



DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Proposed Agency Information Collection Activities; Comment Request

[Docket No. FRA-2023-0002-N-48]

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 December 26, 2023, FRA published a notice providing a 60-day period for public comment on the ICR. FRA received no comments in response to the notice.

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 December 26, 2023, 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* 88 FR 89017. FRA has 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: Qualification and Certification of Locomotive Engineers.

OMB Control Number: 2130-0533.

Abstract: Section 4 of the Rail Safety Improvement Act of 1988 (RSIA), Pub. L. 100–342, 102 Stat. 624 (June 22, 1988), later amended and re-codified by Pub. L. 103–272, 108 Stat. 874 (July 5, 1994), required FRA to issue regulations to establish any necessary program for certifying or licensing locomotive engineers. The collection of information is used by FRA to ensure that railroads employ and properly train qualified individuals as locomotive engineers and designated supervisors of locomotive engineers (DSLEs).

The collection of information is used by FRA to verify that railroads have established required certification programs for locomotive engineers and that these programs fully conform to the standards specified in the regulation.

On December 26, 2023, FRA published a 60-day *Federal Register* notice that reflected 23,969 total burden hours and 224,652 responses. *See* 88 FR 89017. Upon further evaluation, FRA has determined that 49 CFR 240.119(e)(3)(iii) does not identify any additional paperwork burden and only specifies the potential length of ineligibility when a person has been had their certification revoked. Additionally, FRA has removed the following sections as they were being counted twice: § 240.111, because the written responses for this requirement are already included under § 240.219; § 240.119(e)(3)(ii), because these notifications are already included under § 240.119(c); § 240.121, because medical examiner reports are already included under section § 240.207 (medical certificates); § 240.101, because material modifications are already included under § 240.103(h); and § 240.205, because data to an EAP counselor is already included under § 240.115 (prior safety data criteria).

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 (railroads).

Form(s): N/A

Respondent Universe: 784 Railroads.

Frequency of Submission: On occasion.

Total Estimated Annual Responses: 224,023.

Total Estimated Annual Burden: 23,851 hours.

Total Estimated Annual Burden Hour Dollar Cost Equivalent: \$2,362,843.

CFR Section	Respondent Universe	Total Annual Responses (A)	Average Time per Response (B)	Total Annual Burden Hours (C=A*B)	Wage Rate	Total Cost Equivalent U.S.D (D=C*wage rates)
240.9 – Waivers	784 railroads	2 waiver petitions	1 hour	2.00 hours	\$85.93	\$171.86
240.101 – Written certification program: new railroads	5 new railroads	5 written programs	1 hour	5.00 hours	\$85.93	\$429.65
240.103 — Approval of design of individual railroad programs by FRA	5 new railroads	5 program submissions	1 hour	5.00 hours	\$85.93	\$429.65
— (b)(1) - RR provides a copy of a certification program submission or resubmission to the president of the labor organization representing employees simultaneously with filing with FRA	62 railroads	62 copies	5 minutes	5.17 hours	\$85.93	\$444.26
— (b)(2) - RR affirmative statement that it has served certification program copy to the president of the labor organization representing employees' labor unions	62 railroads	62 copies	5 minutes	5.17 hours	\$85.93	\$444.26
— (c) – RR employee comment on submission, resubmission or material modification of RR certification program	62 railroads	62 comments	8 hours	496.00 hours	\$85.93	\$42,621.28

— (h) – RR material modifications to program after initial FRA approval (formerly under (e))	784 railroads	10 modified programs	10 minutes	1.67 hours	\$85.93	\$143.50
240.105(c) - Written reports/determinations of DSLE performance skills	784 railroads	10 written reports	30 minutes	5.00 hours	\$123.41	\$617.05
240.109 – Prior safety conduct data	17,667 candidates	25 responses	5 minutes	2.08 hours	\$63.07	\$131.19
240.111– Driver’s license data requests from chief of driver licensing agency of any jurisdiction, including foreign countries	17,667 candidates	17,667 requests	10 minutes	2,944.50 hours	\$85.93	\$253,020.89
– NDR match – notifications and requests for data	784 railroads	177 notices +177 requests	5 + 5 minutes	29.50 hours	\$85.93 \$63.07	\$2,197.75
240.111(g) – Notice to RR of absence of license	53,000 candidates	4 letters	5 minutes	0.33 hours	\$63.07	\$20.81
240.111(h) – Duty to furnish data within 48 hours of being convicted or final State action on prior safety conduct as a motor vehicle driver’s license operator.	784 railroads	100 communications	5 minutes	8.33 hours	\$63.07	\$525.37
240.113 – Notice to RR furnishing data on prior safety conduct – different RR	17,667 candidates	353 requests +353 responses	5 + 5 minutes	58.84 hours	\$85.93 \$63.07	\$4,383.58
240.115 (c) and (d) - RR temporary certification or recertification of locomotive engineer for 60 days after having requested the motor vehicle information specified in paragraph (h) of this section	784 railroads	25 recertifications	5 minutes	2.08 hours	\$85.93	\$178.73
(i)(2) – RR drug and alcohol counselor’s request of employee’s record of prior counseling or treatment	17,667 candidates	400 requests	5 minutes	33.33 hours	\$63.07	\$2,102.12
(i)(3) – Conditional certification based on recommendation by DAC of employee aftercare and/or follow-up testing for alcohol/drugs when person evaluated as not currently affected by an active substance abuse disorder	17,667 candidates	100 conditional certifications /DAC recommendations	1 hour	100.00 hours	\$63.07	\$6,307.00
(i)(4) – RR employee is evaluated by DAC as having an active substance abuse disorder	17,667 candidates	100 DAC evaluations	1 hour	100.00 hours	\$63.07	\$6,307.00

