

**INFORMATION COLLECTION
SUPPORTING JUSTIFICATION
FRA Emergency Order No. 30, Notice No. 1; OMB No. 2130-NEW**

Summary of Submission

- This submission is a **new** collection of information requesting Emergency Clearance Processing for FRA's Emergency Order No. 30, which is being published in the **Federal Register** on April 27, 2015. See 80 FR 23321.
- FRA is requesting **Emergency processing** upon publication of the required **Federal Register** Notice on **April 27, 2015**, See 80 FR 23327. FRA cannot reasonably comply with normal clearance procedures because the use of normal clearance procedures is reasonably likely to disrupt the collection of information. FRA has determined that public safety compels issuance of Emergency Order (EO) No. 30 in light of recent tank car derailments transporting crude oil, ethanol, and other hazardous materials and the ongoing risks associated with the transportation of such hazardous materials. The EO takes effect immediately upon issuance, although the railroads have until April 24, 2015, to complete implementation. Recognizing that railroads may implement alternative safety mitigation measures to that mandated by EO 30, the collection of information associated with the Order provides relief for railroads by means of petitions to FRA for special approval to take actions not in accordance with the Emergency Order. FRA cannot wait the normal 90- to180-day period for routine Office of Management and Budget (OMB) review and approval for the above stated reason. Therefore, FRA is requesting OMB approval of this collection of information immediately. *[It should be noted that, once PHMSA's HM-251 final rule becomes effective, this Emergency Order will be rescinded and the associated information collection will be discontinued.]*
- The total number of burden **hours requested** for this proposed collection of information is **1,000 hours**.
- Total number of **responses requested** for this information collection is **25**.
- ****The answer to question number 12 itemizes the hourly burden associated with each requirement of this rule (See p. 12).**

1. Circumstances that make collection of the information necessary.

In the last two years, DOT (including FRA and PHMSA) has taken numerous actions to address the safe transportation by rail of flammable liquids. Among other actions, DOT

has issued three emergency orders^a and several safety advisories, has reached voluntary agreements with the railroad industry,^b and has undertaken several separate rulemaking proceedings to address the transportation and handling of trains transporting large quantities of flammable liquids. Notably, PHMSA, in cooperation with FRA, has formulated the final rule mentioned above that will address issues including a new Hazardous Materials Regulations (HMR) tank car standard and speed limits governing the transportation of large quantities of flammable liquids. The final rule will codify certain proposals contained in the Notice of Proposed Rulemaking (NPRM) in the HM-251 rulemaking proceeding (79 FR 45016, Aug. 1, 2014).^c The final rule was submitted to the Office of Management and Budget (OMB) for review pursuant to Executive Order 12866 on February 5, 2015 (<http://www.reginfo.gov/public>). A chronology of certain DOT actions to address safe transportation of flammable liquids is listed on PHMSA's Internet website.^d

Despite efforts by DOT, the railroad industry, tank car manufacturers, and other interested parties, trains transporting large quantities of petroleum crude oil and ethanol continue to derail in this country. These derailments have resulted in the release of large quantities of hazardous material and subsequent fires. In addition to the 2013 Lac-Mégantic derailment in which 47 people were killed, numerous derailments involving crude oil unit and ethanol trains have occurred in this country. Three significant accidents have occurred domestically already in 2015 in Iowa, West Virginia, and Illinois, respectively.

The following is an overview of the circumstance surrounding the most recent derailments involving trains transporting large amounts of crude oil or ethanol that have occurred in 2015. FRA has not definitively established the probable causes of these accidents. Accordingly, nothing in this Order is intended to attribute definitive causes to these accidents, or to place responsibility for the accidents on the acts or omissions of any specific person or entity.

