**FEDERAL RAILROAD ADMINISTRATION**

**Passenger Emergency Preparedness**

**(Title 49 Code of Federal Regulations (CFR) Part 223 and 239)**

**SUPPORTING JUSTIFICATION**

**OMB Control No. 2130-0545**

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 July 31, 2020, and which expires November 31, 2023.
  + The Federal Railroad Administration (hereafter “FRA” or “the Agency”) published the required 60-day Federal Registeron August 8, 2023. See 88 FR 53581. FRA received zero comments in response to this Notice.
  + Overall, the adjustments increased the burden by 3 hours and increased responses by 16 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.**

On May 4, 1998, FRA published final rule Passenger Train Emergency Preparedness, and 49 CFR Part 223, Safety Glazing Standards.[[1]](#footnote-3) The railroad passenger train emergency preparedness regulations under 49 CFR part 239, set forth FRA’s requirements for railroads to meet Federal standards for the preparation, adoption, and implementation of passenger train emergency preparedness plans (PTEP) connected with the operation of passenger trains, including freight railroads hosting passenger rail service operations. Part 239 also requires each affected railroad to instruct its employees on the provisions of its plan. The information collected is necessary for compliance with the regulation.[[2]](#footnote-4)

On November 29, 2013, FRA published Passenger Train Emergency systems II (PTES II).[[3]](#footnote-5) This final rule amended FRA’s Passenger Equipment Safety Standards by enhancing existing requirements for passenger train emergency systems as well as creating new requirements for passenger train emergency systems. The language added in the PTES II final rule clarified that, to the extent practicable, all on-board personnel, control center personnel, and any other employee involved in the emergency, or full-scale simulation must participate in the debriefing and critique session. Additionally, employees must be provided flexibility to participate in the debriefing and critique sessions through a variety of different methods.

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

FRA will use the information collected under 49 CFR part 239 to ensure that each railroad subject to this part complies with the requirement to meet Federal standards for the preparation, adoption, and implementation of emergency preparedness plans connected with the operations of passenger trains, including freight railroads hosting passenger rail service operations. Part 239 also requires that each railroad instruct its employees on the provisions of its plan.

This collection of information supports efforts to reduce the magnitude and severity of casualties in railroad operations by ensuring that railroads involved in passenger train operations can effectively and efficiently manage passenger train emergencies.

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 paperwork burdens on respondents. FRA estimates that approximately 80 percent of all responses will be collected electronically by the railroads.

**4. Efforts to identify duplication.**

To FRA’s knowledge, the information collection requirements are not duplicated anywhere. Similar data is not available from any other source.

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

With respect to passenger emergency preparedness, 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 entities[[4]](#footnote-6).

**6. Impact of less frequent collection of information.**

If this information were not collected or were collected less frequently, railroad safety nationwide would be considerably hindered. Specifically, the number of accidents/incidents, such as derailments, and collisions, and the severity of injuries might increase because railroads did not have an approved PTEP, and railroad employees did not respond adequately and in a timely fashion.

Without a PTEP and necessary amendments to a PTEP, different categories of railroad workers would not know their roles and responsibilities in the event of a collision, derailment, or other emergency situation. FRA reviews and approves the PTEPs of covered railroads to ensure that railroads have comprehensive emergency preparedness plans; do not cut corners on different aspects of their PTEP; and are able to offer essential railroad employees, including on-board and control center, as well as emergency response communications center personnel, the required training to manage various types of emergency situations.

The collection of information contributes to rail safety because FRA can verify that railroads conduct debriefing and critique sessions after each emergency passenger situation or full-scale simulation where there is a passenger or employee fatality, an injury to one or more crewmembers or a passenger involving admission to a hospital, or the evacuation of a passenger train. FRA reviews required debriefing and critique session records to verify that railroads were able to determine, at a minimum, whether the on-board communications equipment functioned properly, the elapsed time between the occurrence of the emergency situation/simulation and notification to emergency responders involved, whether the control center promptly initiated the required notifications, how quickly and effectively the emergency responders reacted after notification, and the efficiency of passenger egress from the car through the emergency exits. By reviewing these records, FRA can confirm that railroads improve/amend their emergency preparedness plans, as appropriate, based on the information developed from these debriefing and critique sessions. Without these essential sessions and accompanying records, FRA and railroads could not detect emergency response deficiencies or develop necessary corrective measures, increasing the risk of greater injuries and loss of life in future 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 PRA and its implementing regulations, FRA published a notice in the *Federal Register* on August 8, 2023[[5]](#footnote-7), soliciting comment from the public, railroads, and other interested parties on these information collection requirements. FRA received zero comments in response to this notice.

*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 ICR.

**10. Assurance of confidentiality.**

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

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

The information collection does not contain any data 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 response are based on the experience and expertise of FRA’s Office of Railroad Safety.

