

Mexico-domiciled carriers seeking authority to operate in the United States beyond the border commercial zones. The FMCSA determined the Certification rule was not subject to environmental analysis due to a categorical exclusion.

A group of labor, industry, and environmental organizations sought review of the regulations in the United States Court of Appeals for the Ninth Circuit, alleging FMCSA had violated NEPA and the CAA. The Ninth Circuit ruled a PEIS and General Conformity Evaluation under the CAA were required. The Court also determined the Certification rule did not fall within any of the existing DOT categorical exclusions and therefore, the court held DOT acted arbitrarily and capriciously by failing to conduct any environmental analysis.

In light of the Ninth Circuit's opinion, the FMCSA intends to prepare a PEIS pursuant to NEPA and perform a General Conformity Evaluation pursuant to the CAA for the Application and Safety Monitoring rules. The PEIS will be developed pursuant to the Council on Environmental Quality (CEQ) regulations, 40 CFR 1500 *et seq.*, and DOT Order 5610.1C, which supplements the CEQ regulations by applying them to DOT programs. The General Conformity Evaluation will be conducted pursuant to the U.S. Environmental Protection Agency's general conformity regulations, 40 CFR parts 51 and 93.

The FMCSA is currently preparing an Environmental Assessment (EA) for the Certification rule. Should the EA determine an EIS is required for the Certification rule, a supplemental Notice of Intent will be issued.

A letter describing the proposed regulations and soliciting comments will be sent to all appropriate Federal, State, local, and tribal agencies, as well as to private organizations and individuals who have expressed an interest in this matter. Interagency and public scoping meetings will be scheduled in the near future. Public notice will be given, providing the time and place of the meetings.

To ensure the full range of issues related to these proposed regulations are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning the proposed regulations and the PEIS should be directed to the FMCSA at the above address.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction, and Number 20.218 National Motor Carrier Safety (MCSAP). The

regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on: August 20, 2003.

Annette M. Sandberg,

Administrator.

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DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Federal Railroad Administration, DOT.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 and its implementing regulations, the Federal Railroad Administration (FRA) hereby announces that it is seeking renewal of the following currently approved information collection activities. Before submitting these information collection requirements for clearance by the Office of Management and Budget (OMB), FRA is soliciting public comment on specific aspects of the activities identified below.

DATES: Comments must be received no later than October 27, 2003.

ADDRESSES: Submit written comments on any or all of the following proposed activities by mail to either: Mr. Robert Brogan, Office of Safety, Planning and Evaluation Division, RRS-21, Federal Railroad Administration, 1120 Vermont Ave., NW., Mail Stop 17, Washington, DC 20590, or Ms. Debra Steward, Office of Information Technology and Productivity Improvement, RAD-20, Federal Railroad Administration, 1120 Vermont Ave., NW., Mail Stop 35, Washington, DC 20590. Commenters requesting FRA to acknowledge receipt of their respective comments must include a self-addressed stamped postcard stating, "Comments on OMB control number _____." Alternatively, comments may be transmitted via facsimile to (202) 493-6230 or (202) 493-6170, or E-mail to Mr. Brogan at robert.brogan@fra.dot.gov, or to Ms. Steward at debra.steward@fra.dot.gov. Please refer to the assigned OMB control number in any correspondence submitted. FRA will summarize comments received in response to this notice in a subsequent notice and include them in its information collection submission to OMB for approval.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Brogan, Office of Planning and Evaluation Division, RRS-21, Federal Railroad Administration, 1120 Vermont Ave., NW., Mail Stop 17, Washington, DC 20590 (telephone: (202) 493-6292) or Debra Steward, Office of Information Technology and Productivity Improvement, RAD-20, Federal Railroad Administration, 1120 Vermont Ave., NW., Mail Stop 35, Washington, DC 20590 (telephone: (202) 493-6139). (These telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: The Paperwork Reduction Act of 1995 (PRA), Pub. L. No. 104-13, § 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 provide 60-days notice to the public for comment on information collection activities before seeking approval for reinstatement or renewal by OMB. 44 U.S.C. 3506(c)(2)(A); 5 CFR 1320.8(d)(1), 1320.10(e)(1), 1320.12(a). Specifically, FRA invites interested respondents to comment on the following summary of proposed information collection activities regarding (i) whether the information collection activities are necessary for FRA to properly execute its functions, including whether the activities will have practical utility; (ii) 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; (iii) ways for FRA to enhance the quality, utility, and clarity of the information being collected; and (iv) ways for FRA to minimize the burden of information collection activities on the public by automated, electronic, mechanical, or other technological collection techniques or other forms of information technology (e.g., permitting electronic submission of responses). See 44 U.S.C. 3506(c)(2)(A)(i)-(iv); 5 CFR 1320.8(d)(1)(i)-(iv). FRA believes that soliciting public comment will promote its efforts to reduce the administrative and paperwork burdens associated with the collection of information mandated by Federal regulations. In summary, FRA reasons that comments received will advance three objectives: (i) Reduce reporting burdens; (ii) ensure that it organizes information collection requirements in a "user friendly" format to improve the use of such information; and (iii) accurately assess the resources expended to retrieve and produce information requested. See 44 U.S.C. 3501.