



DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA-2019-0004-N-14]

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of information collection; request for comment.

SUMMARY: Under the Paperwork Reduction Act of 1995 (PRA) and its implementing regulations, this notice announces that FRA is forwarding the Information Collection Request (ICR) abstracted below to the Office of Management and Budget (OMB) for review and comment. The ICR describes the information collection and its expected burden. On June 14, 2019, FRA published a notice providing a 60-day period for public comment on the ICR.

DATES: Interested persons are invited to submit comments on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Submit written comments on the ICR to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503, Attention: FRA Desk Officer. Comments may also be sent via email to OMB at the following address: *oira_submissions@omb.eop.gov*.

FOR FURTHER INFORMATION CONTACT: Ms. Hodan Wells, Information Collection Clearance Officer, Office of Railroad Safety, Regulatory Analysis Division, Federal Railroad Administration, 1200 New Jersey Avenue, SE, Washington, DC 20590

(telephone: (202) 493-6292); or Ms. Kim Toone, Information Collection Clearance Officer, Office of Information Technology, Federal Railroad Administration, 1200 New Jersey Avenue, SE, Washington, DC 20590 (telephone: (202) 493-6132).

SUPPLEMENTARY INFORMATION: The PRA, 44 U.S.C. 3501–3520, and its implementing regulations, 5 CFR part 1320, require Federal agencies to issue two notices seeking public comment on information collection activities before OMB may approve paperwork packages. *See* 44 U.S.C. 3506, 3507; 5 CFR 1320.8 through 1320.12. On June 14, 2019, FRA published a 60-day notice in the *Federal Register* soliciting comment on the ICR for which it is now seeking OMB approval. *See* 84 FR 27832. FRA received 191 comments in response to this 60-day notice which it reviewed and summarized below.

FRA received numerous comments on the 60-day notice from individuals, representatives of private companies, cities, community hospitals, police departments, and State agencies, including the Washington Utilities and Transportation Commission (UTC), the Illinois Commerce Commission (ICC), and the Public Utilities Commission of Ohio. Commenters across several states, including Indiana, Illinois, Texas, Oklahoma, Nebraska, Utah and Washington, alluded to the severity of the problem of blocked crossings in their communities. Many commenters provided FRA with feedback regarding ongoing problems with blocked highway-rail grade crossings in their communities. FRA thanks these commenters for their input. However, for purposes of this information collection request, FRA is only responding to comments that relate to the proposed blocked crossing data collection’s burden estimates and not on blocked crossings generally.

FRA reviewed numerous comments in support of the blocked crossing data collection from individuals who expressed their frustrations with the current reporting process. These comments discussed the need for greater reporting accuracy and for the public to have a mechanism for reporting slow-moving or stopped trains at railroad crossings. One commenter questioned the low number of blocked crossing complaints (669 complaints over a two-year period) cited in the 60-day notice of the proposed data collection and asserted that the number of responses will be significantly higher if the proposed data collection is properly promoted. The Chicago Metropolitan Agency for Planning shared with FRA potential alternative techniques for data collection to evaluate the impacts of blocked crossings on local communities, and the UTC urged FRA to gather information about the location, duration, and nature of the crossing blockages and recommended that FRA develop a national educational campaign providing information on how to report blocked crossings.

The Association of American Railroads (AAR) commented on what it believes to be several issues with the method and quality of the proposed data collection. The AAR notes that the 60-day notice did not “define what constitutes either a ‘blocked crossing’ or a ‘slow moving’ train.” Further, the AAR asserts that FRA has not established any mechanism that would enable it – or the railroads – to verify or investigate public reports of blocked crossings and therefore questions the reliability and usefulness of the data. Instead, the AAR recommends that FRA direct the public to the railroad for any “blocked crossing” or “slow moving train” concerns.

FRA believes the number of comments submitted illustrates both the need and the urgency to carry out the proposed data collection. The proposed data collection will

collect information on the impacts of blocked crossings, while also gathering data on the location, time, and duration of reported blocked crossing incidents. FRA does not believe the proposed data collection will create the expectation that FRA and the railroads involved will investigate and take action in response to reported blocked crossing incidents. As noted, the form will state that there are no federal laws or regulations that specifically address the length of time trains are permitted to occupy a crossing. The form will also state that the information collected is only being used to determine the locations, times, and impacts of blocked crossing incidents. However, FRA will consider modifying language on the form to clarify that no investigation or action should be expected by submitting the survey and that there may be legitimate safety and operations-related reasons for a crossing to be occupied by a slow-moving or idling train.

Some commenters, such as the ICC, observed that FRA's estimates for the proposed data collection in the 60-day notice were much too low and that FRA's simple survey could take less than two minutes to complete. In response to those comments, FRA has taken a second look at its estimates proposed in the 60-day notice and revised them. FRA estimated the number of responses based on the existing rate of complaints received about blocked crossings. However, this estimate did not include the anticipated impact of future public promotion of this proposed data collection. FRA agrees with the comment that it should promote the proposed data collection and educate the public on how to report blocked crossings. FRA believes this could result in a tenfold increase in the response rate. Therefore, the estimated number of responses has been increased by doubling the previous estimate. FRA reevaluated its estimated time to complete the survey and estimates that it will take a responder approximately 3 minutes to complete.

