



U.S. Department
of Transportation

**Federal Railroad
Administration**

Administrator

1200 New Jersey Avenue, SE
Washington, DC 20590

OCT 29 2008

The Honorable Susan E. Dudley
Administrator, Office of Information and Regulatory Affairs
Office of Management and Budget
725 17th Street NW
Washington, DC 20503


Dear Ms. Dudley:

The Federal Railroad Administration (FRA) published a notice in today's Federal Register (73 FR 63764) that spells out the agency's emergency request for the collection of information associated with FRA Emergency Order (EO) No. 26, Notice No. 1, published on October 7, 2008 (73 FR 58702). FRA's EO No. 26—and associated information collection—is FRA's direct and proactive response to the September 12, 2008, collision of a Union Pacific Railroad (UP) freight train and a Metrolink commuter train in Chatsworth, California, *which resulted in the deaths of 25 people and numerous injuries to train occupants*. EO 26 was also a response to other train accidents/incidents involving cell phone use and the use of other electronic/electrical devices that have occurred throughout the country recently. These accidents/incidents are described in detail in both EO 26 and the accompanying collection of information supporting justification. The collection of information, under EO 26, is aimed at ensuring that railroads revise their programs of operational tests and inspections, as necessary, to include the requirements of this EO and, specifically, to include a minimum number of operational tests and inspections. This collection of information is also intended to ensure that railroads instruct operating employees and their supervisors concerning the requirements of EO 26 and implementing railroad rules and instructions.

The FRA is requesting a waiver of the normal clearance procedures specified in the Paperwork Reduction Act of 1995 and Title 5 Code of Federal Regulations (CFR) Part 1320. FRA cannot reasonably comply with these normal procedures because considerable public harm is likely to result if normal procedures are followed. In particular, there are likely to be more accidents/incidents and accompanying injuries and fatalities caused by inappropriate use of cell phones and other electronic/electrical devices by railroad employees while on duty if the requirements of EO 26 are not complied with. FRA requests that the Office of Management and Budget (OMB) clear the collection of information associated with EO 26 by **Friday, October 31, 2008**, for the maximum period of 180 days.

As detailed in EO 26, FRA had been working with the regulated community through FRA's Railroad Safety Advisory Committee (RSAC) in the promulgation of a cell phone safety advisory when the Chatsworth accident took place. This accident compelled FRA to take stronger measures; hence, FRA issued EO 26 on October 7, 2008. FRA anticipates that it will utilize the existing RSAC Operating Practices Working Group to formulate an amendment to 49 CFR Part 220, Railroad Communications, to comprehensively address the safety implications of the use of electronic devices by railroad employees. FRA will follow the normal rulemaking process and OMB clearance procedures to achieve this result. Once this subsequent rulemaking is published and goes into effect, FRA will discontinue the emergency clearance for EO 26 that is now being requested.

Sincerely,

A handwritten signature in black ink, appearing to read "Joseph H. Boardman". The signature is fluid and cursive, with a prominent initial "J" and a long, sweeping underline.

Joseph H. Boardman
Administrator