

SUPPORTING JUSTIFICATION

49 CFR Part 210

New Locomotive Certification (Noise Compliance Regulations)

- 1. EXPLAIN THE CIRCUMSTANCES THAT MAKE THE COLLECTION OF INFORMATION NECESSARY. IDENTIFY ANY LEGAL OR ADMINISTRATIVE REQUIREMENTS THAT NECESSITATE THE COLLECTION. ATTACH A COPY OF THE APPROPRIATE SECTION OF EACH STATUTE AND REGULATION MANDATING OR AUTHORIZING THE COLLECTION OF INFORMATION.**

This collection of information is a request for an extension of a currently approved submission. FRA has revised the information in this collection – where appropriate and necessary – to reflect the most current data, and FRA’s experience over the past three years in implementing the requirements of Part 210.

Background

On January 14, 1976, the Environmental Protection Agency (EPA) issued railroad noise emission standards (*41 FR 2184*) pursuant to the requirements of the Noise Control Act of 1972 (*See Sections 6 [42 U.S.C. 4905] and 17 [42 U.S.C.4916]*). The standards (40 CFR Part 201) established limits on the noise emissions generated by railroad locomotives, under both stationary and moving conditions, and by railroad cars under moving conditions. These standards became effective on December 31, 1976.

Section 17 of the Act also requires the Secretary of Transportation to enforce these standards and to promulgate regulations to ensure compliance with the EPA standards. On August 24, 1977, the Federal Railroad Administration (by delegation) published a new Part 210 to ensure compliance with the noise limits for railroad locomotives and rail cars.

- 2. INDICATE HOW, BY WHOM, AND FOR WHAT PURPOSE THE INFORMATION IS TO BE USED. EXCEPT FOR A NEW COLLECTION, INDICATE THE ACTUAL USE THE AGENCY HAS MADE OF THE INFORMATION RECEIVED FROM THE CURRENT COLLECTION.**

This information is not maintained for the purpose of information collection per se. This information is used to ensure that new locomotives comply with the provisions of this Part (210) and with the noise limits for locomotives and rail cars set by the Environmental Protection Agency (EPA) under the Noise Control Act of 1972. Specifically, the information collected is used by both FRA and railroads to confirm that

new locomotives are tested and meet certain minimum noise standards so as to reduce the impact of rail operations on communities nationwide, as well as on any other properties receiving locomotives and rail cars. If this information were not required, there would be no readily apparent assurance that the noise emissions from new locomotives were within the prescribed decibel criteria.

3. DESCRIBE WHETHER, AND TO WHAT EXTENT, THE COLLECTION OF INFORMATION INVOLVES THE USE OF AUTOMATED, ELECTRONIC, MECHANICAL, OR OTHER TECHNOLOGICAL COLLECTION TECHNIQUES OR OTHER FORMS OF INFORMATION TECHNOLOGY, E.G. PERMITTING ELECTRONIC SUBMISSION OF RESPONSES, AND THE BASIS FOR THE DECISION FOR ADOPTING THIS MEANS OF COLLECTION. ALSO DESCRIBE ANY CONSIDERATION OF USING INFORMATION TECHNOLOGY TO REDUCE BURDEN.

Over the years, FRA has strongly encouraged and highly endorsed the use of advanced information technology, wherever possible, to reduce burden on respondents. The amount and type of information required by this collection does not require elaborate information processing. For the convenience of railroads and other agency respondents, FRA has installed all of its safety forms on the agency website so that users can easily download them. Thus, railroads can easily access Form FRA F 6180.49A to record necessary noise emission data.

It should be noted that the burden for this information collection is fairly minimal. Also, new technology has already been developed to reduce noise emissions of new locomotives by the use of exhaust silencers. As a result, there has been no additional rework burden because of failures caused by the certification requirement.

4. DESCRIBE EFFORTS TO IDENTIFY DUPLICATION. SHOW SPECIFICALLY WHY ANY SIMILAR INFORMATION ALREADY AVAILABLE CANNOT BE USED OR MODIFIED FOR USE FOR THE PURPOSES DESCRIBED IN ITEM 2 ABOVE.

This information is not duplicated anywhere. FRA is the sole Federal agency requiring noise emission certification for new locomotives.

Similar data are not available for any other source.