Before OMB decides whether to approve this proposed collection of information, it must provide 30 days for public comment. Federal law requires OMB to approve or disapprove paperwork packages between 30 and 60 days after the 30-day notice is published. 44 U.S.C. 3507(b)–(c); 5 CFR 1320.10(b); *see also* 60 FR 44978, 44983, Aug. 29, 1995. OMB believes the 30-day notice informs the regulated community to file relevant comments and affords the agency adequate time to digest public comments before it renders a decision. 60 FR 44983, Aug. 29, 1995. Therefore, respondents should submit their respective comments to OMB within 30 days of publication to best ensure having their full effect.

Comments are invited on the following ICR regarding: (1) whether the information collection activities are necessary for FRA to properly execute its functions, including whether the information will have practical utility; (2) the accuracy of FRA’s estimates of the burden of the information collection activities, including the validity of the methodology and assumptions used to determine the estimates; (3) ways for FRA to enhance the quality, utility, and clarity of the information being collected; and (4) ways to minimize the burden of information collection activities on the public, including the use of automated collection techniques or other forms of information technology.

The summary below describes the ICR that FRA will submit for OMB clearance as the PRA requires:

Title: Inquiry into Blocked Highway-Rail Grade Crossings throughout the United States.

OMB Control Number: 2130-NEW

Abstract: FRA is interested in obtaining more information regarding the frequency, location, and impacts of highway-rail crossings blocked by slow-moving or idling trains. Currently, there are no federal laws or regulations that specifically address how long a train may occupy a crossing, whether idling or at slow speeds. Some States and local municipalities have laws that vary in how long trains are permitted to occupy crossings.

There are potential safety concerns with crossings that are blocked by trains. For instance, pedestrians may crawl under or through idling trains. Also, emergency response vehicles and first responders may be significantly delayed from responding to an incident or transporting patients to a hospital. In addition, drivers may take more risks, such as driving around lowered gates at a crossing or attempting to beat a train through a crossing without gates, in order to avoid a lengthy delay if they are aware that trains routinely block a crossing for extended periods of time. There are also potential economic impacts that affect businesses, such as stores or restaurants not being accessible to a customer base for an extended period of time. Finally, highway-rail grade crossings that are blocked for extended periods of time may create societal nuisances, such as roadway congestion, late mail service and deliveries, disrupted school and work arrival and dismissal, or missed appointments.

Over a recent two-year period, from April 1, 2017, to March 31, 2019, FRA's Office of Railroad Safety received 669 email complaints about blocked crossings through FRA's "Contact Us" website. This webpage is used by the general public to submit any type of comment/question to FRA's Office of Safety, not just reports of blocked crossings. FRA proposes to add new dedicated links to its existing website and an

existing phone application (app) for a user to report blocked crossings. This would simplify the reporting of blocked crossing information and standardize the data received about blocked crossings.

The proposed data collection would be gathered using three methods:

1. A link would be added to FRA's existing website directing a user to a web-based form to submit information about a blocked crossing to FRA. Access to this web-based form would be unrestricted and available to the general public.
2. A link would be added to the existing FRA phone app, "FRA Crossing Locator App," that will direct users to an app-based form to submit information about a blocked crossing to FRA. Access to the form on the phone app would be unrestricted and available to the general public.
3. A link would be added to FRA's existing website directing law enforcement personnel to submit information about a blocked crossing to FRA. Access for law enforcement personnel to use the form would be restricted to users with a username and password, managed by FRA.

Upon accessing the form, a user would be notified that there are no federal laws or regulations that specifically address the length of time a train may occupy a highway-rail grade crossing. The user would be notified that the information submitted will not be forwarded to a railroad, State, or local agency, and is only being used for data collection purposes to determine the locations, times, and impacts of blocked crossings. The questions asked on each form will be identical for all three methods of collection.

Type of Request: Approval of a new collection of information.

Affected Public: Public individuals and law enforcement personnel.

Form(s): FRA F 6180.175.

Respondent Universe: General public and national law enforcement personnel.

Frequency of Submission: On occasion; one-time.

Reporting Burden:

| CFR Section | Total Annual responses | Average time per responses | Total annual burden hours | Total Cost Equivalent ¹ |
|--|------------------------|----------------------------|---------------------------|------------------------------------|
| General Public via the unrestricted form on the FRA website | 3,500 responses | 3 minutes | 175 hours | \$4,725 |
| General Public via the FRA Crossing Locator Phone Application | 500 responses | 3 minutes | 25 hours | \$675 |
| Law Enforcement Personnel via the limited access form on the FRA website | 1,000 responses | 3 minutes | 50 hours | \$1,350 |
| Total | 5,000 responses | N/A | 250 hours | \$6,750 |

Total Estimated Annual Responses: 5,000.

Total Estimated Annual Burden: 250 hours.

Total Estimated Dollar Equivalent Burden Cost: \$6,750.

Under 44 U.S.C. 3507(a) and 5 CFR 1320.5(b) and 1320.8(b)(3)(vi), FRA informs all interested parties that it may not conduct or sponsor, and a respondent is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Authority: 44 U.S.C. 3501–3520.

Brett A. Jortland,
Acting Chief Counsel.

¹ FRA used an hourly rate of \$27 per hour for the value of the public's time. FRA obtained this data from the Department of Labor, Bureau of Labor Statistics.

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