On February 4, a southbound Canadian Pacific Railway Co. (CP) train consisting of three locomotives, 1 buffer car loaded with sand, and 80 tank cars loaded with ethanol derailed near Dubuque, Iowa, while traveling approximately 24 miles per hour (mph). As a result, there was an ethanol spill, a fire, and at least two loaded tank cars came to rest on the frozen Mississippi River. Legacy DOT-111 cars were among the seven cars that released ethanol during the incident. One non-jacketed CPC-1232 car was punctured. It is

^a DOT Emergency Restriction/Prohibition Order, Docket No. DOT-OST-2014-0067 (May 7, 2014); DOT Amended and Restated Emergency Restriction/Prohibition Order, Docket No. DOT-OST-2014-0025 (March 6, 2014); and, FRA Emergency Order No. 28, 78 FR 48218, Aug. 2, 2013.

^b <http://www.dot.gov/briefing-room/letter-association-american-railroads>.

^c <http://www.gpo.gov/fdsys/pkg/FR-2014-08-01/pdf/2014-17764.pdf>.

^d <http://phmsa.dot.gov/hazmat/osd/chronology>.

estimated that approximately 53,000 gallons of ethanol was released as a result of the derailment.

On February 16, 2015, a CSX Transportation, Inc. (CSX) train consisting of 109 tank cars loaded with crude oil derailed near Mt. Carbon, West Virginia. The train was en route to a shipping terminal in Yorktown, Virginia, and was transporting crude oil sourced from the Bakken region (Bakken oil) and traveling at an approximate speed of 33 mph when 28 cars derailed. Two tank cars were punctured, thirteen cars experienced catastrophic thermal tears, and two cars released crude oil through their bottom outlet valves. Multiple fires and explosions occurred and emergency responders established a one-half mile evacuation zone, involving approximately 300 people. In all, the tank cars lost a total of almost 379,000 gallons of crude oil. All of the tank cars involved in this accident were CPC-1232 tank cars built between 2011 and 2013 and were non-jacketed tank cars.

Most recently, on March 5, 2015, a BNSF Railway Company (BNSF) train consisting of 103 tank cars also loaded with Bakken crude oil derailed near Galena, Illinois, resulting in a fire. The train was traveling at an approximate speed of 23 mph when 21 cars derailed. Seven cars experienced thermal tears, three cars released ethanol through their bottom outlet valves, and two cars released ethanol from their top fittings. All of the tank cars involved in this accident were constructed to the CPC-1232 standard, and were non-jacketed. FRA notes that no cars were punctured as a result of this derailment.

In addition to the above-described incidents, previous publicized derailments resulting in releases of crude oil or ethanol and and/or resulting fires have occurred with increasing frequency (e.g., Casselton, North Dakota; Aliceville, Alabama; Lynchburg, Virginia; Columbus, Ohio; Cherry Valley, Illinois; Arcadia, Ohio; New Brighton, Pennsylvania). Since February 2015, an additional three incidents have occurred in Ontario, Canada, two of which involved trains transporting large quantities of petroleum crude in loaded CPC-1232 tank cars that were punctured, one of which occurred at a train speed of over 40 miles per hour. Some of these recent accidents listed above that occurred prior to 2015 have been the impetus for DOT regulatory actions, such as the recent DOT emergency orders and the HM-251 rulemaking proceeding mentioned above. Rail incidents involving crude oil have also been the subject of several National Transportation Safety Board (NTSB) investigations and subsequent NTSB recommendations to DOT.

Traditionally, DOT-111 cars have been the primary type of tank cars used to transport large quantities of flammable liquids such as petroleum crude oil and ethanol in this country. Part 173 of the HMR authorizes the DOT-111 as a permissible packaging to transport ethanol and crude oil, as well as certain other low, medium, and high-hazard liquids and solids. DOT-111 cars are general purpose, non-pressure railroad tank cars. Subpart D of 49 CFR Part 179 in the HMR establishes the design requirements for DOT-111 cars. Baseline (legacy) DOT 111 tank cars have traditionally been designed to operate at a gross rail load of 263,000 pounds, and additional tank car protections

intended to improve crashworthiness, such as head shields, jackets, and thermal protection systems, are optional features. DOT-111 cars are required to have a shell and head thickness of 7/16”.

