



DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Proposed Agency Information Collection Activities; Comment Request

[Docket No. FRA-2024-0002]

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) summarized below to the Office of Management and Budget (OMB) for review and comment. The ICR describes the information collection and its expected burden. On January 25, 2024, 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. Find the particular ICR by selecting “Currently under Review - Open for Public Comments” or by using the search function.

FOR FURTHER INFORMATION CONTACT: Ms. Arlette Mussington, Information Collection Clearance Officer, at email: arlette.mussington@dot.gov or telephone: (571) 609-1285 or Ms. Joanne Swafford, Information Collection Clearance Officer, at email: joanne.swafford@dot.gov or telephone: (757) 897-9908.

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 January 25, 2024, FRA published a 60-day notice in the *Federal Register* soliciting public comment on the ICR for which it is now seeking OMB approval. *See* 89 FR 5084. FRA received no comments related to the proposed collection of information.

Before OMB decides whether to approve this proposed collection of information, it must provide 30 days’ notice 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 1320.12(d); *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: State Highway-Rail Grade Crossing Action Plan.

OMB Control Number: 2130-0589

Abstract: Section 202 of the Rail Safety Improvement Act (RSIA)¹ of 2008 required the Secretary of Transportation² to identify the 10 States that have had the most-highway-rail grade crossing collisions, on average, over the prior three years, and to require those States to develop State highway-rail grade crossing action plans, within a reasonable period of time, as determined by the Secretary. Section 202 further provided that these plans must identify specific solutions for improving safety at crossings, including highway-rail grade crossing closures or grade separations, and must focus on crossings that have experienced multiple accidents or are at high risk for such accidents.

In 2020, FRA issued a final rule titled, State Highway-Rail Grade Crossing Action Plans,³ to implement the Fixing America's Surface Transportation Act (FAST Act) requiring fifty⁴ States and the District of Columbia to develop and implement highway-rail grade crossing action plans. The final rule also requires ten States that developed highway-rail grade crossing action plans, as required by RSIA and FRA's implementing regulation, to update their plans and submit reports to FRA describing actions they have taken to implement them.

FRA uses the collection of information to ensure that States meet the congressional mandate and devise and implement suitable plans to reduce/eliminate highway-rail grade collisions in their States. FRA reviews these crossing action plans and grade crossing action plan revisions to ensure that these plans include the following:

(1) identify specific solutions for improving safety at highway-rail grade crossings, including highway-rail grade crossing closures or grade separations, (2) focus on

¹ Pub. L. 110-432 (Oct. 16, 2008).

² See delegation to FRA Administrator at 49 CFR 1.89.

³ See 85 FR 80648 (Dec. 14, 2020).

⁴ In the published 60-day notice, the number of States required to develop and implement a highway-rail grade crossing action plan is shown as 40 States. In this 30-day notice, FRA has made a correction to the number of States from 40 to 50.

crossings that have experienced multiple accidents or are at high risk for such accidents, and (3) cover a five-year period.

On January 25, 2024, FRA published a 60-day *Federal Register* notice that reflected 5,991 total burden hours and responses of 27. *See* 89 FR 5084. Upon further review, FRA has determined that the initial requirement to submit State Action Plans (SAPs) under 49 CFR 234.11(b) has already been completed. While all States have submitted their SAPs, States may voluntarily continue to provide updates to their approved plans which FRA will review and file. FRA also anticipates that additional clarification on some of these changes may be needed in order to support an upcoming report to Congress.⁵ FRA's burden estimate reflects the time needed for States to respond to any follow up questions with respect to updated Plans or, potentially, approved plans that have not been updated as FRA prepares its report. As a result, the paperwork burden associated with this ICR has been significantly reduced from 5,111 hours to 880 hours for this submission, with the number of responses reduced from 27 to 17.

For additional clarity FRA is including the updated burden table for publication with this 30-day *Federal Register* notice.

Type of Request: Extension without change, (with changes in estimates) of a currently approved collection.

Affected Public: Businesses.

Form(s): N/A

Respondent Universe: 50 States + District of Columbia.

Frequency of Submission: On occasion.

Total Estimated Annual Responses: 17.

⁵ Section 11401(c) of the FAST Act and section 22403 of the Infrastructure Investment and Jobs Act, Pub. L. 117-58 (Nov. 15, 2021), require FRA to prepare a report to Congress that contains an analysis and evaluation of State highway-rail grade crossing programs, including strategies to improve highway-rail grade crossing safety that were identified by States in their SAPs.

Total Estimated Annual Burden: 880 hours.

Total Estimated Annual Burden Hour Dollar Cost Equivalent: \$75,637.

CFR Section	Respondent Universe	Total Annual Responses (A)	Average Time Per Response (B)	Total Annual Burden Hours (C=A*B)	Total Cost Equivalent (D=C* Wage Rates) ⁶
234.11(b)— New State highway-rail grade crossing action plans	<i>The requirement under this section has been completed; therefore, there is no paperwork burden associated with this section.</i>				
—(c)(1) Updated action plans (10 listed States in § 234.11(e)) - Grouped into high, medium, and low burden plans	10 States	2 plans (1 medium +1 low)	360.00 hours (240 + 120)	360.00 hours	\$30,934.80
—(c)(2) Implementation reports (10 listed States in § 234.11(e)) - Grouped into high, medium, and low burden reports	10 States	2 reports (1 medium +1 low)	160.00 hours (120 + 40)	160 hours	\$13,748.80
—(f)(2) Notification to FRA by State or District of Columbia of another official to assume responsibilities described under § 234.11(e)(6)	50 States + District of Columbia	2.70 notifications	5.00 minutes	0.22 hours	\$18.90
—(g) Review and approval	50 States + District of Columbia	10 updated plans (5 medium + 5 low)	60 hours (48 +24)	360 hours (240 + 120)	\$30,934.80
—(g) FRA review and approval of State highway-rail grade crossing action plans: Disapproved plans needing revision (10 listed States in § 234.11(e))	<i>The estimated paperwork burden for this requirement is included above under (g), Review and approval.</i>				

⁶ The dollar equivalent cost is derived from the 2022 (STB) 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 percent) used in the table is \$85.93 (\$49.10 x 1.75 = \$85.93).

Grouped into high, medium, and low revised plans					
Total	50 States + District of Columbia	17 responses	N/A	880 hours	\$75,637

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 that does not display a currently valid OMB control number.

Authority: 44 U.S.C. 3501–3520.

Christopher S. Van Nostrand,

Acting Deputy Chief Counsel.

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