



## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

[Docket No. FRA-2021-0006-N-7]

### 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 March 15, 2021, 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:** Written comments and recommendations for the proposed ICR should be sent within 30 days of publication of this notice to [www.reginfo.gov/public/do/PRAMain](https://www.reginfo.gov/public/do/PRAMain). Find the particular ICR by selecting “Currently under 30-day Review - Open for Public Comments” or by using the search function.

**FOR FURTHER INFORMATION CONTACT:** Ms. Hodan Wells, Information Collection Clearance Officer at email: [Hodan.Wells@dot.gov](mailto:Hodan.Wells@dot.gov) or telephone: (202) 493-0440.

**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 March 15, 2021, FRA published a 60-day notice in the *Federal Register* soliciting comment on the ICR for which it is now seeking OMB approval. *See* 86 FR 14359. FRA received two comments in response to this 60-day notice.

The Vermont Rail Action Network expressed its concerns to FRA about the accuracy of the law enforcement agency data proposed to be collected on FRA F 6180.178, specifically the data on race, ethnicity, and to a lesser extent, age. The advocacy group argues that problematic policing practices will result in FRA having an inaccurate picture of those who trespass along railroad rights-of-way in the United States because it asserts that the law enforcement data will be distorted towards a higher proportion of trespassers who are African American.

FRA has considered Vermont Rail Action Network's feedback, but believes that collecting demographic information is important to its goals of reducing the annual number of injuries and fatalities arising from trespassing activities. FRA plans to utilize the information collected primarily to develop targeted outreach campaigns to dissuade individuals from trespassing. Prior to the creation of FRA F 6180.178, FRA conducted extensive interviews with law enforcement agencies and determined that this standard demographic data would allow FRA and its partners to create more impactful educational anti-trespassing campaigns through outreach to demographic groups that have been observed by law enforcement personnel trespassing along railroad rights-of-way.

The collection of this demographic information may also allow FRA to better carry out the goals of the Biden-Harris Administration's Executive Order 13985 on Advancing Racial Equity and Support for Underserved Communities through the Federal Government<sup>1</sup> and DOT's commitments in its Equity and Access Policy Statement. By

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<sup>1</sup> *See* Executive Order 13985 directing the Federal Government to pursue a comprehensive approach to advance equity, civil rights, racial justice, and equal opportunity to strengthen communities that have been historically underserved, marginalized, and adversely affected by persistent poverty and inequality.

gathering more demographic data, FRA will be better able to determine whether communities that are underserved, marginalized, or adversely affected by persistent poverty and inequality have a disproportionate number of observed trespassing incidents that necessitate new or enhanced outreach efforts. Utilizing the information collection as a whole, FRA can then, with its outreach partners, such as Operation Lifesaver and Safe Kids Worldwide, direct future trespasser prevention campaigns to all communities with a high number of observed trespassing incidents and fashion these efforts to maximize their effectiveness.

FRA received another comment in response to this 60-day notice from Dr. Rapik Saat, expressing his support for this ICR and suggesting that FRA collect information related to trespassers' socioeconomic conditions such as occupation and income level. At the present time, FRA does not plan to collect this socioeconomic data from law enforcement agencies because this information is not part of the agencies' standard data collection practices and would create an undue paperwork burden on them.

FRA also wishes to inform the public that it has made two changes to FRA F 6180.178 based on internal feedback. FRA added a clarifying footnote noting that railroads must continue to submit any and all forms for an accident/incident that are required under 49 CFR part 225. FRA also added a data field in which law enforcement agencies can indicate whether the trespasser appears intoxicated. This field was inadvertently excluded on the original proposed form. FRA will work with its outreach partners to develop educational outreach initiatives and public service announcement campaigns targeted to establishments that are located near railroad tracks if intoxication is deemed to be a contributing factor to railroad trespassing.

Before OMB decides whether to approve the 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:* Report of Railroad Trespasser Form.

*OMB Control Number:* 2130-NEW.

*Abstract:* Trespasser deaths on railroad rights-of-way and other railroad property are the leading cause of fatalities attributable to railroad operations in the United States. To address this serious issue, the railroad industry, governments (Federal, State, and local), and other interested parties must know more about the individuals who trespass. With such knowledge, specific educational programs, materials, and messages regarding the hazards and consequences of trespassing on railroad property can be developed and effectively distributed. Due to the lack of available root cause data, FRA proposes to collect data from law enforcement agencies to develop general descriptions of the root

causes of trespassing. This will allow FRA and other interested parties, such as Operation Lifesaver, to target audiences with appropriate education and enforcement campaigns to reduce the resulting annual number of injuries and fatalities.

Completion and submission of form FRA F 6180.178 will be required for law enforcement agency grantees, as a condition of FRA's Railroad Trespassing Enforcement Grant. The grantees will complete the form for each trespasser incident in their jurisdiction, describing the trespassers' race/ethnicity, gender and age to the best of their abilities. For law enforcement agencies not receiving FRA's Railroad Trespassing Enforcement grants, completion and submission of this form is voluntary.

For convenience to the respondents, FRA proposes an electronic option where the respondents can respond via a web-based form. The web-based form also will facilitate FRA's ability to maintain the data collected in a more useful and uniform manner, as the dropdown boxes will assist FRA in receiving more standardized responses.

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

*Affected Public:* Public authorities.

*Form(s):* FRA F 6180.178.

*Respondent Universe:* Law enforcement agencies.

*Frequency of Submission:* Monthly.

*Total Estimated Annual Responses:* 3,300.

*Total Estimated Annual Burden:* 550 hours.

*Total Estimated Annual Burden Hour Dollar Cost Equivalent:* \$26,180.

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 a respondent is not required to respond to, conduct, or sponsor a collection of information that does not display a currently valid OMB control number.

**Authority:** 44 U.S.C. 3501–3520.

**Brett A. Jortland,**

*Acting Chief Counsel.*

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