

111FEDERAL RAILROAD ADMINISTRATION
Locomotive Cab Sanitation Standards
(Title 49 Code of Federal Regulations Part 229)
SUPPORTING JUSTIFICATION
OMB Control No. 2130-0552

Summary of Submission

- This submission is a request for an extension without change of the last three-year approval granted by the Office of Management and Budget (OMB) on July 17, 2017, and which expires July 31, 2020. *(Note: The only item that has changed is the estimated number of railroads, which has decreased from 755 to 746.)*
- The Federal Railroad Administration (FRA) published the required 60-day *Federal Register* Notice on April 22, 2020. See 85 FR 25212. FRA received two anonymous comments in response to this Notice. *(Note: One commenter expressed support for this ICR, indicating that updates to the PRA information positively impacts crews and passengers while the other did not address FRA's information collection activities.)*
- The total number of burden hours requested for this information collection is 1,272 hours which is the same total number of burden hours previously approved by OMB.
- The total number of responses requested for this information collection is 113,256 which is the same total number of responses previously approved by OMB.
- There are no program changes at this time.
- The answer to question number 12 itemizes all information collection requirements with each requirement of these rules.

1. Circumstances that make collection of the information necessary.

Background

In 1992, Congress enacted Section 10 of The Rail Safety Enforcement and Review Act (RSERA) (Public Law 102-365, September 3, 1992, codified at 49 U.S.C. 20103) in response to concerns raised by employee organizations, congressional members, and recommendations of the National Transportation Safety Board concerning working conditions in locomotive cabs. In this legislation, Congress included mandates concerning locomotive crashworthiness and cab working conditions. Section 10 of RSERA, entitled *Locomotive Crashworthiness and Working Conditions*, required FRA “to consider prescribing regulations to improve the safety and working conditions of locomotive cabs” throughout the railroad industry. In order to determine whether regulations would be necessary, Congress asked FRA to “assess the extent to which environmental, sanitary and other working conditions in locomotive cabs affect

productivity, health, and the safe operation of locomotives.”

In response to Section 10 of RSERA, FRA studied a variety of working conditions in locomotive cabs including sanitation, noise, temperature, air quality, ergonomics, and vibration. In September 1996, FRA submitted its Locomotive Crashworthiness and Cab Working Conditions Report (“Report”) to Congress, which describes the results of these studies.¹ FRA found a wide range of conditions, which varied due to weather, type of sanitation system in place, carrier maintenance and service programs, locomotive model, and economic status of the railroad. In addition, some locomotives were not equipped with sanitation facilities. FRA found dirty floors and toilet seats, missing toilet seats, poor ventilation, offensive odors, and lack of toilet paper. In very cold weather, some units tended to freeze and become inoperable. Of the cabs surveyed, approximately thirty percent were deficient in some manner related to the use of sanitation facilities.

The Report noted that employees and rail management play a role in the condition of sanitary facilities; poor sanitary conditions aboard locomotives are caused by inadequate maintenance and/or heavy use or misuse by operating crews. Nearly all railroads have programs in place to service toilet and washing units, although the program requirements vary from property to property depending on degree of use, toilet system in place, and weather conditions. In addition, FRA found that adherence to the servicing programs is uneven throughout the industry, and that poor servicing is often the primary cause of unsanitary sanitation facilities. The Report also explained that there is disparity in the legal treatment of locomotive cab sanitation among state and federal regulatory and enforcement bodies and that confusion exists among industry members concerning applicable standards and guidelines.

In light of these concerns, FRA determined that cab sanitation must be revisited and addressed so that cab employees would have access to adequate sanitary facilities, as well as to ensure uniform application of the law. On April 4, 2002, FRA amended its sanitation regulations by adding standards that address toilet and washing facilities for employees who work in locomotive cabs.²

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

This is an extension without change to a current collection of information associated with FRA’s Part 229 rule. The information collection is used by FRA to promote rail safety and the health of railroad workers by ensuring that all locomotive crew members have access to adequate sanitary facilities. Specifically, railroads are prohibited from placing a locomotive with an unsanitary or defective toilet facility in the lead position.