5. IF THE COLLECTION OF INFORMATION IMPACTS SMALL BUSINESSES OR OTHER SMALL ENTITIES (ITEM 5 OF OMB FORM 83-1), DESCRIBE ANY METHODS USED TO MINIMIZE BURDEN.

The collection of this information does not involve small businesses or other small entities. Also, the burden for this information collection is already fairly minimal.

6. DESCRIBE THE CONSEQUENCE TO FEDERAL PROGRAM OR POLICY ACTIVITIES IF THE COLLECTION IS NOT CONDUCTED OR IS CONDUCTED LESS FREQUENTLY, AS WELL AS ANY TECHNICAL OR LEGAL OBSTACLES TO REDUCING BURDEN.

If this information were not collected or collected less frequently, communities around the nation might suffer from excessive locomotive and rail car noise and the deleterious effects on health and quality of life that such noise brings. Specifically, without this collection of information, the quality of life of the American people – today and in the future – might be harmed because certain minimum noise levels for new locomotives were not met. Minimum noise levels help preserve the residential character of communities throughout the nation. Among other things, highly desirable residential communities are valued for their quiet and natural environmental beauty (trees, parks, etc.). Excessively loud noise, especially from locomotives, can reduce the desirability and livability in communities exposed to constant train traffic. Most severely affected are those homes closest to railroad tracks. Excessive locomotive noise can not only shatter the serenity of these residents but can also adversely affect their health. Requiring new locomotives to be certified as meeting certain minimum standards can aid in reducing – if not eliminating – harmful noise levels.

Also, without this collection of information, railroads would be unable to confirm that new locomotives, which they have purchased or are about to purchase, are tested and meet certain minimum noise standards. Moreover, without this collection of information, there would be no way to detect and correct noise defects in new locomotives before these trains pass through communities nationwide. Finally, without this collection of information, there would be no way that the Environmental Protection Agency (EPA) or the Federal Railroad Administration (FRA) could monitor whether or not new locomotives comply with existing laws and regulations concerning noise. The collection of information then provides a necessary and important monitoring tool for both FRA and the EPA.

It should be noted that certification is a one-time requirement, and information is provided only when there is a request for noise testing verification.

7. EXPLAIN ANY SPECIAL CIRCUMSTANCES THAT WOULD CAUSE AN INFORMATION COLLECTION TO BE CONDUCTED IN A MANNER:

-REQUIRING RESPONDENTS TO REPORT INFORMATION TO THE AGENCY MORE OFTEN THAN QUARTERLY;

-REQUIRING RESPONDENTS TO PREPARE A WRITTEN RESPONSE TO A COLLECTION OF INFORMATION IN FEWER THAN 30 DAYS AFTER RECEIPT OF IT;

-REQUIRING RESPONDENTS TO SUBMIT MORE THAN AN ORIGINAL AND TWO COPIES OF ANY DOCUMENT;

-REQUIRING RESPONDENTS TO RETAIN RECORDS, OTHER THAN HEALTH, MEDICAL, GOVERNMENT CONTRACT, GRANT-IN-AID, OR TAX RECORDS FOR MORE THAN THREE YEARS;

-IN CONNECTION WITH A STATISTICAL SURVEY, THAT IS NOT DESIGNED TO PRODUCE VALID AND RELIABLE RESULTS THAT CAN BE GENERALIZED TO THE UNIVERSE OF STUDY;

-REQUIRING THE USE OF A STATISTICAL DATA CLASSIFICATION THAT HAS NOT BEEN REVIEWED AND APPROVED BY OMB;

-THAT INCLUDES A PLEDGE OF CONFIDENTIALITY THAT IS NOT SUPPORTED BY AUTHORITY ESTABLISHED IN STATUE OR REGULATION, THAT IS NOT SUPPORTED BY DISCLOSURE AND DATA SECURITY POLICIES THAT ARE CONSISTENT WITH THE PLEDGE, OR WHICH UNNECESSARILY IMPEDES SHARING OF DATA WITH OTHER AGENCIES FOR COMPATIBLE CONFIDENTIAL USE; OR

-REQUIRING RESPONDENTS TO SUBMIT PROPRIETARY TRADE SECRET, OR OTHER CONFIDENTIAL INFORMATION UNLESS THE AGENCY CAN DEMONSTRATE THAT IT HAS INSTITUTED PROCEDURES TO PROTECT THE INFORMATION'S CONFIDENTIALITY TO THE EXTENT PERMITTED BY LAW.