However, there have been changes in railroad operations over the last several years that have impacted the use of DOT-111 cars to transport flammable liquids. These changes primarily include the following: (1) increased DOT-111 traffic due the rapid increase in production levels of domestic energy products, such as petroleum crude oil; (2) higher in-train forces due to the transportation of hazardous materials in tank cars at higher gross rail loads (286,000 lbs.); and (3) the likelihood of tank cars accumulating more miles annually. This has resulted in tank car design modifications to accommodate these increased stresses and to reduce the chance of a catastrophic tank car failure.

However, despite those efforts, a significant number of older, legacy DOT-111 tank cars remain in flammable liquid service. In the HM-251 NPRM, DOT estimated that over 50,000 such non-jacketed DOT-111 cars (and an estimated 5,500 jacketed DOT-111 cars (79 FR 45025)) were still being used in crude oil and ethanol service as of August 2014.^e FRA is aware that the number of CPC-1232 and DOT-111 cars in crude oil service is variable, as new cars are currently being constructed and older cars are retired. The NTSB has described DOT-111 tank cars as having “...a high incidence of failure when involved in accidents,”^f and has recommended that DOT update the design requirements for DOT-111 tank cars, including for use in crude oil and ethanol service specifically.^g The NTSB recommendations were made with the intent to enhance the cars’ performance in accidents.^h The forthcoming HM-251 rulemaking will address certain of these NTSB recommendations.

In 2011, the rail industry, through CPC-1232, adopted a new industry standard intended to improve the crashworthiness of newly-constructed DOT-111 tank cars intended for use in crude oil and ethanol service. Cars built to the CPC-1232 standard are DOT-111 cars that are designed to operate at a gross rail load of 286,000 pounds, and include a thicker shell and head protection (1/2” height head shield, 1/2” thick shell and head thickness), are constructed with normalized steel, are constructed with top fittings protection, and with relief valves having a greater flow capacity as when compared to legacy DOT-111 cars. Additionally, some new tank cars constructed to the CPC-1232 standard are also jacketed and equipped with insulation and/or thermal protection. The jacket is 1/8” thick around the shell and 1/2” thick at the heads providing full-height head protection.

^e Id.

^f DERAILMENT OF CN FREIGHT TRAIN U70691-18 WITH SUBSEQUENT HAZARDOUS MATERIALS RELEASE AND FIRE, CHERRY VALLEY, ILLINOIS JUNE 19, 2009; NTSB Accident Report NTSB/RAR-12-01 (Feb. 14, 2012); <http://www.nts.gov/investigations/AccidentReports/Reports/RAR1201.pdf> .

^g Id.

^h Id.

Based on recent railroad accidents, the risk of additional future accidents, and the NTSB's findings that DOT-111 cars have a propensity to fail when involved in accidents, FRA has safety concern regarding the continued use of a large number of DOT-111 cars to transport large quantities of crude oil and ethanol, especially at higher speeds. Under current Federal regulations and applicable railroad industry practices, unit trains containing these older non-jacketed DOT cars may travel in flammable liquid unit trains at up to 50 mph in this country, and at speeds of up to 40 mph in populated urban areas under certain circumstances (as further discussed below).

FRA's safety concern also extends to the newer CPC-1232 tank cars in light of recent incidents, especially those incidents occurring at higher speeds. FRA notes that a total of only five tank cars were punctured as a result of the 2015 accidents in Iowa and West Virginia. No CPC-1232 cars punctured as a result the Galena, Illinois, derailment, and only one CPC-1232 tank car punctured as a result of the 2014 Lynchburg, Virginia, derailment (23 mph). However, these accidents indicate that the newer CPC-1232 cars will still release hazardous material which catches fire when the cars derail.

Speed is a factor that may contribute to the severity of a derailment or the derailment itself. Speeds can influence the probability of an accident. A lower speed may allow for a brake application to stop a train before a collision, or allow a locomotive engineer to identify a safety problem and stop the train before an accident or derailment occurs. Higher speeds will increase the kinetic energy of an accident or derailment and the associated damage caused, resulting in a greater possibility of tank cars being punctured. For example, the unmanned train that derailed and caught fire in the Lac-Mégantic derailment was believed to have been traveling at over 60 mph at the time of the incident, resulting in approximately 59 tank cars being breached. As explained in the HM-251 NPRM, if an accident occurs at 40 mph instead of 50 mph, DOT expects a reduction in kinetic energy of 36 percent. 79 FR 45046. As discussed above, the most recent derailment in the United States near Galena, Illinois, that occurred at 23 mph resulted in no tank cars being punctured, and the 2014 Lynchburg derailment that occurred at a similar speed only resulted in one CPC-1232 tank car puncture.

