

**INFORMATION COLLECTION  
SUPPORTING JUSTIFICATION  
FRA Safety Advisory 2015-02;  
Docket No. PHMSA-2015-0118, Notice No. 15-11  
OMB No. 2130-NEW**

Summary of Submission

- This submission is a new collection of information requesting **Emergency processing** and immediate approval by OMB for the collection of information associated with the Joint FRA and PHMSA Safety Advisory titled Hazardous Materials: Information Requirements Related to the Transportation of Trains Carrying Specified Volumes of Flammable Liquids, (FRA Safety Advisory 2015-02; Docket No. PHMSA-2015-0118, referred to as “Joint Safety Advisory throughout the remainder of this document), which is being published in the **Federal Register** on April 23, 2015. See 80 FR 22778.
- FRA is requesting **Emergency processing** upon publication of the required **Federal Register** Notice on **April 27, 2015**, See 80 FR 23327, because FRA cannot reasonably comply with normal clearance procedures on account of use of normal clearance procedures is reasonably likely to disrupt the collection of information. Additionally, in light of recent tank car accidents/incidents carrying crude oil and other hazardous materials, FRA believes safety is an issue. The Joint Safety Advisory took effect immediately upon issuance. FRA cannot wait the normal 90-to-180-day period for routine Office of Management and Budget (OMB) review and approval. Under the Joint Safety Advisory, railroads/stakeholder are required to maintain and make available records concerning hazardous materials transportation in accordance with law and DOT regulations, and the Advisory also recommends that railroads/stakeholders make certain information available as expeditiously as possible during the course of an investigation. The recordkeeping information specified in this Joint Safety Advisory is likely to prove critically important to PHMSA and FRA personnel who request it during the course of an accident investigation. Therefore, FRA is requesting OMB approval of this collection of information immediately.
- The total number of burden **requested** for this collection of information is **100 hours**.
- Total number of **responses requested** for this information collection is **50**.
- **\*\*The answer to question number 12 itemizes the hourly burden associated with each requirement of this rule (See pp. 8-10)**

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

Due to recent derailments involving HHFTs, FRA and PHMSA have conducted several post-accident investigations and wish to ensure that stakeholders are fully aware of each agency's investigative authority and cooperate with agency personnel conducting such investigations, where time is of the essence in gathering evidence. Therefore, PHMSA and FRA are issuing the Joint Safety Advisory to remind railroads operating HHFTs, and offerors of Class 3 flammable liquids being transported aboard those trains, of their obligation to provide PHMSA and FRA, as expeditiously as possible, with information agency personnel need to conduct investigations immediately following an accident or incident.

Federal law authorizes the Secretary of Transportation (Secretary) to investigate rail accidents. Among other things, related to railroad safety generally, the Department can subpoena witness testimony, inspect track, cars, and other equipment, and require (including by subpoena) the production of records and other evidence. 49 U.S.C. §§ 20107, 20902.<sup>a</sup> FRA's regulations set forth its general accident investigation procedures at 49 CFR § 225.31.

Federal law also authorizes the Secretary to investigate accidents involving hazardous materials, 49 U.S.C. § 5121, and in so doing require (including by subpoena) the production of records, inspect packages, and gather other evidence. Where Federal law requires the maintenance of records related to hazardous materials transportation, Section 5121 obligates those responsible for maintaining such records to provide them to DOT personnel during the course of such investigations. PHMSA has promulgated rules at 49 CFR Part 109 establishing investigative procedures for that agency under this authority.<sup>b</sup> The Secretary has also delegated FRA the authority to investigate rail accidents and incidents involving the transportation of hazardous material for compliance with the Federal hazardous materials transportation law (49 U.S.C. §§ 5101 *et seq.*) and its implementing regulations. See 49 CFR 1.89(j).