All information collection requirements are in compliance with this section.

- 8. IF APPLICABLE, PROVIDE A COPY AND IDENTIFY THE DATE AND PAGE NUMBER OF PUBLICATION IN THE FEDERAL REGISTER OF THE AGENCY'S NOTICE, REQUIRED BY 5 CFR 1320.8(d), SOLICITING COMMENTS ON THE INFORMATION COLLECTION PRIOR TO SUBMISSION TO OMB. SUMMARIZE PUBLIC COMMENTS RECEIVED IN RESPONSE TO THAT NOTICE AND**

DESCRIBE ACTIONS TAKEN BY THE AGENCY IN RESPONSE TO THOSE COMMENTS. SPECIFICALLY ADDRESS COMMENTS RECEIVED ON COST AND HOUR BURDEN.

DESCRIBE EFFORTS TO CONSULT WITH PERSONS OUTSIDE THE AGENCY TO OBTAIN THEIR VIEWS ON THE AVAILABILITY OF DATA, FREQUENCY OF COLLECTION, THE CLARITY OF INSTRUCTIONS AND RECORDKEEPING, DISCLOSURE, OR REPORTING FORMAT (IF ANY), AND ON THE DATA ELEMENTS TO BE RECORDED, DISCLOSED, OR REPORTED. CONSULTATION WITH REPRESENTATIVES OF THOSE FROM WHOM INFORMATION IS TO BE OBTAINED OR THOSE WHO MUST COMPILE RECORDS SHOULD OCCUR AT LEAST ONCE EVERY 3 YEARS--EVEN IF THE COLLECTION OF INFORMATION ACTIVITY IS THE SAME AS IN PRIOR PERIODS. THERE MAY BE CIRCUMSTANCES THAT MAY PRECLUDE CONSULTATION IN A SPECIFIC SITUATION. THESE CIRCUMSTANCES SHOULD BE EXPLAINED.

As required by the Paperwork Reduction Act of 1995, FRA published a notice in the Federal Register on March 15, 2006, soliciting comment on this particular information collection. *71 FR 13452*. FRA received no comments in response to this notice.

Background

On November 8, 1976, FRA published a Notice of Proposed Rulemaking (NPRM) setting forth proposed procedures to assure compliance with the EPA standards. FRA solicited written comments and views on this proposed rule. One commenter opposed requiring that each locomotive manufactured after 1979 be tested for stationary noise emissions before it is initially placed in service. In response to the comment, type certification based on sample testing of each locomotive model was allowed in the final rule. The certification may be based on either load cell or pass by testing.

9. EXPLAIN ANY DECISION TO PROVIDE ANY PAYMENT OR GIFT TO RESPONDENTS, OTHER THAN ENUMERATION OF CONTRACTORS OR GRANTEES.

There are no monetary payments or gifts made to respondents associated with the information collection requirements contained in this regulation.

10. DESCRIBE ANY ASSURANCE OF CONFIDENTIALITY PROVIDED TO RESPONDENTS AND THE BASIS FOR THE ASSURANCE IN STATUTE, REGULATION, OR AGENCY POLICY.

Information collected is not of a confidential nature, and FRA pledges no confidentiality.

- 11. PROVIDE ADDITIONAL JUSTIFICATION FOR ANY QUESTIONS OF A SENSITIVE NATURE, SUCH AS SEXUAL BEHAVIOR AND ATTITUDES, RELIGIOUS BELIEFS, AND OTHER MATTERS THAT ARE COMMONLY CONSIDERED PRIVATE. THIS JUSTIFICATION SHOULD INCLUDE THE REASONS WHY THE AGENCY CONSIDERS THE QUESTIONS NECESSARY, THE SPECIFIC USES TO BE MADE OF THE INFORMATION, THE EXPLANATION TO BE GIVEN TO PERSONS FROM WHOM THE INFORMATION IS REQUESTED, AND ANY STEPS TO BE TAKEN TO OBTAIN THEIR CONSENT.**

This information collection does not contain any questions of a personal or sensitive nature.

