

11 FEDERAL RAILROAD ADMINISTRATION
Critical Incident Stress Plans
(Title 49 Code of Federal Regulations (CFR) Part 272)
SUPPORTING JUSTIFICATION
OMB Control No. 2130-0602

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 November 20, 2020, which expires November 30, 2023.
- The Federal Railroad Administration (hereafter “FRA” or “the Agency”) published the required 60-day Notice in the Federal Register on August 25, 2023. See 88 FR 58435. FRA received no comments in response to this Notice.
- Overall, the adjustments decreased the burden by 221 hours and responses by 2,518 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 October 16, 2008, the Rail Safety Improvement Act of 2008 (RSIA) was enacted.¹ Section 410 of the RSIA (Section 410) mandates that the Secretary of Transportation (Secretary) require “each Class I railroad carrier, each intercity passenger railroad carrier, and each commuter railroad carrier to develop and submit for approval to the Secretary a critical incident stress plan that provides for debriefing, counseling, guidance, and other appropriate support services to be offered to an employee affected by a critical incident.”² Section 410 mandates that the plans include provisions for relieving employees who are involved in, or who witness, critical incidents from their tours of duty, and for providing leave for such employees from their normal duties as may be necessary and reasonable to receive preventive services and treatment related to the critical incident.³

In 2014, FRA issued the Critical Incident Stress Plans final rule⁴ in accordance with the statutory mandate that the Secretary require certain major railroads to develop, and

¹ Pub. L. 110-432, October 16, 2008.

² See Section 410(a).

³ See Section 410(b).

⁴ 79 FR 16218 (Mar. 25, 2014)

submit to the Secretary for approval, critical incident stress plans that provide for appropriate support services to be offered to their employees who are affected by a “critical incident,” as defined by the Secretary. The final rule contained a definition of the term “critical incident,” the elements appropriate for the rail environment to be included in a railroad’s critical incident stress plan, the type of employees to be covered by the plan, a requirement that a covered railroad submit its plan to FRA for approval, and a requirement that a railroad adopt and comply with its FRA-approved plan.

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

FRA will use the information collected under 49 CFR part 272 to promote the safety of railroad operations and the health and safety of railroad employees, especially those who are directly involved in a critical incident by requiring that the employing railroad offers and provides appropriate services, including appropriate relief, to the directly involved employees following that critical incident. Part 272 requires Class I, intercity passenger, and commuter railroads to adopt a written critical incident stress plan approved by FRA that meets the minimum standards of part 272.

This collection of information enhances FRA’s efforts to enhance safety and mitigate the long-term negative effects of critical incidents upon railroad employees.

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. Under § 272.105, FRA mandated that each covered railroad to which part 272 applies file required critical incident stress plans by electronic means.

One hundred percent (100%) of responses are electronically transmitted.

4. Efforts to identify duplication.

The information collection requirements to our knowledge are not duplicated anywhere. Similar data are not available from any other source.

5. Efforts to minimize the burden on small businesses.

Federal agencies may adopt their own size standards for small entities in consultation with the Small Business Administration (SBA) and in conjunction with public comment.

Pursuant to that authority, FRA 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.⁵

FRA believes that no small entities will be affected by the requirements of this part. Additionally, FRA believes that no contractors considered to be small entities will be adversely affected by the requirements of this part.

6. Impact of less frequent collection of information.

Railroad employee exposure, particularly locomotive engineers and train conductors, to traumatic rail events—and potentially traumatic events—is well documented. Incursion events, such as vehicular accidents at highway-rail grade crossings and pedestrian incursions onto the railroad right-of-way (frequently suicides), often involve fatalities, and the injuries sustained may be gruesome. Train crews, because of their proximity to the accident scene, must often tend to the injured and secure the scene, compounding the extent and the duration of exposure. Crews are required to report the incident, secure the train, leave the train, and examine the victims; they may provide first aid if victims are alive, and wait, sometimes for long periods, for assistance or instructions.

Without this collection of information, FRA would have no way of knowing whether railroads had essential and comprehensive critical incident stress plans that meet minimum standards for leave, counseling, and support services to provide timely critical relief to rail employees who have experienced a critical incident.