Generally, with respect to operating speeds, FRA has developed a system of classification that defines different track classes based on track quality. The track classes include Class 1 through Class 9 and "excepted track." See 49 CFR 213.9 and 213.307. Freight trains transporting hazardous materials, including crude oil, operate at track speeds associated with Class 1 through Class 5 track and, in certain limited instances, at or below "excepted track" speeds (10 mph or less up to 80 mph). However, AAR design specifications effectively limit most freight equipment to a maximum allowable speed of 70 mph. The Hazardous Materials Regulations (HMR) contain speed restrictions on railroad cars transporting loads of certain hazardous materials, such as material poisonous-by-inhalation. See, e.g., 49 CFR 174.86.

In addition, the rail industry, through the AAR, implements a detailed protocol on recommended operating practices for the transportation of hazardous materials. This

protocol, set forth in AAR Circular No. OT-55-N, August 5, 2013 (Circular)ⁱ includes a 50 mph maximum speed for any “key train.” The Circular establishes that a key train includes any train with 20 or more loads of “any combination of hazardous material.” This definition includes trains affected by this Order that transport large quantities of petroleum crude oil and ethanol. In February 2014, by way of Secretary of Transportation Anthony Foxx’s letter to AAR,^j the major railroads in this country voluntarily committed to a lower 40-mph speed limit for trains containing one or more legacy DOT-111 tank cars (or one non-DOT specification car) and transporting large quantities of crude oil within the limits of any HTUA as defined by the regulations of the Transportation Security Administration.

In addition, FRA is aware that the nation’s second largest freight railroad, the BNSF, recently took steps to lower the speeds of key trains in populated areas. BNSF recently amended its railroad rules to require that key trains traveling within large municipal areas travel no more than 35 mph, or an even lower speed and in more locations than they, other Class I railroads, AAR, and some short line railroads committed to in response to Secretary Foxx’s February 2014 letter described above.

PHMSA requested public comment on appropriate speed limits for trains transporting large quantities of certain flammable liquids in the HM-251 NPRM, and will address train speeds in the forthcoming final rule. As discussed above, PHMSA will also address updated tank car standards as related to the transportation of flammable liquids by rail. However, any lowered speed requirements in the forthcoming PHMSA rule will not be applicable until the effective date of the final rule. In the interim, FRA believes that further action is necessary to ensure public safety.

While FRA applauds the industry for its voluntary commitments related to speed reductions, FRA believes that it is necessary for it to require that the existing industry commitments be applied to all trains carrying large quantities of Class 3 flammable liquids, including those transporting newer CPC-1232 tank cars. FRA believes that immediately lowering maximum train speeds in HTUAs to all trains carrying large quantities of flammable liquids will help to mitigate the potential effects of future accidents should they occur in a highly populated area. Despite the efforts of all stakeholders, these accidents continue to occur on a regular basis. While accidents involving affected trains have recently occurred at speeds below 40 mph, FRA anticipates that the reduction in maximum speed for certain trains carrying large volumes of flammable liquid in higher risk areas based on the type of tank car being used may prevent fatalities and other injuries and damages, and limit the amount of environmental damage that would likely result were an accident to occur in one of these densely populated areas. HTUA’s encompass locales where, were a derailment to occur, there is a greater chance that a catastrophic loss of human life could occur than in other less

ⁱ <http://www.boe.aar.com/CPC-1258%20OT-55-N%208-5-13.pdf>.

