

DEPARTMENT OF TRANSPORTATION**Notice and Request for Comments**

AGENCY: Federal Railroad Administration, DOT.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Requirement (ICR) abstracted below has been 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 October 20, 2003 (68 FR 59981).

DATES: Comments must be submitted on or before January 28, 2004.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Brogan, Office of Safety, Planning and Evaluation Division, RRS-21, Federal Railroad Administration, 1120 Vermont Ave., NW., Mail Stop 25, Washington, DC 20590 (telephone: (202) 493-6292), 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 (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, Section 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 October 20, 2003, FRA published a 60-day notice in the **Federal Register** soliciting comment on ICRs that the agency was seeking OMB approval. 68 FR 59981.

FRA received two comments after issuing this notice. The first comment or letter that FRA received was from the Brotherhood of Maintenance of Way Employees (BMWE). The BMWE supports the proposed study and remarked:

Those employees categorized as "construction/production" generally are assigned work over vast territories encompassing an entire railroad system, and report to an ever changing designated lodging facility or rally point

at the beginning of each work week or "compressed half" work period (a compressed half may consist of 8 consecutive 10 hour days, followed by 7 consecutive days off or some similar variation) * * * It is not uncommon for MW production/construction crew members to travel 500-1,500 miles from home to reach the designated lodging facility at the beginning of the work period. These employees often work 10 or more hours per day for 8-10 days straight, and then drive back home at the end of the work period * * *

For all MW workers, there are no FRA imposed limits on the number of hours worked. MW work is physically taxing and is conducted under extreme weather conditions, including the heat of summer, the cold of winter, and in rain, snow, and other inclement conditions. MW employees working construction/production are also susceptible to the stresses of long periods of separation from their families, and are also subject to call outside scheduled work hours.

Fatigue has been a huge factor in our industry and recent railroad mergers have resulted in greatly expanded territories for MW production/construction crews. Extensive travel, shared away-from-home lodging, and constantly changing work hours and locations have become the norm for MW employees. The fatigue associated with MW work continues to get worse and has been a contributing factor, if not the sole cause, in numerous accidents and incidents in the rail industry.

The BMWE contends that the Work Schedules and Sleep Patterns of Maintenance of Way Employees study will help FRA and the rail industry develop an understanding of the work schedule-related fatigue issues that affect MW employees. Once this study is complete, the BMWE will continue to work with the FRA and the rail industry to reduce the fatigue level of MW employees.

The second comment or letter that FRA received came from the Brotherhood of Railroad Signalmen (BRS). The BRS also supports the proposed study and stated:

Fatigue has been a huge factor in our industry. Maintenance of way territories have been expanded. Outside of large metropolitan areas, it is not uncommon for maintenance of way employees to have to travel anywhere from 500-1,500 miles. The BRS contends that the erratic call schedule of maintenance of way employees along with no limitations on the amount of hours that they can work produce an environment where fatigue is the norm. It is a way of life for

maintenance of way employees. It continues to get worse * * *

The BRS contends that the Work Schedules and Sleep Patterns of Maintenance of Way Employees study will help FRA and the rail industry to develop an understanding of the work-schedule-related fatigue issues that affect MW employees. Once this study is complete, the BRS will continue to work with the FRA and the rail industry in order to promote work schedules and initiatives that will reduce the fatigue level of maintenance of way employees.

Neither BMWE nor BRS addressed the issue of burden hour estimates or burden cost estimates. After carefully reviewing these comments, DOT announces that these information collection activities have been re-evaluated and certified under 5 CFR 1320.5(a) and forwarded to OMB for review and approval pursuant to 5 CFR 1320.12(c).

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 summaries below describe the nature of the information collection requirements (ICRs) and the expected burden, and are being submitted for clearance by OMB as required by the PRA.

Title: Work Schedules and Sleep Patterns of Maintenance of Way Employees.

OMB Control Number: 2130-NEW.

Type of Request: New collection.

Affected Public: Rail workers.

Abstract: In a continuing effort to improve rail safety and to reduce the number of injuries and fatalities to rail workers, FRA and the rail industry have recently focused on the issue of fatigue among train and engine crew personnel. Because railroading is an around-the-clock, seven-days-a-week operation and because a wide array of workers are needed to both operate and to maintain the nation's railroads, other crafts—