

RAILROAD POLICE OFFICERS
OMB No. 2130-0537

Summary of Submission

- This submission is a request for **no material or non-substantive change** of the currently approved collection of information , which expires on September 30, 2013. Only the number of respondents has changed (from 728 to 763 railroads).
- The total number of burden **hours requested** for this submission is **181 hours**.
- The total number of burden hours **previously approved** for this submission was **181 hours**.
- Total number of **responses requested** for this submission is **70**.
- The total number of responses **previously approved** for this information collection was **70**.
- ****The answer to question number 12 itemizes the hourly burden associated with each requirement of this rule (See pp. 4-6).**

1. **Circumstances that make collection of the information necessary.**

Background

49 U.S.C. Section 28101 (formerly Section 1704 of the Crime Control Act of 1990) authorizes railroad employees who are commissioned as railroad police officers by any state to enforce, in accordance with DOT regulations, the laws of any state in which the employers of railroad police officers' own property for the purpose of protecting railroad property, personnel, passengers, and cargo. Specifically, a railroad police officer may enforce relevant laws for the protection of the following: (1) The railroad's employees, passengers, or patrons; (2) The railroad's property or property entrusted to the railroad for transportation purposes; (3) The intrastate, interstate, or foreign movement of cargo in the railroad's possession or in possession of another railroad or non-rail carrier while on the railroad property; and (4) The railroad movement of personnel, equipment, and materials vital to the national defense.

49 CFR § 207.4 implements the Crime Control Act of 1990 by requiring notice to appropriate state officials – after designation of railroad police officers – of every other state in which the railroad intends to have railroad police officers protecting railroad property, personnel, passengers, and cargo. The authority exercised under this part by an officer for whom the railroad has provided notice in accordance with § 207.4 is the same

as that of a railroad police officer commissioned under the laws of that state.

2. How, by whom, and for what purpose the information is to be used.

The information collected is used by the states. The purpose of the notice provisions of 49 CFR § 207.4 is to provide a mechanism whereby states can determine which railroad police officers have authority to act in their states by virtue of the designation procedures authorized by the Crime Control Act of 1990, as opposed to individuals commissioned by the states themselves. The required notice will fully identify railroad police officers by name, badge number, identification number, rank code, or other identifying information, date of commission, state or states where the officers are commissioned, the date(s) of training, and the names of the designating railroad officials. Also, the required notice must include color photographs of badges, identification cards, and other identifying materials the railroad uses to identify its railroad police officers. These records will provide positive proof of the authority of such railroad police officers to operate in such states in the event this authority is ever questioned. The railroad companies are also required to maintain this information on file at a central location in the event the designation is questioned by state officials.

If these procedures were not in place, there would be no way of determining which railroad police officers were given authority in states other than their original state(s) of commissioning and, hence, no way of providing the effective law enforcement which the Crime Control Act of 1990 envisioned. Without the notice and recordkeeping requirements of the rule, the entire procedure for designating railroad police officers to operate beyond their state(s) of original commissioning would be meaningless.

FRA does not make use of the information because the information is not required to be provided or intended to be provided to the agency. Rather, the information is provided to state authorities as a method of implementing the Crime Control Act of 1990.

3. How, by whom, and for what purpose the information is to be used.

Although the regulation cites notification by paper, FRA strongly supports and highly encourages the use of advanced information technology, wherever possible, to reduce burden. If railroads are so equipped, FRA strongly endorses sending the information required in § 207.4 electronically. Even photographs can now be sent electronically with the proper equipment. Electronic filing is left up to discretion of the railroads. FRA strongly believes in the goal set forth both in the Paperwork Reduction Act (PRA) and the Government Paperwork Elimination Act (GPEA) to reduce burden on respondents, and is doing its best to meet those goals.

It should be noted that the information collection requirements of this rule and the corresponding burden are already extremely minimal. Since this is the case, electronic filing would not substantially decrease the burden.