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| **CFR Section** | **Respondent universe** | **Total Annual responses**  **(A)** | **Average time per responses (B)** | **Total annual burden hours (C=A\*B)** | **Total cost equivalent (D=C\* wage rates)[[6]](#footnote-8) [[7]](#footnote-9)** | **PRA Analyses and Estimates** |
| 239.13—Penalties | *FRA anticipates that there will be zero falsified records or reports during this 3-year information collection period.* | | | | | |
| 239.13—Waivers | 34  railroads | 1  waiver petition | 10  hours | 10  hours | $859.30 | Any person subject to a requirement of this part may petition the Administrator for a waiver of compliance with such requirement. The filing of such a petition does not affect that person's responsibility for compliance with that requirement while the petition is being considered.  FRA estimates, after careful review, that it will take approximately 10 hours for each waiver request. |
| 239.101/201/203—Emergency preparedness plan: Filing of plan and amendments. | 34  railroads | 6  amended plans | 16  hours | 96  hours | $8,249.28 | Each railroad to which this part applies shall adopt and comply with a written emergency preparedness plan approved by FRA under the procedures of § 239.201.  FRA estimates, after careful review, that it will take approximately 16 hours for each emergency preparedness plan. |
| —Non-substantive changes to emergency preparedness plan | 34  railroads | 6  amended plans | 1  hour | 6  hours | $515.58 | If the proposed amendment is limited to adding or changing the name, title, street address, email address, or telephone number of the primary person to be contacted on each affected railroad with regard to the review of the plan, approval is not required under the process in paragraph (b)(3)(i) of this section.  FRA estimates, after careful review, that it will take approximately 1 hour for each non-substantive change to a plan. |
| —Emergency preparedness plans for new/start-up railroads | 34  railroads | 1  new plan | 80  hours | 80  hours | $6,874.40 | Each new railroad to which this part applies shall adopt and comply with a written emergency preparedness plan approved by FRA under the procedures of § 239.201.  FRA estimates, after careful review, that it will take approximately 80 hours for each new/start-up railroad to prepare an emergency preparedness plan. |
| 239.101(a)(1)(i)—Communication—Initial and on-board notification | *The requirements for this section are routine and covered by FRA’s estimate of the economic cost.* | | | | | |
| 239.101(a)(1)(ii)—RR designation of employees responsible for maintaining emergency phone numbers for use in contacting outside emergency responders and appropriate RR officials that a passenger emergency has occurred | 34  railroads | 34  designations | 5  minutes | 2.80  hours | $240.60 | The control center or the emergency response communications center, as applicable under the plan, shall promptly notify outside emergency responders, adjacent rail modes of transportation, and appropriate railroad officials that a passenger train emergency has occurred. Each railroad shall designate an employee responsible for maintaining current emergency telephone numbers for use in making such notifications. FRA estimates, after careful review, that it will take approximately 5 minutes to designate each employee. |
| —Commuter/intercity passenger RRs gathering/keeping emergency phone numbers | 34  railroads | 34  lists/updated records | 1  hour | 34  hours | $2,921.62 | Each railroad shall designate an employee responsible for maintaining current emergency telephone numbers for use in making such notifications.  FRA estimates, after careful review, that it will take approximately 1 hour to gather and maintain each emergency listing. |
| 239.101(a)(3)—Coordinating applicable portions of emergency preparedness plan between each railroad hosting passenger service and each railroad that provides or operates such service | *The estimated paperwork burden for this requirement is included under § 239.101/201/203 — Emergency preparedness plan: amended plans.* | | | | | |
| 239.101(a)(5)—Updating emergency responder liaison information and conducting emergency simulation | *The estimated paperwork burden for this requirement is included under § 239.101/201/203 — Emergency preparedness plan: amended plans.* | | | | | |
| 239.101(a)(6)(iii)-(iv) – On-board emergency lighting, Maintenance and marking of emergency exits | *The estimated paperwork burden for this requirement is included under §238.113 (d)(1-3) and §238.112(d)(1-2), OMB Control No. 2130-0576.* | | | | | |
| 239.101(a)(7)—RR dissemination of information regarding emergency procedures/instructions | 1  new railroad | 350 Cards + 1 Safety Message | 5  minutes | 29.30  hours | $2,517.75 | Each new railroad's emergency preparedness plan shall provide for passenger awareness of emergency procedures, to enable passengers to respond properly during an emergency.  FRA estimates, after careful review, that it will take approximately 5 minutes to provide each card and safety message. |
|  | 34  railroads | 1000 Cards + 100 Safety Messages | 5  minutes | 91.70  hours | $7,879.78 | Each railroad's emergency preparedness plan shall provide for passenger awareness of emergency procedures, to enable passengers to respond properly during an emergency.  FRA estimates, after careful review, that it will take approximately 5 minutes to provide each card and safety message. |
| 239.105—Debrief and critique sessions | 34  railroads | 39  debrief/critique sessions | 5  minutes | 3.30  hours | $283.57 | Except as provided in paragraph (b) of this section, each railroad operating passenger train service shall conduct a debriefing and critique session after each passenger train emergency situation or full-scale simulation to determine the effectiveness of its emergency preparedness plan, and shall improve or amend its plan, or both, as appropriate, in accordance with the information developed. The debriefing and critique session shall be conducted within 60 days of the date of the passenger train emergency situation or full-scale simulation.  FRA estimates, after careful review, that it will take approximately 5 minutes for each debrief/critique session. |
| 239.301(a)—RR operational tests/inspection of on-board, control center, & emergency response center personnel | *Training/testing is not considered a PRA requirement*. | | | | | |
| 239.301(b)-(c)—Maintenance and retention of operational tests/inspection records | *The estimated paperwork burden for this requirement is included under r § 217.9 (d)(1), OMB Control No. 2130-0035.* | | | | | |
| —(d) RR retention of 1 copy of operational testing & inspection program | *The estimated paperwork burden for this requirement is included under § 217.9 (d)(2), OMB Control No. 2130-0035.* | | | | | |
| —(e) RR six-month review of tests/inspections and adjustments to program of operational tests/inspections | *The estimated paperwork burden for this requirement is included under § 217.9(e), OMB Control No. 2130-0035.* | | | | | |
| —(f) RR annual summary of tests/inspections & record of each summary | *The estimated paperwork burden for this requirement is included under § 217.9(f), OMB Control No. 2130-0035.* | | | | | |
| Total | 34 Railroads | 1,572 Responses |  | 353  hours | $30,342 |  |