In sum, FRA and PHMSA are issuing this Joint Safety Advisory to remind any railroad operating a "high hazard flammable train" (HHFT) -- defined as a train comprised of 20 or more loaded tank cars of a Class 3 flammable liquid in a continuous block, or a train with 35 or more loaded tank cars of a Class 3 flammable liquid across the entire train -- as well as the offerors of Class 3 flammable liquids transported on such trains that certain information may be required by PHMSA and/or FRA personnel during the course of an investigation immediately following an accident.

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

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<sup>a</sup> The FRA Administrator may exercise this investigative authority pursuant to a delegation from the Secretary. 49 CFR 1.88(c), 1.89(a).

<sup>b</sup> The PHMSA Administrator may exercise this investigative authority pursuant to a delegation of the Secretary. 49 C.F.R. §§ 1.96 and 1.97.

This is a new collection of information. The proposed collection of information recommends that railroads/stakeholders operating HHFTs and offerors of Class 3 flammable liquids transported on such trains provide to FRA and/or PHMSA certain information stipulated in this Joint Safety Advisory. Specifically, under this Joint Safety Advisory, PHMSA and FRA recommend that railroads/stakeholders keep records and provide to FRA and/or PHMSA, upon request, the following:

- Information on the train consist, including the train number, locomotive(s), locomotives as distributed power, end-of-train device information, number and position of tank cars in the train, tank car reporting marks, and the tank car specifications and relevant attributes of the tank cars in the train.
- Waybill (origin and destination) information.
- The Safety Data Sheet(s) (SDS) or any other document used to provide comprehensive emergency response and incident mitigation information.
- Results of any product testing undertaken prior to transportation that was used to properly characterize the Class 3 flammable liquids for transportation (initial testing).
- Results from any analysis of product samples (taken prior to being offered into transportation) from tank car(s) involved in the derailment.
- Date of acceptance as required to be noted on shipping papers under 49 CFR § 174.24.
- If a flammable liquid is involved, the type of liquid and the name and location of the company extracting the material.
- The identification of the company having initial testing performed (sampling and analysis of material) and information on the lab (if external) conducting the analysis.
- Name and location of the company transporting the material from well head to loading facility or terminal.

- Name and location of the company that owns and that operates the terminal or loading facility that loaded the product for rail transportation.
- Name of the Railroad(s) handling the tank car(s) at any time from point of origin to destination and a timeline of handling changes between railroads.

Railroads/stakeholders are obligated to provide the above information to FRA and PHMSA personnel upon request following a train accident involving a HHFT and the agencies recommend that railroads/stakeholders provide the information as expeditiously as possible. With the exponential growth in the number of trains transporting crude oil from the Bakken oil fields as well as the many trains transporting ethanol/other flammable liquids, the information specified above is vitally important and necessary. It will be used by FRA and PHMSA personnel to analyze the factors that lead to or contribute to train accidents. With the records, FRA and PHMSA personnel can examine train consist and locomotive information, the number and position of tank cars in the train, tank car reporting marks, and the tank car specifications and relevant attributes of each tank car in the train to ascertain what bearing, if any, they played in the accident.

With the records, FRA and PHMSA personnel can look at waybill information to determine at what point a problem or link that lead to or contributed to the accident may have occurred. FRA and PHMSA personnel can thoroughly review information about the results of any product testing undertaken prior to transportation to see if the product being carried was properly/correctly classified. Further, with these critically important records, they can closely scrutinize the date of acceptance required to be noted on shipping papers and, if a flammable liquid is involved, confirm the type of liquid and the name and location of the company extracting the material to learn what role, if any, these various actors played in the event.

With the information on the identity of the company having performed sampling and testing of material and on the lab that conducted the analysis, the name and location of the company transporting the material from well head to loading facility or terminal, the name and location of the company that owns/operates the terminal/loading facility that loaded the product for transportation and the name of the railroads handling the tank car(s) from point of origin to destination along with a timeline of changes between railroads, FRA and PHMSA personnel will have more pieces to work with to put the accident puzzle together.

The information collected will also be used to help emergency responders understand the dangers and risks posed at a derailment site as well as help FRA and PHMSA personnel evaluate and enforce compliance with this Safety Advisory and applicable laws and regulations.