- 12. PROVIDE ESTIMATES OF THE HOUR BURDEN OF THE COLLECTION OF INFORMATION. THE STATEMENT SHOULD:**

-INDICATE THE NUMBER OF RESPONDENTS, FREQUENCY OF RESPONSE, ANNUAL HOUR BURDEN, AND AN EXPLANATION OF HOW THE BURDEN WAS ESTIMATED. UNLESS DIRECTED TO DO SO, AGENCIES SHOULD NOT CONDUCT SPECIAL SURVEYS TO OBTAIN INFORMATION ON WHICH TO BASE HOUR BURDEN ESTIMATES. CONSULTATION WITH A SAMPLE (FEWER THAN 10) OF POTENTIAL RESPONDENTS IS DESIRABLE. IF THE HOUR BURDEN ON RESPONDENTS IS EXPECTED TO VARY WIDELY BECAUSE OF DIFFERENCES IN ACTIVITY, SIZE, OR COMPLEXITY, SHOW THE RANGE OF ESTIMATED HOUR BURDEN, AND EXPLAIN THE REASONS FOR THE VARIANCE. GENERALLY, ESTIMATES SHOULD NOT INCLUDE BURDEN HOUR FOR CUSTOMARY AND USUAL BUSINESS PRACTICES

-IF THIS REQUEST FOR APPROVAL COVERS MORE THAN ONE FORM, PROVIDE SEPARATE HOUR BURDEN ESTIMATES FOR EACH FORM AND AGGREGATE THE HOUR BURDENS IN ITEMS 13 OF OMB FORM 83-I.

-PROVIDE ESTIMATES OF ANNUALIZED COST TO RESPONDENTS FOR THE HOUR BURDENS FOR COLLECTIONS OF INFORMATION, IDENTIFYING AND USING APPROPRIATE WAGE RATE CATEGORIES. THE COST OF

CONTRACTING OUT OR PAYING OUTSIDE PARTIES FOR INFORMATION COLLECTION ACTIVITIES SHOULD NOT BE INCLUDED HERE. INSTEAD, THIS COST SHOULD BE INCLUDED IN ITEM 14.

Note: FRA has used a labor rate of \$30 per hour for professional/administrative staff of locomotive manufactures. Wage rates are burdened 40% to include fringe benefits and overhead.

§ 210.11 - Waivers

Any person may petition the Administrator for a waiver of compliance with any requirement in this Part. A waiver of compliance with any requirement prescribed in the Standards may not be granted under this provision. Each petition for a waiver under this section must be filed in the manner and contain information required in 49 CFR Part 211.

Over the past three (3) years, FRA has received zero (0) petitions for waivers under this provision. Consequently, there is no burden associated with this requirement.

§ 210.27 - New locomotive certification - requests

A railroad shall not operate a locomotive built after December 31, 1979, unless the locomotive has been certified to be in compliance with the Standards.

There are approximately two (2) manufacturers of locomotives. It is estimated that each could receive 20 requests per year for certification information from the railroads and/or FRA. It is further estimated that it will take the locomotive manufacturers approximately 30 minutes to send the required information. Total annual burden for this requirement is 20 hours.

Respondent Universe:

2
locomotive
manufacturers

Burden time per response:

30 minutes

Frequency of Response:

On occasion

Annual number of Responses:

40 requests

Annual Burden:	20 hours
Annual Cost:	\$600

Calculation: 40 request x 30 min. = 20 hours
 20 hrs. x \$30 = \$600

§ 210.27 - New locomotive certification

Each new locomotive certified under this section must be identified by a permanent badge or tag attached in the cab of the locomotive near the location of the inspection form FRA F 6180.49. The badge or tag must state: (1) Whether a load cell or passby test was used; (2) The date and location of the test; and (3) The A-weighted sound level readings in decibels obtained during the passby test, or the readings obtained at idle throttle setting and maximum throttle setting during a load cell test.

FRA estimates that approximately 790 badges/tags will be completed under this requirement. It is estimated that it will take each locomotive manufacturer approximately 30 minutes to conduct the test, complete the badge/tag, and place the badge/tag in the cab of the locomotive. Total annual burden for this requirement is 395 hours.