^j <http://www.dot.gov/briefing-room/letter-association-american-railroads>.

populated areas. Further, by limiting speeds for certain higher risk trains, FRA also hopes to reduce in-train forces related to acceleration, braking, and slack action that are sometimes the cause of derailments.^k FRA believes these restrictions are necessary until the HM-251 final rule is issued and becomes effective.

FRA's approach here is based on longstanding concerns regarding the crashworthiness of legacy DOT-111 cars, as evidenced by NTSB and FRA investigations of derailments involving trains consisting of large blocks or unit trains of tank cars containing flammable liquids. A recent FRA study, involving a tank car puncture model validated by full scale testing was conducted at the Transportation Technology Center in Pueblo, Colorado.^l The study evaluated the relative performance of a variety of DOT-111 tank car, including those that are the subject of this EO. In addition, a soon to be released report issued in March 2015 by Sharma & Associates, Inc., to FRA addressed the reduction in tank car puncture probabilities based on changes to tank car designs or the tank car operating environment. FRA expects to post this report to its web-site in the near future. The report discusses the fact that tank cars are exposed to a wide range of hazards during derailments that affect the outcomes. It also discusses the assumption that higher derailment speeds tend to lead to "more cars derailing as well as higher magnitudes of forces, and thereby, a higher probability of puncture." The study estimated derailment impacts at 30, 40, and 50 mph, respectively, as applied to tank cars equipped with varying protections. The results of the study indicate more likely tank car punctures occur as accident speeds increase.

Accordingly, FRA is limiting speeds for affected trains to 40 mph. Recent accidents involving unit trains of crude oil indicate that these legacy DOT-111 cars are prone to punctures, tears, and hazardous material releases when involved in accidents. Newer tank cars built to the CPC-1232 standard have more robust protections than do legacy DOT-111 tank cars. However, recent incidents have shown that those cars will still release hazardous material when involved in derailments. Thus, FRA is also limiting the speed for affected trains transporting CPC-1232 cars to 40 mph or less. While past accidents have shown that there still may be hazardous material releases when derailments occur at less than 40 mph, FRA believes this speed restriction will substantially mitigate the effects of any accidents as when compared to accidents that occur at higher speeds.

To formulate the speed limitation for certain trains, FRA balanced the need to alleviate an emergency situation involving a hazard of death, personal injury, or significant harm to the environment, against the impacts speed limitations may have on efficient rail transportation in this country. An analysis of certain speed restrictions below 40 mph

^k See, e.g., FRA Report to the Senate Committee on Commerce, Science and Transportation and the House Committee on Transportation and Infrastructure: Safe Placement of Train Cars (June 2005).

^l http://www.fra.dot.gov/eLib/details/L15900#p6_z50_gD; http://www.fra.dot.gov/eLib/details/L15901#p6_z50_gD

indicated that such restrictions could potentially cause harmful effects on interstate commerce, and actually increase safety risks. Increased safety risks could occur if speed restrictions cause rail traffic delays resulting in trains stopping on main track more often and trains moving into and out of sidings more often requiring more train dispatching. Increased safety risks could also occur if shippers offer more affected trains onto the rail network to maintain constant inventories to offset train delays. FRA also evaluated speed restrictions in the context of potential delays to passenger rail service. FRA believes the restriction in this Order will address an emergency situation while avoiding other safety impacts and harm to interstate commerce and the flow of necessary goods to the citizens of the United States. FRA and DOT will continue to evaluate whether additional action with regard to train speeds is appropriate.

The speed restriction in this Order applies to trains transporting DOT-111 and CPC-1232 cars that pose dangers in a derailment. In seeking the appropriate approach to ensure safety, FRA has also limited this Order's applicability to only those trains transporting large quantities of flammable liquids. This Order will primarily apply to unit trains only. Further, this Order would have applied to all of the recent incidents described above involving unit trains transporting petroleum crude oil and ethanol. This Order's threshold ensures that FRA is focusing on the highest risk shipments and not unnecessarily imposing safety-related burdens on lesser risks that do not represent the same safety and environmental concerns.