4. **Efforts to identify duplication.**

The information collection requirements to our knowledge are not duplicated anywhere.

Similar data are not available from any other source.

5. **Efforts to minimize the burden on small businesses.**

Because the intent of the statute is to authorize railroad police officers to operate in more than one state, the primary impact of the rule is on larger railroads. Nevertheless, it is possible that some smaller railroads will take advantage of the opportunity to use provisions of the Crime Control Act of 1990. There is essentially no way to minimize the requirements for these organizations and retain the integrity of the notice and recordkeeping process. However, as pointed out earlier, the burden of these requirements is already extremely minimal on all railroads.

6. **Impact of less frequent collection of information.**

If this information were not collected, the safety of railroad employees, passengers, property, and cargo might be considerably jeopardized in states where there was no valid method of determining who is and who is not a genuinely commissioned railroad police officer from another state. Consequently, crime in states other than the original commissioning one might rise significantly with more theft, more vandalism, and more assaults from persons impersonating a railroad police officer. Thus, the crime prevention program envisaged by Congress would not be properly implemented without these requirements.

Failure to collect the information would inhibit interstate communication and cooperation between railroad police officers and state law enforcement authorities. Without this interstate cooperation, the property, personnel, passengers, and cargo of the railroads could not be adequately protected to the same extent while travelling across state lines. Railroads might then experience significant financial losses as well as injuries to personnel and passengers. In the case of the transportation of hazardous or nuclear material, theft of these materials could have disastrous consequences to the health and welfare of the general public as well as to the overall security of this country.

Frequency of submission is not an issue for this collection of information since the required notice is to be given only once for each state for which authority is sought.

7. **Special circumstances.**

Records of notices of commission are to be retained indefinitely or as long as the police officer remains employed. A specific timeframe can not be addressed by virtue of the regulation itself, which is intended to provide continuing evidence of railroad police authority.

With this one exception, all other information collection requirements contained in the rule are in compliance with this section.

8. Compliance with 5 CFR 1320.8.

As required by the Paperwork Reduction Act of 1995, FRA published a notice in the Federal Register on March 27, 2013, soliciting comment on this particular information collection. *78 FR 18668*. FRA received no comments in response to this notice.

Background

FRA continues to be in contact with railroad police officers and State officials implementing the statute. The statute and regulation continue to work smoothly, and there have been no complaints with respect to the burden imposed by the collection.

9. Payments or gifts to respondents.

There are no monetary payments provided or gifts made to respondents in connection with this information collection.

10. Assurance of confidentiality.

Assurances concerning confidentiality were not made, except for those implicit in the Privacy Act. It should be noted, though, that the two parties involved in the requirements – railroads and states – have a strong cooperative interest in utilizing the information only for the purposes for which the information is generated. Moreover, this information is not the kind of information for which privacy concerns typically arise.

11. Justification for any questions of a sensitive nature.

There are no questions or information of a sensitive nature or data that would normally be considered private contained in this information collection.

12. Estimate of burden hours for information collected.

Note: According to the latest agency data, there are 763 railroads now operating in the United States. These railroads constitute the respondent universe.

Section 207.4 - Notice to State officials

(a) After the designated railroad police officer is commissioned by a state or states, the railroad shall send, by certified mail, written notice to appropriate officials of every other state in which the railroad police officer shall protect the railroad’s property, personnel, passengers, and cargo. The notice of commission shall contain the following information: (1) The name of the railroad police officer; (2) The badge number, identification number, rank, code, or other identifying information assigned to the railroad police officer; (3) The date of commission; (4) The state or states where the railroad police officer is commissioned; (5) The date the railroad police officer received training or retraining regarding the laws of such state or states; (6) The name of the railroad official who designated the employee as a railroad police officer; and (7) Color photographs of the types of badges, identification cards, and other identifying materials the railroad uses to identify its railroad police officers. The authority set forth in § 207.5 shall be effective upon receipt by such state(s) of written notice conforming to the requirements of this section.