Respondent Universe:

2
locomotive
manufacturers

Burden time per response:	30 minutes
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Frequency of Response:	On occasion
Annual number of Responses:	790 badges/tags
Annual Burden:	395 hours
Annual Cost:	\$11,850

Calculation: 790 badges/tags x 30 min. = 395 hours
 395 hrs. x \$30 = \$11,850

§ 210.31 - Operation standards (stationary locomotives at 30 meters)

The following data determined by any locomotive noise emission test conducted after December 31, 1976, must be recorded in the "Remarks" section on the reverse side of

Form FRA F 6180.49: (1) Location of test; (2) Type of test; (3) Date of test; and (4) The A-weighted sound level readings in decibels obtained during the passby test, or the readings obtained at idle throttle setting and maximum throttle setting during a load cell test.

Again, there are two (2) locomotive manufacturers. FRA estimates that there will be approximately 790 measurements per year. It is estimated that it will take approximately three (3) hours to conduct the required measurements, and record necessary information. Total annual burden for this requirement is 2,370 hours

Respondent Universe:

2
locomotive
manufacturers

Burden time per response:

3 hours

Frequency of Response:

On occasion

Annual number of Responses:

790 recorded measurements

Annual Burden:

2,370 hours

Annual Cost:

\$71,100

Calculation: 790 recorded measurements x 3 hrs. = 2,370 hours
2,370 hrs. x \$30 = \$71,100

Total annual burden for this entire information collection is 2,785 hours (20 + 395 + 2,370).

13. PROVIDE AN ESTIMATE OF THE TOTAL ANNUAL COST BURDEN TO RESPONDENTS OR RECORDKEEPERS RESULTING FROM THE COLLECTION OF INFORMATION. (DO NOT INCLUDE THE COSTS OF ANY HOUR BURDEN SHOWN IN ITEMS 12 AND 14).

-THE COST ESTIMATES SHOULD BE SPLIT INTO TWO COMPONENTS: (A) A TOTAL CAPITAL AND START-UP COST COMPONENT (ANNUALIZED OVER IT EXPECTED USEFUL LIFE); AND (B) A TOTAL OPERATION AND MAINTENANCE AND PURCHASE OF SERVICES COMPONENT. THE ESTIMATES SHOULD TAKE INTO ACCOUNT COSTS

ASSOCIATED WITH GENERATING, MAINTAINING, AND DISCLOSING OR PROVIDING THE INFORMATION. INCLUDE DESCRIPTIONS OF METHODS USED TO ESTIMATE MAJOR COSTS FACTORS INCLUDING SYSTEM AND TECHNOLOGY ACQUISITION, EXPECTED USEFUL LIFE OF CAPITAL EQUIPMENT, THE DISCOUNT RATE(S), AND THE TIME PERIOD OVER WHICH COSTS WILL BE INCURRED. CAPITAL AND START-UP COSTS INCLUDE, AMONG OTHER ITEMS, PREPARATIONS FOR COLLECTING INFORMATION SUCH AS PURCHASING COMPUTERS AND SOFTWARE; MONITORING, SAMPLING, DRILLING AND TESTING EQUIPMENT; AND RECORD STORAGE FACILITIES.

-IF COST ESTIMATES ARE EXPECTED TO VARY WIDELY, AGENCIES SHOULD PRESENT RANGES OF COST BURDENS AND EXPLAIN THE REASONS FOR THE VARIANCE. THE COST OF PURCHASING OR CONTRACTING OUT INFORMATION COLLECTION SERVICES SHOULD BE A PART OF THIS COST BURDEN ESTIMATE. IN DEVELOPING COST BURDEN ESTIMATES, AGENCIES MAY CONSULT WITH A SAMPLE OF RESPONDENTS (FEWER THAN 10), UTILIZE THE 60-DAY PRE-OMB SUBMISSION PUBLIC COMMENT PROCESS AND USE EXISTING ECONOMIC OR REGULATORY IMPACT ANALYSIS ASSOCIATED WITH THE RULEMAKING CONTAINING THE INFORMATION COLLECTION, AS APPROPRIATE.

-GENERALLY, ESTIMATES SHOULD NOT INCLUDE PURCHASES OF EQUIPMENT OR SERVICES, OR PORTIONS THEREOF, MADE (1) PRIOR TO OCTOBER 1, 1995, (2) TO ACHIEVE REGULATORY COMPLIANCE WITH REQUIREMENTS NOT ASSOCIATED WITH THE INFORMATION COLLECTION, (3) FOR REASONS OTHER THAN TO PROVIDE INFORMATION OR KEEP RECORDS FOR THE GOVERNMENT, OR (4) AS PART OF CUSTOMARY AND USUAL BUSINESS OR PRIVATE PRACTICES.