In sum, FRA is issuing this Emergency Order (EO or Order) to require that trains transporting large amounts of Class 3 flammable liquid through certain highly populated areas adhere to a maximum authorized operating speed limit. FRA has determined that public safety compels issuance of this Order. This Order is necessary due to the recent occurrence of railroad accidents involving trains transporting petroleum crude oil and ethanol and the increasing reliance on railroads to transport voluminous amounts of those hazardous materials in recent years. Under the EO, an affected train is one that contains: (1) 20 or more loaded tank cars in a continuous block, or 35 or more loaded tank cars, of Class 3 flammable liquid; and (2) at least one DOT Specification 111 (DOT-111) tank car (including those built in accordance with Association of American Railroads (AAR) Casualty Prevention Circular 1232 (CPC-1232)) loaded with a Class 3 flammable liquid. Affected trains must not exceed 40 miles per hour (mph) in high-threat urban areas (HTUAs) as defined in 49 CFR 1580.3. This Order is effective immediately.

Authority to enforce Federal railroad safety laws has been delegated by the Secretary of Transportation to the Administrator of FRA. 49 CFR 1.89. Railroads are subject to FRA's safety jurisdiction under the Federal railroad safety laws. 49 U.S.C. 20101, 20103. FRA is authorized to issue emergency orders where an unsafe condition or practice "causes an emergency situation involving a hazard of death, personal injury, or significant harm to the environment." 49 U.S.C. 20104. These orders may immediately impose "restrictions and prohibitions . . . that may be necessary to abate the situation." Id.

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

This is a new collection of information. The proposed collection of information will be used by railroads to enable them to have an opportunity to seek relief from the regulatory provisions stipulated in this Emergency Order. EO 30 stipulates that trains transporting large amounts of Class 3 flammable liquids through certain highly populated areas/high threat urban areas adhere to a maximum authorized operating speed limit of 40 miles per hour. Railroads may file petitions for special approval with FRA to explain their reasons for seeking relief and stating their proposed alternative action that will provide at least an equivalent level of safety to that provided by this Emergency Order.

In keeping with its mission of promoting and enhancing rail safety, the proposed collection of information will be used by FRA to review and evaluate petitions for special approval to determine whether railroads have articulated a clear and compelling reason(s) to grant their request for relief. FRA will approve/disapprove special approval petition requests where it determines that it is in the public interest to do so and where railroads have provided an alternative action(s) that provides an equivalent level of safety to this Emergency Order.

3. Extent of automated information collection.

Over the years, FRA has consistently and strongly endorsed the use of the latest information technology, wherever feasible, to reduce burden on respondents and increase efficiency. FRA expects that all petitions for special approval will be submitted electronically to the agency. Since the Emergency Order takes effect immediately, FRA expects that 100% of responses will be electronic.

4. Efforts to identify duplication.

The proposed collection of information is new and pertains to a critical Emergency Order that FRA is issuing to protect public safety. Thus, the information collected is unique and not currently available.

The proposed collection of information is not duplicated anywhere.

5. Efforts to minimize the burden on small businesses.

There are approximately 70 railroads/stakeholders that will be impacted by Emergency Order No. 30 and associated collection of information. The burden is extremely minimal involving an estimated total of 25 relief petitions and 1,000 hours. Thus, FRA firmly asserts that the proposed collection of information will not have a significant impact on a substantial number of small entities.

6. Impact of less frequent collection of information.

If this information were not collected, rail safety in this country would be considerably jeopardized. In particular, there likely would be more train derailments similar to the ones that occurred in Dubuque, Iowa; Mt. Carbon, West Virginia; and Galena, Illinois, which resulted in the release of hazardous materials (ethanol and crude oil) and in fires. In the case of the Mt. Carbon tank car derailment, there were not only multiple fires but also explosions. As a result, emergency responders ended up establishing a one-half mile evacuation zone, affecting 300 people. The July 2013 derailment in Lac-Megantic, Quebec, Canada, dramatically demonstrated the human and economic consequences of a railroad accident resulting in the release of flammable liquids. Approximately six million litres of petroleum crude oil was quickly released. The fire began almost immediately, and the ensuing blaze and explosions left 47 people dead. Another 2,000 people were forced to evacuate their homes, and much of the downtown core was destroyed.