FRA and PHMSA have already taken and continue to take proactive and assorted measures, including new and revised regulations, safety directives, technical bulletins, this soon to be published Safety Advisory as well the soon to be published FRA Emergency Order Number 30 and FRA Safety Advisory 2015-01. This proposed collection of information will provide essential aid to FRA and PHMSA in DOT's ongoing efforts to prevent train derailments, particularly those involving high hazard trains that recently have been so costly both financially and in lives lost, and to decrease the overall number of train accidents/incidents. Zero train accidents/train derailments annually is the ultimate goal that both FRA and PHMSA are striving for and that both have vital roles to play in accomplishing.

In sum, this collection of information serves as another tool to help both agencies achieve the DOT's main mission of the reliable, safe, efficient movement of people and goods for a strong and prosperous America now and in the future.

**3. Extent of automated information collection.**

Both FRA and PHMSA strongly encourage the use of the latest information technology, wherever feasible, to reduce burden and increase efficiency. FRA expects that all the required records will be kept electronically. Since this Safety Advisory takes effect immediately, FRA expects that 100% percent of responses will be electronic.

**4. Efforts to identify duplication.**

The proposed collection of information is new and pertains to a critical Safety Advisory that FRA and PHMSA are jointly issuing regarding HHFTs. Therefore, the information collected is unique and not currently available.

This information to our knowledge is not duplicated anywhere.

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

There are approximately 70 railroads/stakeholders that will be impacted by the Joint Safety Advisory and associated collection of information. The burden is extremely minimal, involving a total of 50 records and 100 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 is not collected or collected less frequently, rail safety in this country will be significantly jeopardized. Specifically, without this collection of information, there will invariably be more train accidents/train derailments like the ones that occurred recently in Dubuque, Iowa; Mt. Carbon, West Virginia; and Galena, Illinois, because

FRA and PHMSA personnel may not have vital and necessary information that they could use to analyze and understand the factors that lead to or contributed to the train accident. Without these records, FRA and PHMSA personnel will not be able to examine train consist and locomotive information, the number and position of tank cars in the train, tank car reporting marks, and the tank car specifications and relevant attributes of each tank car in the train to ascertain what bearing, if any, they played in the accident.

Without these records, FRA and PHMSA personnel will not be able to look at waybill information to determine at what point a problem or elemental link arose that lead to or contributed to the accident. Without the required records, FRA and PHMSA personnel would not be able to thoroughly review information about the results of any product testing undertaken prior to transportation to see if the product being carried was properly/correctly classified. Further, without these critically important records, they would be unable to closely scrutinize the date of acceptance required to be noted on shipping papers and, if a flammable liquid is involved, would be unable to confirm the type of liquid and the name and location of the company extracting the material to learn what role, if any, these various actors played in the event.

Without the information on the identity of the company having performed sampling and testing of material and on the lab that conducted the analysis, the name and location of the company transporting the material from well head to loading facility or terminal, the name and location of the company that owns/operates the terminal/loading facility that loaded the product for transportation and the name of the railroads handling the tank car(s) from point of origin to destination along with a timeline of changes between railroads, FRA and PHMSA personnel would not have additional essential pieces to work with to put the accident puzzle together.

In light of recent accidents involving crude oil and ethanol, FRA and PHMSA have already taken proactive and assorted measures, including issuing new and revised regulations, technical bulletins, Directives, etc., to address these events. This proposed collection of information then will provide additional and essential aid to FRA and PHMSA in DOT's ongoing efforts to prevent train accidents involving HHFTs and mitigate the consequences of such accidents if one does occur. The safe, reliable, efficient movement of people and goods across the country for a prosperous America now and in the future is the DOT main mission, and zero train accidents/incidents annually is the ultimate goal that both FRA and PHMSA are working to accomplish with this Joint Safety Advisory and associated information collection and with FRA Emergency Order Number 30 and FRA Safety Advisory 2015-01 and their associated information collections.