FRA estimates that approximately 35 railroads will be affected by this requirement. It is estimated that approximately one (1) new police officer will be commissioned per railroad annually. Furthermore, it is estimated that it will take each railroad approximately five (5) hours to prepare each notice or report with the required information, and send it by certified mail to appropriate officials of the relevant state(s). Total annual burden for this requirement is 175 hours.

Respondent Universe:

763
railroads

Burden time per response:

5 hours

Frequency of Response:

On occasion

Annual number of Responses:

35 notices/reports

Annual Burden:

175 hours

Calculation:

35
notices
/report

s x 5
hrs. =
175
hours

(b) The railroad shall keep copies of all such notices at a central location.

FRA estimates that approximately 35 railroads will keep records or copies of notices as required under this section. It is estimated that each railroad will keep one record and that it will take approximately 10 minutes to prepare each record. Total annual burden for this requirement is six (6) hours.

Respondent Universe:

763
railroads

Burden time per response:

10
minute
s

Frequency of Response:

On occasion

Annual number of Responses: 35 records

Annual Burden: 6 hours

Calculation: 35 records x 10 min. = 6 hours

Total annual burden for this entire requirement is 181 hours (175 + 6).

Section 207.5(a) - Authority in States where officer not commissioned

A railroad police officer who is designated by a railroad and commissioned under the laws of any state is authorized to enforce the laws of any state (as specified in paragraph (b) of this section) of any state in which the railroad owns property and to which the railroad has provided notice in accordance with § 207.4.

The burden for this requirement is included under § 207.4(a) above.

Total annual burden for this entire collection of information is 181 hours.

13. Estimate of total annual costs to respondents.

Cost to Respondents: (Note: Costs are estimated high since not all railroads impacted own property in 16 states)

| | |
|--------------|---|
| Postage: | \$952.00 (35 envelopes x 16 states x \$1.70) |
| Photos: | \$4,900 (35 Railroads x 1 new police officer x 5 photos x 16 states x \$1.75) |
| TOTAL | \$5,852.00 |

35 = number of railroads

35 = number of envelopes with required information

16 = average number of States that receive required information

5 = number of photos per police officer

1 = number of new police officers per year

\$1.75 = Estimated cost per photo

\$1.70 = Estimated cost of postage per envelope

14. Estimate of Cost to Federal Government.

There is no cost to the Federal Government since the rule imposes notice and recordkeeping requirements solely upon railroads and states. No information is provided to FRA.

15. Explanation of program changes and adjustments.

As noted in the submission summary above, this is a request for a three-year **extension without change** of the previous approval. Thus, the total burden for this information collection remains **181 hours**. Thus, there are **no program changes** or **adjustments** at this time.

There is **no change** in cost to respondents.

16. Publication of results of data collection.

There are no plans for publication of this submission. The information will be used exclusively for purposes of determining proper police authority.

17. Approval for not displaying the expiration date for OMB approval.

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

18. Exception to certification statement.

No exceptions are taken at this time.

Meeting Department of Transportation (DOT) Strategic Goals

This information collection supports the main DOT strategic goal, namely transportation safety. Without proper identification of railroad police officers, interstate communication and cooperation between railroad police officers and state law enforcement authorities would be inhibited. Without this interstate cooperation, the passengers, personnel, property, and cargo of the railroads would not be protected to the same extent while traveling across state lines. Consequently, rail transportation would be more susceptible to a variety of crimes, including higher rates of robbery, assault, and vandalism. The will of Congress – as expressed in the Crime Control Act of 1990 – would then be thwarted.

Higher crime rates might easily translate into additional injuries to crews and possibly injuries to passengers, and most certainly would result in financial losses for the railroads.

In summary, in an age of terrorism, this collection of information enhances railroad safety by providing an additional layer of protection in the form of railroad police officers who can watch over passengers, personnel, property, and cargo. It furthers DOT's goal of promoting the public health and safety by working toward the elimination of transportation-related deaths, injuries, and property damage.

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