Without this collection of information, railroads would have no way to seek relief from the requirements of EO 30. In particular, they would be unable to articulate their case of an alternative action(s) that they could take that would provide at least an equivalent level of safety to that provided by this Emergency Order. The business operations of some railroads might necessitate their implementing measures other than the required 40 mph train speed to keep customers and maintain a profitable enterprise. For these railroads, the proposed collection of information provides them an opportunity to meet the safety requirements of this EO in the most feasible way for them.

Without this collection of information, FRA would have no way to review and evaluate whether it is safe and in the public interest to waive the requirements of EO 30. FRA will carefully scrutinize each petition for special approval to determine whether the railroad has made a clearly articulated and convincing argument regarding a proposed alternative action(s) it is willing to take to obtain relief from this Order. As long as a level of safety equivalent to this EO can be provided, FRA will grant relief for such petitions.

In sum, this collection of information assists FRA in its primary mission of promoting and enhancing rail safety throughout the United States.

7. Special circumstances.

All other information collection requirements relating to EO 30 are in compliance with

this section.

8. Compliance with 5 CFR 1320.8.

In accordance with the Paperwork Reduction Act of 1995 and 5 CFR 1320 (§1320.13), FRA is publishing a notice in the **Federal Register** on April 27, 2015, (see 80 FR 23327) requesting Emergency Clearance processing of the proposed collection of information associated with FRA Emergency Order (EO) 30, which takes effect immediately upon issuance and which is being published in the Federal Register on April 27, 2015. See 80 FR 23321. Under the circumstances cited in the Summary on page 1 one of this Supporting Justification, FRA cannot reasonably comply with the normal clearance procedures specified in 5 CFR 1320 (regarding the two Federal Register Notices and normal Clearance time frames) because the collection of information is reasonably likely to be disrupted if normal clearance procedures are followed. Additionally, rail safety is an issue. Consequently, FRA asks OMB to waive normal clearance procedures.

FRA has determined that public safety compels the issuance of EO 30 requiring trains transporting large amounts of Class 3 flammable liquids through certain highly populated areas to adhere to a maximum authorized operating speed. Affected trains must not exceed 40 miles per hour (mph) in high-threat urban areas as defined in 49 CFR 1580.3. FRA intends EO 30 – and associated collection of information collection – to reduce the risks and likelihood of train derailments involving shipment of crude oil, ethanol, and other hazardous materials and the corresponding risks of serious injury or death both to railroad employees and the general public. The EO and associated information collection are also intended to reduce environmental damage and the risks of additional railroad and shipper economic losses, caused by train derailments transporting products such as crude oil, ethanol, and other hazardous materials. Railroads may file petitions for special approval with FRA to take actions not in accordance with Order where they can show a clearly articulated alternative action that will provide at least an equivalent level of safety to that furnished by this Order.

Again, it bears mentioning that this Emergency Order will be supplanted by the publication of PHMSA’s HM-251 final rule and will be terminated once that rule becomes effective. The associated information collection will then be discontinued.

9. Payments or gifts to respondents.

There are no monetary payments or gifts made to respondents regarding the proposed information collection requirements resulting from this emergency order.

10. Assurance of confidentiality.

No assurances of confidentiality were made by the Federal Railroad Administration (FRA).

Information collected is not of a private nature.

11. Justification for any questions of a sensitive nature.

There are no questions of a sensitive or private nature involving the proposed collection of information associated with EO 30.

12. Estimate of burden hours for information collected.

Note: Based on currently available information to the agency, FRA estimates that approximately 70 railroads will be affected by the requirements of EO 30.

FRA Emergency Order No. 30, Notice No. 1

RELIEF: Petitions for special approval to take actions not in accordance with this Order may be submitted to the Associate Administrator for Railroad Safety and Chief Safety Officer (Associate Administrator), who is authorized to dispose of those requests without needing to amend this Order. When reviewing any petition for special approval, the Associate Administrator shall grant petitions only when a petitioner has clearly articulated an alternative action that will provide, in the Associate Administrator's judgment, at least a level of safety equivalent to that provided by this Order. This Order will be supplanted and terminated upon the effective date of the HM-251 final rule (Docket No. PHMSA-2012-0082; RIN 2137-AE91).