In sum, this proposed collection of information is essential and aids FRA/PHMSA in their separate and critical primary missions of promoting and enhancing rail safety and moving hazardous materials throughout the country in a safe, reliable, and

environmentally sound manner.

7. **Special circumstances.**

All information collection requirements relating to the Joint Safety Advisory 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, 80 FR 23327, requesting Emergency Processing of the proposed collection of information associated with FRA Safety Advisory 2015-02 and Docket No. PHMSA-2015-0118, Notice No. 15-11, which was published notice in the **Federal Register** on April 23, 2015, 80 FR 22778.

FRA has determined that it cannot reasonably comply with normal clearance procedures on account of use of normal clearance procedures is reasonably likely to disrupt the collection of information. Additionally, in light of recent tank car accidents carrying crude oil and other hazardous materials, such as the one in Galena, Illinois, FRA believes safety is an issue. The Joint Safety Advisory took effect immediately upon issuance. FRA cannot wait the normal 90- to 180-day period for routine Office of Management and Budget (OMB) review and approval. The Joint Safety Advisory and associated collection of information reminds railroads/stakeholders of their legal obligation to maintain and provide to FRA and PHMSA certain records concerning hazardous materials transportation in accordance with law and DOT regulations, and to make this information available to PHMSA and FRA personnel who request it during the course of an accident investigation. The Joint Safety Advisory also recommends that railroads/stakeholders make additional information available to the agencies as expeditiously as possible during the course of either agency's investigation of an accident. Therefore, FRA is requesting OMB approval of this collection of information immediately.

Upon OMB approval of its emergency clearance request, FRA will follow the normal clearance procedures for the information collection associated with this Joint Safety Advisory.

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.**

The proposed information to be collected in this Joint Safety Advisory is to be furnished solely to FRA and PHMSA personnel upon request after a train accident involving HHFTs.

Assurances of confidentiality of such information provided by railroads/stakeholders to FRA and PHMSA personnel apply to the extent permitted by FRA and PHMSA policy and regulations.

**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 the Joint Safety Advisory.

**12. Estimate of burden hours for information collected.**

*Note: FRA estimates that approximately 70 railroads/stakeholders will be affected by this Joint Safety Advisory.*

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Stakeholder cooperation with a PHMSA or FRA investigation following an accident is critically important to transportation safety. Thus, PHMSA and FRA issue this joint Safety Advisory to remind stakeholders of their obligations to maintain and make available records concerning hazardous materials transportation in accordance with law and DOT regulations, and to explain that the following information is likely to prove important to PHMSA and FRA personnel during the course of an investigation -- and thus should be provided as expeditiously as possible, upon request:

- Information on the train consist, including the train number, locomotive(s), locomotives as distributed power, end-of-train device information, number and position of tank cars in the train, tank car reporting marks, and the tank car specifications and relevant attributes<sup>c</sup> of the tank cars in the train.
- Waybill (origin and destination) information.
- The Safety Data Sheet(s) (SDS), or any other document used to provide comprehensive emergency response and incident mitigation information.

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<sup>c</sup> Relevant attributes include information related to thermal protection, shell and head thickness, steel specification and grade, head shield, and pressure relief valve setting.



- Results of any product testing undertaken prior to transportation that was used to properly characterize the Class 3 flammable liquids for transportation (initial testing).
- Results from any analysis of product samples (taken prior to being offered into transportation) from tank car(s) involved in the derailment.
- Date of acceptance as required to be noted on shipping papers under 49 CFR § 174.24.
- If a flammable liquid is involved, the type of liquid and the name and location of the company extracting the material.<sup>d</sup>
- The identification of the company having initial testing performed (sampling and analysis of material) and information on the lab (if external) conducting the analysis.
- Name and location of the company transporting the material from well head to loading facility or terminal.
- Name and location of the company that owns and that operates the terminal or loading facility that loaded the product for rail transportation.
- Name of the Railroad(s) handling the tank car(s) at any time from point of origin to destination and a timeline of handling changes between railroads.