\$30 - Printing of 1,000 badges/tags at \$.03 each.

- 14. PROVIDE ESTIMATES OF ANNUALIZED COST TO THE FEDERAL GOVERNMENT. ALSO, PROVIDE A DESCRIPTION OF THE METHOD USED TO ESTIMATE COSTS, WHICH SHOULD INCLUDE QUANTIFICATION OF HOURS, OPERATIONAL EXPENSES SUCH**

AS EQUIPMENT, OVERHEAD, PRINTING, AND SUPPORT STAFF, AND ANY OTHER EXPENSE THAT WOULD NOT HAVE BEEN INCURRED WITHOUT THIS COLLECTION OF INFORMATION. AGENCIES ALSO MAY AGGREGATE COST ESTIMATES FROM ITEMS 12, 13, AND 14 IN A SINGLE TABLE.

There is no cost to the Federal Government in connection with the certification of noise emissions.

15. EXPLAIN THE REASONS FOR ANY PROGRAM CHANGES OR ADJUSTMENTS REPORTED IN ITEMS 13 OR 14 OF THE OMB FORM 83-I.

The burden has decreased by 735 hours. The decrease in burden is an adjustment due to a couple of revised estimates. Specifically, the following estimates were modified:

(1) Under § 210.27, FRA *decreased* its estimate of the number of newly certified locomotives identified by a permanent badge or tag (from 1,000 badges/tags to 790 badges/tags). This revised estimate *decreased* the burden by *105 hours* (from 500 hours to 395 hours).

(2) Under § 210.31, FRA *decreased* its estimate of the number of locomotive noise emission tests and recorded measurements (from 1,000 recorded measurements to 790 recorded measurements). This revised estimate *decreased* the burden by *630 hours* (from 3,000 hours to 2,370 hours).

The current OMB inventory shows a burden total of 3,520 hours, while the present information collection submission exhibits a total burden of 2,785 hours. Hence, there is a decrease of 735 hours.

16. FOR COLLECTIONS OF INFORMATION WHOSE RESULTS WILL BE PUBLISHED, OUTLINE PLANS FOR TABULATION, AND PUBLICATION. ADDRESS ANY COMPLEX ANALYTICAL TECHNIQUES THAT WILL BE USED. PROVIDE THE TIME SCHEDULE FOR THE ENTIRE PROJECT, INCLUDING BEGINNING AND ENDING DATES OF THE COLLECTION OF INFORMATION, COMPLETION OF REPORT, PUBLICATION DATES, AND OTHER ACTIONS.

There are no plans for publication involving these information collection requirements
17. IF SEEKING APPROVAL TO NOT DISPLAY THE EXPIRATION DATE FOR OMB APPROVAL OF THE INFORMATION COLLECTION,

EXPLAIN THE REASONS THAT DISPLAY WOULD BE INAPPROPRIATE.

Once OMB approval is received, FRA will publish the approval number for these information collection requirements in the Federal Register.

18. EXPLAIN EACH EXCEPTION TO THE CERTIFICATION STATEMENT IDENTIFIED IN ITEM 19, "CERTIFICATION FOR PAPERWORK REDUCTION ACT SUBMISSIONS," OF OMB FORM 83-I.

No exceptions are taken at this time.

This information collection supports the DOT strategic goal of human and natural environment. Specifically, it enhances the quality of life of the American people, today and in the future, by ensuring that new locomotives meet certain minimum noise levels. This helps preserve the residential character of communities throughout the nation. Among other things, highly desirable residential communities are valued for their quiet and natural environmental beauty (trees, parks, etc.). Excessively loud noise, especially from locomotives, can reduce the desirability and livability in communities exposed to constant train traffic. Most severely affected are those homes closest to railroad tracks. Excessive locomotive noise can not only shatter the serenity of these residents but can also adversely affect their health. Requiring new locomotives to be certified as meeting certain minimum standards can aid in reducing – if not eliminating – toxic noise levels.

In this information collection, as in all its information collection activities, FRA seeks to do its utmost fulfill departmental goals and to be an integral part of One DOT.