240.117(i)(4) – Early grant or reinstatement of certificate that has been denied/revoked; records	53,000 locomotive engineers	400 trained/retrained records	5 minutes	33.33 hours	\$63.07	\$2,102.12
240.119(c) – Written records indicating dates that the engineer stopped performing or returned to certification service + compliance/ observation test	784 railroads	400 records	5 minutes	33.33 hours	\$63.07	\$2,102.12
240.119(d)(3) – Self-referral to EAP re: active substance abuse disorder	53,000 locomotive engineers	150 self-referrals	5 minutes	12.50 hours	\$63.07	\$788.38
240.119(e)(3)(i) – RR determination that prior alcohol/drug conduct requires a written determination that a period of ineligibility applies	The burden for this requirement is covered under 240.119(c).					
240.121(e) – Criteria – vision/hearing acuity data – new railroads	5 new railroads	5 copies	5 minutes	0.42 hours	\$85.93	\$36.09
— (f) – Criteria – vision/hearing acuity data - not meeting standards – notice by employee	784 railroads	10 notifications	5 minutes	0.83 hours	\$63.07	\$52.56
240.129(b) – RR records engineer’s service if stopped performing service before both an operational monitoring observation and an unannounced compliance test are completed in a calendar year	53,000 locomotive engineers	1,000 records	5 minutes	83.33 hours	\$85.93	\$7,160.55
240.201/221 – List of DSLEs	784 railroads	784 lists	5 minutes	65.33 hours	\$85.93	\$5,613.81
— List of Qualified Locomotive Engineers	784 railroads	784 updated lists	5 minutes	65.33 hours	\$85.93	\$5,613.81
240.201/223/301 – Locomotive engineer’s certificate	53,000 candidates	17,667 certificates	5 minutes	1,472.25 hours	\$85.93	\$126,510.44
240.207 – Medical certificate showing hearing/vision standards are met:	53,000 candidates	17,667 certificates	30 minutes	8,833.50 hours	\$123.41	\$1,090,142.24
– Written determinations allowing person to meet lower threshold or person no longer needs to use corrective device such as glasses or hearing aids	784 railroads	30 determinations	5 minutes	2.50 hours	\$123.41	\$308.53
240.209/213 – Written documentation of knowledge tests of RR rules and practices	53,000 candidates	17,667 testing records retained	1 minute	294.45 hours	\$85.93	\$25,302.09

240.211/213 – Written documentation of performance skills test	53,000 candidates	17,667 testing records retained	1 minute	294.45 hours	\$85.93	\$25,302.09
240.215 – Retaining info. supporting determination	784 railroads	17,667 records	5 minutes	1,472.25 hours	\$85.93	\$126,510.44
240.219(a) – RR notification letter to employee of certification denial + employee written rebuttal	17,667 candidates	90 letters and responses	30 minutes	45.00 hours	\$85.93	\$3,866.85
– RR denial decision	784 railroads	45 documents/ records	2 minutes	1.50 hours	\$85.93	\$128.90
240.229(3)(ii) – Joint operations – notice – not qualified	321 railroads	184 employee calls	5 minutes	15.33 hours	\$63.07	\$966.86
240.301(b) – Temporary replacement certificates valid for no more than 30 days	784 railroads	600 replacement certificates	30 minutes	300.00 hours	\$85.93	\$25,779.00
240.303 – Annual operational monitoring observation	53,000 candidates	53,000 testing records retained	1 minute	883.33 hours	\$85.93	\$75,904.83
240.303 – Annual unannounced operating rules compliance test	53,000 candidates	53,000 testing records retained	1 minute	883.33 hours	\$85.93	\$75,904.83
240.305(c) – Engineer’s notice of non-qualification to RR	53,000 engineers or candidates	100 notifications	5 minutes	8.33 hours	\$63.07	\$525.37
(d) – Relaying certification denial or revocation status to other certifying railroad	1,060 engineers	2 letters	15 minutes	0.50 hour	\$63.07	\$31.54
240.307(a-b) – Revocation of certification - notice to engineer of disqualification	784 railroads	550 + 550 letters	1 + 1 hour	1,100.00 hours	\$85.93 \$63.07	\$81,950.00
— (b)(4) – RR provision to employee of copy of written information and list of witnesses that it will present at hearing	784 railroads	690 copies/list	5 minutes	57.50 hours	\$85.93	\$4,940.98
— (b)(5) – RR determination on hearing record whether person no longer meets certification requirements of this part	784 railroads	690 hearing determinations	1 hour	690.00 hours	\$85.93	\$59,291.70
— (b)(7) – RR creates/retains hearing records	784 railroads	690 hearings/records	4 hours	2,760.00 hours	\$85.93	\$237,166.80
— (c)(11)(i)(ii) – RR written decision after close of hearing containing findings of fact and whether a revocable event occurred	784 railroads	690 written decisions	30 minutes	345.00 hours	\$85.93	\$29,645.85

— (c)(11)(iii) – RR service of written decision on employee and employee’s representative	784 railroads	690 copies	5 minutes	57.50 hours	\$85.93	\$4,940.98
— (f) – Waiver of right to hearing under this section	784 railroads	750 written waivers	5 minutes	62.50 hours	\$63.07	\$3,941.88
240.307(i)-(j) – RR decision not to revoke certification	784 railroads	50 records of decision	10 minutes	8.33 hours	\$85.93	\$715.80
240.309– Railroad oversight responsibilities - annual review	55 railroads	55 reviews	3 hours	165.00 hours	\$85.93	\$14,178.45
Total	784 railroads	224,023 responses		23,851 hours	\$0.00	\$2,362,843

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.

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Acting Deputy Chief Counsel.

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