

**INFORMATION COLLECTION
SUPPORTING JUSTIFICATION
FRA Safety Advisory 2015-02;
Docket No. PHMSA-2015-0118, Notice No. 15-11
OMB No. 2130-0608**

Summary of Submission

- This submission is a request for an extension without change to the collection of information previously approved by OMB for 180 days under **Emergency Processing** procedures on April 30, 2015, which expires on October 30, 2015, for FRA Safety Advisory 2015-01. FRA is requesting **regular processing** for this information collection request.
- FRA published the required 60-day **Federal Register** Notice seeking public comment on its request for regular OMB processing of the information collection associated with for FRA Safety Advisory 2015-01 on May 26, 2015. See 80 FR 30113. FRA received no comments in response to this Notice.
- The total number of burden hours **requested** for this collection of information is **100 hours**.
- The total number of burden hours **previously approved** for this collection of information is **100 hours**.
- Total number of **responses requested** for this information collection **50**.
- Total number of **responses previously approved** 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. 7-9).

1. Circumstances that make collection of the information necessary.

Background

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.^a 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.^b 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.**

This collection of information was previously approved under **Emergency Processing** procedures. FRA is **now** seeking regular OMB Clearance for this information collection. This 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

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

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

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 is and will continue 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 collection of information does and will continue to 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 collection of information is new and pertains to a critical Safety Advisory that FRA and PHMSA are jointly issuing regarding HHFTs. FRA is now seeking regular Clearance for this information collection previously approved under **Emergency Processing** procedures. 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 are and will continue to 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 collection of information does not and 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 collection of information then provides and will continue to 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. 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 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 published a Notice in the **Federal Register** on May 26, 2015, soliciting public comment on FRA's request for regular Clearance of this collection of information previously approved under **Emergency Processing** procedures. See 80 FR 30113. FRA received no comments in response to this Notice.

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 information 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 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 are and will continue to 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^c 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.^d
- 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

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

^d For a manufactured flammable liquid, the manufacturer will be identified on the SDS.

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
<u>Calculation:</u>	50 HHFT accident records x 2 hrs. = 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.

This submission is a request for an extension without change and regular Clearance for this information collection previously approved under **Emergency Processing** procedures. Thus, there are no **program changes** or **adjustments** at this time.

The current OMB inventory shows a total burden of **100 hours** and a total of **50 responses** for this information collection, while the present submission exhibits a total burden of **100 hours** and **50 responses**. Hence, there is no change in the number of burden hours or responses.

There is no change in costs to respondents.

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.

With the publication of the required 60-day Notice for this submission requesting regular Clearance on **May 26, 2015** and the upcoming publication of the required 30-day Notice, FRA has now published/will have published the OMB approval number for these information collection requirements twice in the Federal Register, in order to take the necessary steps to obtain a regular OIRA 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 collection of information then provides and will continue to 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. 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 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.