entities¹⁴.

¹⁴ "Small entity" is defined in 5 U.S.C. 601. Section 601(6) defines "small entity" as having "the same meaning as the terms 'small business,' 'small organization,' and 'small governmental jurisdiction.'" Section 601(3) defines a "small business" as having the same meaning as a "small business concern" under Section 3 of the Small Business Act. Section 601(4) defines "small organization" as "any not-for-profit enterprise which is independently owned and operated and is not dominant in its field." Section 601(5) defines "small governmental jurisdiction" as "governments of cities, counties, towns, townships, villages, school districts, or special districts with a population of less than fifty thousand."

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 public and train crews might suffer more serious injuries, and possibly death, if they could not quickly determine how to evacuate a train safely, and efficiently 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 occurrence. Any delay in the quick and efficient exit of such passenger cars could potentially cause numerous injuries and fatalities to the American public.

Also, without this collection of information, passenger cars might not have enough 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 must 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 the necessary actions they must take, and railroad passengers and train crews would be unable to talk to one another in such an emergency situation.

As with emergency access windows, emergency roof access must 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

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 remain classified as a “small entity”) is 1,500 employees for “Line-Haul Operating” railroads and 500 employees for “Short-Line Operating” railroads. 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, which formally establishes small entities as railroads that meet the line haulage revenue requirements of a Class III railroad. FRA used this definition along with the stipulation on government entities or agencies that serve small communities as stated above.

imperative that each emergency roof access location be conspicuously marked with HPPL material, and that legible and understandable instructions be posted at or near each location.

The benefits of the information collected corresponds to a reduction of casualties and fatalities in the aftermath of collisions, derailments, and other emergency situations.

7. **Special circumstances.**

This information collection does not have any special circumstances.

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 August 8, 2023¹⁵, soliciting comment from the public, railroads, and other interested parties on these information collection requirements. FRA received no comments from the public.

Consultations with representatives of the affected population:

As a part of FRA's oversight and enforcement, individuals from the railroad industry are generally in direct contact with FRA's inspectors at the time of site inspections 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 information collection request.

10. **Assurance of confidentiality.**

The information collected is not of a confidential nature and FRA pledges no assurance of confidentiality.

11. **Justification for any questions of a sensitive nature.**

The information collection does not contain any data of a personal or sensitive nature.

¹⁵ 88 FR 53581

12. Estimate of burden hours for information collected.

The estimates for the respondent universe, annual responses, and average time per response are based on the experience and expertise of FRA’s Office of Railroad Safety.

CFR Section	Respondent universe	Total annual responses (A)	Average time per response (B)	Total annual burden hours (C = A * B)	Total cost equivalent in U.S. dollar (D = C * wage rates) ¹⁶	PRA Analyses and Estimates
238.112—Door emergency egress and rescue access systems: —Markings, signage, instructions	34 railroads	2,250 markings/ signs/ instructions	5 minutes	187.50 hours	\$16,111.88	(1) Prior to January 28, 2015, 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 January 28, 2015, all door exits intended for emergency egress shall be marked, and instructions provided for their use, as specified in § 238.125. FRA estimates, after careful review, that it will take approximately 5 minutes for each marking.

¹⁶ The dollar equivalent cost is derived from the 2022 Surface Transportation Board Full Year Wage A&B data series using employee group 200 (Professional & Administrative) hourly wage rate of \$49.10. The total burden wage rate (straight time plus 75%) used in the table is \$85.93 (\$49.10 x 1.75 = \$85.93).