FRA estimates that approximately 25 petitions for special approval will be submitted by railroads under the above provision. It is estimated that it will take approximately 40 hours to gather the necessary information, compose the petition letter, and send the petition request to FRA. Total annual burden for this requirement is 1,000 hours.

	Respondent Universe:
	70 Railroads
Burden time per response:	40 hours
Frequency of Response:	One-time
Annual number of Responses:	25 special approval petition requests
Annual Burden:	1,000 hours

Calculation: 25 special approval petition requests x 40 hrs. = 1,000 hours

Total annual burden for this entire information collection is 1,000 hours.

13. Estimate of total annual costs to respondents.

There is no additional cost to respondents associated with this collection of information besides that provided in answer to question number 12 above.

14. Estimate of Cost to Federal Government.

There is no extra cost to the Federal Government since FRA's Associate Administrator for Safety/Chief Safety Officer since he will review special approval petition during the course of his routine duties.

15. Explanation of program changes and adjustments.

These are new information collection requirements. By definition, this entire submission is a **program change**. As stated in the Summary provided on page 1 of this document, the total number of hours that FRA is requesting by OMB for this Emergency Processing submission is **1,000 hours** and the total number of **responses** requested is 25.

Further, as noted in the Summary on page 1, upon OMB's Emergency Clearance for 180 days, FRA will initiate necessary steps to obtain regular Clearance of this proposed information collection. Thereafter, as noted earlier, once the PHMSA HM-251 final rule becomes effective, the information collection associated with EO 30 will be discontinued.

There is no additional cost to respondents besides the burden hours detailed in the answer to question number 12 above. Thus, there are no **program changes**.

16. Publication of results of data collection.

FRA does not have any plans to publish the results of this collection of information.

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 top DOT strategic goal, namely transportation safety. Specifically, without this collection of information, rail safety in this country would be considerably jeopardized. In particular, there likely would be more train derailments similar to the ones that occurred in Dubuque, Iowa; Mt. Carbon, West Virginia; and Galena, Illinois, which resulted in tank cars releasing hazardous materials (ethanol and crude oil) and in fires. In the case of the Mt. Carbon derailment, there were not only multiple fires but also explosions. As a result, emergency responders ended up establishing a one-half mile evacuation zone, involving 300 people. The July 2013 derailment in Lac-Megantic, Quebec, Canada, dramatically demonstrated the human and economic consequences of a railroad accident resulting in the release of flammable liquids. Approximately six million liters of petroleum crude oil was quickly released. The fire began almost immediately and the ensuing blaze and explosions left 47 people dead. Another 2,000 people were forced to evacuate their homes, and much of the downtown core was destroyed. The purposed of Emergency Order 30 is to prevent such accidents from occurring to the greatest extent possible and thus to reduce the number of injuries, deaths, and property damage that occur each year by these events.

This collection of information also supports the DOT strategic goal of economic growth. Over the last several years, shipments of crude oil (particularly Bakken crude oil) and ethanol have grown exponentially. These shipments have provided a great boost to the national and regional economies and have especially added to the bottom lines of railroads and shippers. From a safety and economic perspective as well as from a human and natural environment perspective, it is critically important that these “high hazard trains” arrive safely at their destinations.

The collection of information enables railroads to have a way to seek relief from the requirements of EO 30 that affect their daily operations and bottom. In particular, the collection of information – through petitions for special approval – enables them the opportunity to articulate their case of an alternative action(s) that they can take that would provide at least an equivalent level of safety to that provided by this Emergency Order. The business operations of some railroads might necessitate their implementing measures other than the required 40 mph train speed to keep customers and maintain a profitable enterprise. Their petition for special approval provides them an opportunity to meet the safety requirements of this EO in the most feasible way for them.

In sum, this collection of information enhances rail safety. It also helps promote and facilitate economic growth.

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