Additionally, without the requirement that critical incident stress plans be disseminated to rail labor organizations, train crew members, signal workers, and roadway workers (including maintenance of way and maintenance of structure employees) who experienced a critical incident would not know what counseling, guidance, and other support services are available to them from their employers. This could cause them to stay on the job (“presenteeism”) while suffering severe symptoms and possibly lead to increased numbers of rail collisions, derailments, and other accidents/incidents with injuries to themselves and the traveling public caused by their inability to perform their duties safely and effectively.

This collection of information promotes and enhances national rail safety by promoting a better and healthier working environment for critical railroad employees in safety-

⁵ 68 FR 24891 (May 9, 2003) (codified at appendix C to 49 CFR part 209).

sensitive positions, and thus serves as a vital component of FRA's multi-faceted rail safety program.

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 part 1320, FRA published a notice in the *Federal Register* on August 25, 2023,⁶ 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 provided or gifts made to respondents in connection with this information collection.

⁶88 FR 58435.

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.

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 U.S. dollar (D = C * wage rates) ⁷	PRA Analyses and Estimates
272.103(a)— Railroad submission of critical incident stress plan (CISP) to FRA for approval	1 new railroad	1 plan	12 hours	12.00 hours	\$1,031.16	Each railroad subject to this part shall submit to the Federal Railroad Administration, for approval, the railroad’s CISP no later than 12 months after June 23, 2014. FRA estimates, after careful review, that it will take approximately 12 hours for each CISP submission.

⁷The 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).

—(b) Railroad CISP copy to 5 labor organizations	1 new railroad	5 plan copies	5 minutes	0.42 hours	\$36.09	<p>Each railroad subject to this part shall— Simultaneously with its filing with FRA, serve, either by hard copy or electronically, a copy of the submission filed pursuant to paragraph (a) of this section or a material modification filed pursuant to paragraph (e) of this section on the international/national president of any non-profit employee labor organization representing a class or craft of the railroad’s employees subject to this part.</p> <p>FRA estimates, after careful review, that it will take approximately 5 minutes for each copy.</p>
—(c)(1) Rail labor organization comment to FRA on CISP submission	5 employee labor organizations	5 comments	2 hours	10.00 hours	\$859.30	<p>No later than 90 days after the date of filing a submission pursuant to paragraph (a) of this section or a material modification pursuant to paragraph (e) of this section, a labor organization representing a class or craft of the railroad’s employees subject to this part, may file a comment on the submission or material modification.</p> <p>(1) Each comment shall be submitted to the Associate Administrator for Railroad Safety and Chief Safety Officer, FRA.</p> <p>FRA estimates, after careful review, that it will take approximately 2 hours for each comment.</p>
—(c)(2) Rail labor affirmative statement to FRA that	5 employee labor organizations	5 certifications	5 minutes	0.42 hours	\$36.09	<p>The commenter shall certify that a copy of the comment was served on the railroad.</p>

comment copy has been served on railroad						FRA estimates, after careful review, that it will take approximately 5 minutes for each affirmative statement.
—(e) Railroad submission of updated/modified existing CISP to FRA for approval	40 railroads	2 updated/modified plans	6 hours	12.00 hours	\$1,031.16	After FRA’s initial approval of a railroad’s CISP, if the railroad makes a material modification of the CISP, the railroad shall submit to FRA for approval a copy of the CISP as it has been revised to reflect the material modification within 30 days of making the material modification. FRA estimates, after careful review, that it will take approximately 6 hours for each modification submission.
—(f) Copy to railroad employees of updated/modified CISP	40 railroads	2,500 copies	5 minutes	208.33 hours	\$17,901.80	Upon FRA approval of a railroad’s CISP and any material modification of the CISP, the railroad must make a copy of the railroad’s plan and the material modification available to the railroad’s employees identified in § 272.7. FRA estimates, after careful review, that it will take approximately 5 minutes for each copy of the modified CISP.
—(g) Railroads make copies of CISP available to FRA inspector upon request	40 railroads	25 plan copies	5 minutes	2.08 hours	\$178.73	Each railroad subject to this part must make a copy of the railroad’s plan available for inspection and reproduction by FRA. FRA estimates, after careful review, that it will take approximately 5 minutes to make each CISP copy available to FRA inspectors.

272.105— Requirement to file CISP electronically	40 railroads	3 CISP electronic submissions	8 minutes	0.40 hours	\$34.37	Each railroad subject to this part must submit its CISP and any material modifications to that plan electronically through FRA's Web site. FRA estimates, after careful review, that it will take approximately 8 minutes to file each CISP electronically.
Total ⁸	40 railroads; 5 employee labor organizations	2,546 responses	N/A	246 hours	\$21,109	

13. Estimate of total annual costs to respondents.

Besides the burden hours listed in the answer to question number 12 above, there are no additional costs to respondents.