<p>—(e) Passenger car exterior doors intended for emergency access by responders marked with retro-reflective material and instructions provided for their use</p>	<p>34 railroads</p>	<p>2,250 exterior door markings</p>	<p>5 minutes</p>	<p>187.50 hours</p>	<p>\$16,111.88</p>	<p>(1) Prior to January 28, 2015, all doors intended for access by emergency responders shall be marked on the exterior of the car with retroreflective material, and legible and understandable instructions shall be posted at or near each such door. (2) On or after January 28, 2015, all doors intended for access by emergency responders shall be marked, and instructions provided for their use, as specified in § 238.125. FRA estimates, after careful review, that it will take approximately 5 minutes to mark each exterior door.</p>
<p>—(f)(5) Markings and instructions—interior doors/removable panels or windows</p>	<p>34 railroads</p>	<p>1,500 marked panels /windows</p>	<p>5 minutes</p>	<p>125.00 hours</p>	<p>\$10,741.25</p>	<p>Each removable panel or removable 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 American Public Transportation Association (APTA) 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</p>

						<p>instructions shall be posted on each side of the door at each such panel or window.</p> <p>FRA estimates, after careful review, that it will take approximately 5 minutes to mark each interior door/panel or window.</p>
—(f)(6) Testing of car door removable panels, removable windows, manual override devices, & door retention mechanisms as part of periodic mechanical inspection. The sampling method must conform with a formalized statistical test method.	<p><i>The estimated paperwork burden for this requirement is included under § 238.307(e)(1), OMB Control No. 2130-0544.</i></p>					
238.113(d)—Emergency window exits—Markings/and instructions	34 railroads	60 window markings	15 minutes	15.00 hours	\$1,288.95	<p>(1) Prior to January 28, 2015, 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.</p> <p>(2) On or after January 28, 2015, each emergency window exit shall be marked, and instructions provided for its use, as specified in § 238.125.</p> <p>(3) If window removal may be hindered by the presence of a seatback, headrest, luggage rack, or other fixture, the</p>

						<p>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 (2) of this section.</p> <p>FRA estimates, after careful review, that it will take approximately 15 minutes to mark each window emergency exit.</p>
—(e) Periodic Testing of representative sample of car emergency exit windows as part of periodic mechanical inspection. The sampling method must conform with a formalized statistical test method.	<i>The estimated paperwork burden for this requirement is included under § 238.307(e)(1), OMB Control No. 2130-0544.</i>					
238.114(d)—Rescue access windows—Markings with retro-reflective material on each exterior car	34 railroads	1,500 access window markings	5 minutes	125.00 hours	\$10,741.25	<p>(1) Prior to January 28, 2015, each rescue access window shall be marked with retroreflective material on the exterior of each car. A unique and easily recognizable symbol, sign, or other conspicuous marking shall also be used to identify each such window. Legible and understandable window-access instructions, including instructions for removing the window, shall be posted at or near each rescue access window.</p> <p>(2) On or after January 28, 2015, each</p>

						<p>rescue access window shall be marked, and instructions provided for its use, as specified in § 238.125.</p> <p>FRA estimates, after careful review, that it will take approximately 5 minutes to mark each rescue access window.</p>
238.121(b)—Emergency communications—Marking of each intercom intended for passenger use on new Tier I & Tier II passenger cars	34 railroads	375 marked intercom locations	5 minutes	31.25 hours	\$2,685.31	<p>(i) Prior to January 28, 2016, 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.</p> <p>(ii) On or after January 28, 2016, each intercom intended for passenger use shall be marked in accordance with section 5.4.2 of APTA 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.</p> <p>FRA estimates, after careful review, that it will take approximately 5 minutes to mark each intercom.</p>
238.123(e)—Marked	34	150	30 minutes	75.00	\$6,444.75	Prior to January 28, 2015, each

emergency roof access locations	railroads	marked emergency roof access locations		hours		<p>emergency roof access location shall be conspicuously marked with retroreflective material of contrasting color. As further specified, legible and understandable instructions shall be posted at or near each such location.</p> <p>On or after January 28, 2015, each emergency roof access location shall be marked, and instructions provided for its use, as specified in § 238.125.</p> <p>FRA estimates, after careful review, that it will take approximately 30 minutes to mark each emergency roof access location.</p>
238.303—Exterior calendar day mechanical inspection of passenger equipment: Replacement of missing, illegible, or inconspicuous markings, signage, & instructions	<i>The estimated paperwork burden for this requirement is included under § 238.303(e)(15), OMB Control No. 2130-0544.</i>					
—Record of Non-complying marking, signage, or instruction	<i>The estimated paperwork burden for this requirement is included under 238.303(g), OMB Control No. 2130-0544.</i>					
238.305—Interior calendar day mechanical inspection of passenger cars:	<i>The estimated paperwork burden for this requirement is included under § 238.305. OMB Control No. 2130-0544.</i>					
—(c)(10), (12), and (13) Written notification to train crew of non-complying condition	34 railroads	250 notices	2 minutes	8.33 hours	\$715.80	A noncomplying car may continue in passenger service pursuant to paragraph (d) of this section—If the train crew are provided written notification of the

