



4910-06-P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Proposed Agency Information Collection Activities; Comment Request

[Docket No. FRA-2014-0011-N-12]

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

ACTION: Notice and Request for Comments

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, this notice announces that the renewal Information Collection Request (ICR) abstracted below is being forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected burden. The Federal Register notice with a 60-day comment period soliciting comments on the following collection of information was published on March 21, 2014 (79 FR 15795).

DATES: Comments must be submitted on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT:

Mr. Robert Brogan, Office of Planning and Evaluation Division, RRS-21, Federal Railroad Administration, 1200 New Jersey Ave., SE, Mail Stop 25, Washington, DC 20590 (Telephone: (202) 493-6292), or Ms. Kimberly Toone, Office of Information Technology, RAD-20, Federal Railroad Administration, 1200 New Jersey Ave., SE, Mail Stop 35, Washington, DC 20590 (Telephone: (202) 493-6132). (These telephone

numbers are not toll-free.)

SUPPLEMENTARY INFORMATION:

The Paperwork Reduction Act of 1995 (PRA), Public Law 104-13, sec. 2, 109 Stat. 163 (1995) (codified as revised at 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. 44 U.S.C. 3506, 3507; 5 CFR 1320.5, 1320.8(d)(1), 1320.12. On March 21, 2014, FRA published a 60-day notice in the Federal Register soliciting comment on ICRs that the agency was seeking OMB approval. See 79 FR 15795. FRA received one comment in response to this notice.

The comment was not about the collection of information itself, its requirements, or the burden estimates delineated in the Federal Register Notice. Rather, it pertained to the issue of fatigue and came from a resident, Ms. Michelle Horton, of East Moline, Illinois. She wrote the following:

As a wife of a railroader I feel an area of what you are classifying as "fatigue" is only in context of scheduled hours worked. Identifying the "fatigue" is the issue. Currently railroad employees are required to work in conditions that in itself cause fatigue. Switch men walking miles a day in - 30 [degree] weather, at times in two feet of snow, in blizzard conditions for 8 hours a day is detrimental to their health, but with hours of service laws, employers can force these men to work in these conditions for 12 hours for 5 days straight. AND they do it. In opposite conditions 110 degrees and no wind walking miles a day. I see it every day and watch my husband struggle to walk, hold his head up, or even focus on a conversation for 5 minutes without falling asleep, right after he gets home from work. The cramping he endures is intense. And now railroad employees are required to submit all their time off with no sick days. My husband was very ill, worked 9 1/2 hours reported he had to go see a doctor when he was being forced to continue and upon his return (after he saw a doctor) was placed on a 30 day suspension for not completing his

job duties. Workers are in fear of losing their jobs for reporting fatigue! My husband has been with the railroad for 17 years. No discipline was in his file. He is only 42. Currently there is no regulation to support an employee to say I am fatigued without persecution and dismissal. After 8 hours an employee should have a say especially under the conditions I noted. Not supporting the ability to have a choice after 8 hours of service is simply stating even the law could care less about fatigue.

This comment is outside the scope of the Notice requirements of the 1995 Paperwork Reduction Act (PRA) and OMB PRA Implementing Guidance. However, the issue of fatigue is one that has been of longstanding concern to FRA and one that FRA plans to address by rulemaking in the near future.

Before OMB decides whether to approve these proposed collections of information, it must provide 30 days for public comment. 44 U.S.C. 3507(b); 5 CFR 1320.12(d). 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 that 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. 5 CFR 1320.12(c); see also 60 FR 44983, Aug. 29, 1995.

The summary below describes the nature of the information collection request (ICR) and the expected burden. The revised request is being submitted for clearance by OMB as required by the PRA.

Title: Hours of Service Regulations

OMB Control Number: 2130-0005

Abstract: FRA amended its hours of service recordkeeping regulations, to add substantive hours of service regulations, including maximum on-duty periods, minimum off-duty periods, and other limitations, for train employees (e.g., locomotive engineers and conductors) providing commuter and intercity rail passenger transportation on August 12, 2011. See 76 FR 50359. The new substantive regulations require that railroads employing such train employees analyze and mitigate the risks for fatigue in the schedules worked by these train employees, and that the railroads submit to FRA for its approval the relevant schedules and fatigue mitigation plans. This final rule also made corresponding changes to FRA's hours of service recordkeeping regulation to require railroads to keep hours of service records and report excess service to FRA in a manner consistent with the new substantive requirements. This regulation was authorized by the Rail Safety Improvement Act (RSIA) of 2008. The information collected under this rule is used by FRA and its inspectors to ensure compliance with the Hours of Service Laws and the requirements of this regulation. In particular, the new information collected as a result of new Subpart F is used by FRA to verify that the employees of covered commuter and intercity passenger railroads do not exceed maximum on-duty periods, abide by minimum off-duty periods, and adhere to other limitations set forth in this regulation to enhance rail safety and reduce the risk of accidents/incidents caused by train employee fatigue, as well as those accident/incidents where fatigue of train employees served as a contributory factor.

Type of Request: Extension with change of a currently approved information collection

Affected Public: Businesses (Railroads)

Form(s): FRA F 6180.3

Annual Estimated Burden: 3,514,805 hours

Addressee: Send comments regarding these information collections to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 Seventeenth Street, N.W., Washington, D.C., 20503, Attention: FRA Desk Officer. Comments may also be sent via e-mail to OMB at the following address:

oira_submissions@omb.eop.gov.

Comments are invited on the following: Whether the proposed collections of information are necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimates of the burden of the proposed information collections; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collections of information on respondents, including the use of automated collection techniques or other forms of information technology.

A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this notice in the Federal Register.

Authority: 44 U.S.C. 3501-3520.

Issued in Washington, DC on May 29, 2014.

Erin McCartney,
Acting Chief Financial Officer.

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