FRA estimates that there will be approximately 50 accidents involving HHFTs each year where FRA/PHMSA inspectors will request records from railroads/stakeholders to provide the information specified above. It is estimated that it will take approximately two (2) hours to respond to the request from FRA/PHMSA inspectors and to provide each record containing the necessary information. Total annual burden for this requirement is 100 hours.

	Respondent Universe:
	70
	Railroads/Stakeholders
Burden time per response:	2 hours
Frequency of Response:	On occasion
Annual number of Responses:	50 HHFT accident records
Annual Burden:	100 hours

**Calculation:** 50 HHFT accident records x 2 hrs. =

<sup>d</sup> For a manufactured flammable liquid, the manufacturer will be identified on the SDS.

100 hours

Total annual burden for this entire information collection is 100 hours.

**13. Estimate of total annual costs to respondents.**

There is no additional burden associated with this information besides that provided in answer to question number 12 above.

**14. Estimate of Cost to Federal Government.**

There is no additional cost to the Federal Government to examine the required records because they must be supplied to FRA and PHMSA personnel in the course of their routine duties after a train accident or train derailment.

**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 **100 hours** and the total number of **responses** requested is **50**.

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.

There is no additional cost to respondents besides the burden hours detailed in the answer to question number 12 above. And, 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**, and will take necessary steps to obtain a regular OMB Clearance.

**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, this collection of information seeks to improve safety by reducing the risks and dangers of train accidents/train derailments, particularly those that involve the movement of highly hazardous materials such as Class 3 flammable liquids. Without the required records, FRA and PHMSA personnel and other accident investigators would not be able to examine train consist and locomotive information, the number and position of tank cars in the train, tank car reporting marks, and the tank car specifications and relevant attributes of each tank car in the train to ascertain what bearing, if any, they played in the accident.

Without the required records, FRA and PHMSA personnel would not be able to look at waybill information to determine at what point a problem or elemental link that lead to or contributed to the accident may have occurred. Without the required records, FRA and PHMSA personnel would not be able to thoroughly review information about the results of any product testing undertaken prior to transportation to see if the product being carried was properly/correctly classified. Further, without these critically important records, they would be unable to closely scrutinize the date of acceptance required to be noted on shipping papers and, if a refined flammable liquid is involved, would be unable to confirm the type of liquid and the name and location of the company extracting the material to learn what role, if any, these various actors played in the event.

Without the information on the identity of the company having performed sampling and testing of material and on the lab that conducted the analysis, the name and location of the company transporting the material from well head to loading facility or terminal, the name and location of the company that owns/operates the terminal/loading facility that loaded the product for transportation and the name of the railroads handling the tank car(s) from point of origin to destination along with a timeline of changes between railroads, FRA and PHMSA personnel would not have additional essential pieces to work with to put the accident puzzle together.

Without the required records, emergency responders would not have access to/receive essential and critical information in a timely way to assist them in understanding the risks and dangers posed by derailed tank cars carrying Class 3 hazardous materials. Without this information, they would be hindered in taking appropriate and necessary measures at the site to clean up, contain, and mitigate the damage as well as to protect themselves and surrounding communities.

In light of recent accidents involving crude oil and ethanol, FRA and PHMSA have already taken proactive and assorted measures, including issuing new and revised regulations, technical bulletins, Directives, etc. This proposed collection of information

then will provide additional and essential aid to FRA and PHMSA in DOT's ongoing efforts to prevent train derailments involving high hazard trains that recently have been so costly both financially and in lives lost, and to decrease the overall number of train accidents/incidents. The safe, efficient movement of people and goods across the country now and in the future is the DOT main mission, and zero train accidents/incidents annually is the ultimate goal that both FRA and PHMSA are working to accomplish with this Joint Safety Advisory and associated information collection and with FRA Emergency Order Number 30 and FRA Safety Advisory 2015-01 and their associated information collections.

In sum, this proposed collection of information is essential and aids FRA/PHMSA in their separate and critical primary missions of promoting and enhancing rail safety and moving hazardous materials throughout the country in a safe, reliable, and environmentally sound manner.

In this information collection and indeed in all 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.