						noncomplying condition. FRA estimates, after careful review, that it will take approximately 2 minutes for each written notice.
—(c)(13)(i) Written procedure for mitigating hazards of non-complying condition	<i>The estimated burden for this requirement is included under § 270.103, OMB Control No. 2130-0599.</i>					
238.307—Records of inspection, testing, and maintenance of passenger car emergency window exits	<i>The estimated paperwork burden for this requirement is included under §238.307(e)(1), OMB Control No. 2130-0544.</i>					
238.311—Single Car Test: RR Copy of APTA Standard (SS-M-005-98) for RR Head Trainer	<i>All the members have the option to obtain a copy of APTA’s Standard on APTA’s website for free.</i>					
—Other RR copies of APTA Standard	<i>All the members have the option to obtain a copy of APTA’s Standard on APTA’s website for free.</i>					
Total ¹⁷	34 railroads	8,335 responses	N/A	755 hours	\$64,841	

13. Estimate of total annual costs to respondents.

FRA estimates that railroads will incur costs to meet the requirements under section 238.112 associated with marking and posting instructions on emergency egress doors and marking/posting instructions on removable panels in car

¹⁷Totals may not add up due to rounding.

vestibule doors. The hourly wage rate used to calculate cost to respondents is from the 2022 Surface Transportation Board Full Year Wage A&B data series using employee group 400, (Maintenance of Equipment & Stores), hourly wage rate of \$38.35. The total burden wage rate (straight time plus 75%) is \$67.11 ($\$38.35 \times 1.75 = \67.11).

FRA estimates that approximately 7,700 cars will be affected by this requirement. FRA estimates that it will cost \$130.68 per car to complete the marking requirements [$(\$5 \text{ per sign/markings} + (0.25 \text{ hours labor} \times \$67.11 \text{ per hour}) \times 6 \text{ signs/markings per car} = \130.68].

TOTAL COST = \$1,006,236 (7,700 cars x \$130.68)

14. Estimate of Cost to Federal Government.

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.

This is an extension without change (with changes in estimates) to a current ICR. The current OMB inventory for this ICR shows a total burden of 859 hours and 8,310 responses, while the requesting inventory estimates a total burden of 755 hours and 8,335 responses. Overall, the burden for this submission has decreased by 104 hours and increased responses by 25.

CFR Section	Total Annual Responses (A)			Total Annual Burden Hours			PRA Analyses and Estimates
	Previous Submission	Current Submission	Difference	Previous Submission	Current Submission	Difference	

238.123(e)— Marked emergency roof access locations	375.00 marked emergency roof access locations (30.00 minutes)	150.00 marked emergency roof access locations (30.00 minutes)	-225.00 marked emergency roof access locations	187.50 hours	75.00 hours	-112.50 hours	The decrease in burden is due to an adjustment. FRA anticipates, after careful review, that the number of annual reporting of legible markings and instruction in passenger cars will decrease during this 3- year ICR period.
—(c)(10), (12), and (13) Written notification to train crew of non- complying condition	.00 notices (.00 minutes)	250.00 notices (2.00 minutes)	250.00 notices	.00 hours	8.33 hours	8.33 hours	The increase in burden is due to an adjustment. FRA anticipates, after careful review, that the number of expected written notifications will increase during this 3-year ICR period.
Total	8,310 responses	8,335 responses	25.00 responses	859 hours	755 hours	-104 hours	

16. Publication of results of data collection.

FRA does not plan to publish the results of the data collection.

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.