14. Estimate of Cost to Federal Government.

To calculate the government administrative cost, the 2023 Office of Personnel Management (OPM) wage rates, at the GS-14 level, were used. The average wage (Step 5) was used as a midpoint.⁹ Wages were considered at the burdened wage rate by multiplying the actual wage rate by an overhead cost of 75 percent (or times 1.75). The following table shows the estimated average annual cost to the Federal government to review and submit each railroad plan.

⁸ Totals may not add up due to rounding.

⁹ See opm.gov, Wage Tables 2023.

Task	Pay Grade	No of employees	Hourly Wage ¹⁰	Hours	Total Wages (Wages * 1.75 Overhead Cost)
Initial review of revised plans	GS-14	2	\$125.79	3 hours each	\$1,509.48
Additional review and response to railroads	GS-14	2	\$125.79	8 hours each	\$4,025.28
Review of 1 new start-up railroad plan.	GS-14	2	\$125.79	4 hours each	\$2,012.64
Total Estimated Government Costs					\$7,547.40

15. Explanation of program changes and adjustments.

This is an extension without change (with changes in estimates) to a currently approved information collection request (ICR). The current OMB inventory for this ICR shows a total burden of 467 hours and 5,064 responses, while the requesting inventory estimates a total burden of 246 hours and 2,546 responses. Overall, the burden for this submission has decreased by 221 hours and 2,518 responses. There is no change in the collection method. The decrease in burden hours is solely the result of adjustments.

The table below provide specific information on the review of any of the estimates that have changed:

CFR Section	Total Annual Responses			Total Annual Burden Hours			PRA Analyses and Estimates
	Previous Submission	Current Submission	Difference	Previous Submission	Current Submission	Difference	
—(b) Railroad CISP copy to 5 labor organizations	20 plan copies (5.00 minutes)	5 plan copies (5.00 minutes)	-15 plan copies	1.70 hours	0.42 hours	-1.28 hours	FRA anticipates, after careful review, that the number of Railroad CISP copies to labor organizations, based on 1 new

¹⁰ GS-14, Step 5 hourly wage rate of \$71.88 + 75% overhead costs is 71.88 * 1.75 + \$125.79.

							railroad, will be 5.
—(c)(2) Rail labor affirmative statement to FRA that comment copy has been served on railroad	5 certifications (5.00 minutes)	5 certifications (5.00 minutes)	0 certifications	0.40 hours	0.42 hours	0.02 hours	Adjustment due to rounding.
—(e) Railroad submission of updated/modified existing CISP to FRA for approval	4 updated/modified plans (6.00 hours)	2 updated/modified plans (6.00 hours)	-2 updated/modified plans	24.00 hours	12.00 hours	-12 hours	FRA anticipates, after careful review, that only 2 updated/modified CISPs will be submitted during this ICR period.
—(f) Copy to Railroad employees of updated/modified CISP	5,000 copies (5.00 minutes)	2,500 copies (5.00 minutes)	-2,500 copies	416.70 hours	208.33 hours	-208.37 hours	FRA understands most railroads provide their CISP information to employees via a company portal or other electronic means. FRA reduced the estimate of actual hard copies to 2,500 to provide a more accurate estimate for this 3-year ICR period.
—(g) Railroads make copies of CISP available to FRA inspector upon request	25 plan copies (5.00 minutes)	25 plan copies (5.00 minutes)	0 plan copies	2.10 hours	2.08 hours	-0.02 hours	Adjustment due to rounding.
272.105— Requirement to file CISP electronically	4 CISP electronic submissions (8.00 minutes)	3 CISP electronic submissions (8.00 minutes)	-1 CISP electronic submission	0.50 hours	0.40 hours	-0.1 hours	FRA anticipates, after careful review, that only 3 CISPs will be submitted electronically during this ICR period. This decrease in burden is based on the anticipated submission of 1 new railroad and 2 updated CISPs.
Total	5,064 responses	2,546 responses	-2,518 responses	467 hours	246 hours	-221 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 intends to display the expiration date.

18. Exception to certification statement.

No exceptions are taken at this time.