**13. Estimate of total annual costs to respondents.**

There are no additional costs to respondents.

**14.** **Estimate of Cost to Federal Government.**

To estimate the government administrative cost, the 2023 Office of Personnel Management wage rates were used for the Washington, D.C. area. FRA uses an hourly burdened wage rate of $125.79[[8]](#footnote-10) FRA estimates that it takes approximately 20 hours annually to review documents required by this rule.

FRA estimates a total annual government cost of $2,515.80 for this information collection request.

**15. Explanation of program changes and adjustments.**

This is an extension without change (with changes in estimates) to a current collection of information. The current OMB inventory for this ICR shows a total burden of 350 hours and 1,556 responses, while the requesting inventory estimates a total burden of 353 hours and 1,572 responses. Overall, the burden for this submission has increased by 3 hours and increased by 16 responses.

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| **CFR Section** | **Total Annual Responses** | | | **Total Annual Burden Hours** | | | **PRA Analyses and Estimates** |
| **Previous Submission** | **Current Submission** | **Difference** | **Previous Submission** | **Current Submission** | **Difference** |
| —Non-substantive changes to emergency preparedness plan | 4.00 amended plans (1.00 hour) | 6.00 amended plans (1.00 hour) | 2.00 amended plans | 4.00 hours | 6.00 hours | 2.00 hours | The increase in burden is the result of a correction. The increase from four to six amended plans more accurately reflects that FRA anticipates approximately 12 amended plans annually. Six of which are non-substantive. |
| 239.105—Debrief and critique sessions | 25.00 debrief/critique sessions (5.00 minutes) | 39.00 debrief/critique sessions (5.00 minutes) | 14.00 debrief/critique sessions | 2.00 hours | 3.30 hours | 1.30 hours | The increase in burden is the result of a correction. The increase from 25 to 39 debrief/critique sessions more accurately reflects the requirements outlined in 239.103. This is 34 annual simulations + 5 emergency situations. |
| **Total** | 1,556.00 responses | 1,572.00 responses | 16.00 responses | 350 hours | 353 hours | 3.30 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.

1. See 63 FR 24630. [↑](#footnote-ref-3)
2. FRA has broad statutory authority to regulate all areas of railroad safety and confers all powers necessary to detect and penalize violations of any rail safety law. 49 U.S.C. 20103(a); 49 CFR 1.89.  These standards are codified in Part 239, which was originally issued in May 1999 as part of FRA’s implementation of rail passenger safety regulations required by Section 215 of the Federal Railroad Safety Authorization Act of 1994, Pub. L. No. 103-440, 108 Stat. 4619, 4623-4624 (November 2, 1994).  Section 215 of this Act has been codified at 49 U.S.C. 20133. [↑](#footnote-ref-4)
3. See 78 FR 71785. [↑](#footnote-ref-5)
4. “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.”

   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. [↑](#footnote-ref-6)
5. 88 FR 58531. [↑](#footnote-ref-7)
6. 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). [↑](#footnote-ref-8)
7. Totals may not add up due to rounding. [↑](#footnote-ref-9)
8. GS-14, Step 5 hourly wage rate of $71.88 + 75% overhead costs is 71.88 \* 1.75 + $125.79. [↑](#footnote-ref-10)