The collection of information requires railroads to clearly mark defective toilet facilities

¹ The Report was discussed in detail in FRA’s Notice of Proposed Rulemaking (NPRM) on Locomotive Cab Sanitation Standards, which was published on January 2, 2001. (See 66 FR 136).

² See 67 FRA 16032.

as unavailable for use when these locomotive units are placed in a trailing position or in switching, transfer train service. This information is used by locomotive crewmembers as a warning to avoid using a locomotive toilet facility which is defective, unsanitary, or both.

The information collected is used by FRA to ensure that railroads repair defective toilet facilities within the prescribed timeframe. In cases where railroads utilize a locomotive equipped with a defective toilet facility in switching service or in transfer train service, they are required to repair the toilet facility within 10 calendar days of the date on which the toilet facility becomes defective. The collection of information requires railroads to report the date on which the toilet facility becomes defective on the daily inspection report. FRA uses the information on the daily inspection report, including required notations concerning sanitary facilities, to enforce compliance with agency safety regulations. Daily inspection report forms must be made available to FRA upon request.

In sum, this collection of information assists FRA in fostering a safer rail environment by improving railroad employee working conditions so that the health of locomotive crews is safeguarded.

3. Extent of automated information collection.

FRA highly encourages the use of advanced information technology to assist respondents and to reduce burden, wherever possible. FRA continues that policy in the language of this rule. In keeping with the Government Paperwork Elimination Act, FRA has included language in this rule providing an electronic option for the Daily Inspection reports/records required under § 229.21. Additionally, FRA has placed its Daily Inspection Report (FRA Form No. 2), as well as many of its other safety forms, on its Website so that railroads/other respondents can easily download them.

It should be noted that two of the information collection requirements involve clearly Marking defective toilet facilities as unavailable for use. This can be done either with a tag or with tape, and does not readily lend itself to advanced information technology. A third information collection requirement involves marking the date a toilet facility became defective on the daily inspection report.

4. Efforts to identify duplication.

The collection of information pertains to railroad workplace safety, specifically to the necessity for and the maintenance of sanitary locomotive cab facilities. Similar data are not available from any other source. This information to our knowledge is not duplicated anywhere.

5. Efforts to minimize the burden on small businesses.

This collection of information will have a slight, if any, impact on small businesses for two reasons. First, information collection requirements are a bare minimum, and so will require little time (if applicable). Second, small railroads engaged in operations other than switching or transfer train service are provided an exemption from the requirement to have a functioning toilet in any lead locomotive, if the railroad provides ready access to facilities at frequent intervals. Thus, these railroads do not have to worry about marking defective toilet facilities or making notations on the daily inspection report. Tourist, scenic, historic and excursion railroad operations, which are not propelled by steam power and which operate on the general system, are also exempt from the proposed toilet facility requirement as long as affected employees have ready access to railroad provided facilities outside of the locomotive cab.

6. Impact of less frequent collection of information.

The failure to collect this information would eliminate a valuable oversight tool which can be used by FRA to ensure that railroad carriers fulfill their obligation regarding the necessary maintenance and repair of locomotive toilet facilities. The collection of information advances the health of train crew members and seeks to further enhance the safe operation and movement of trains.

7. Special circumstances.

All information collection requirements contained in the rule are in compliance with this section.

8. Compliance with 5 CFR 1320.8.

As required by the Paperwork Reduction Act of 1995, FRA published a notice in the Federal Register on April 22, 2020, soliciting comment on this particular information collection.³ FRA received two anonymous comments pertaining to this collection of information in response to this notice. One commenter expressed support for this ICR, indicating that updates to the PRA information positively impacts crews and passengers while the other did not address FRA's information collection activities.

9. Payments or gifts to respondents.

There are no monetary payments or gifts of any kind made to respondents associated with the information collection requirements contained in this regulation.

10. Assurance of confidentiality.

No assurances of confidentiality were made by FRA. Information collected is not of a

³ See: 85 FR 22512.

private nature.

11. Justification for any questions of a sensitive nature.

There are no questions, or data of a sensitive nature associated with this collection of information.

12. Estimate of burden hours for information collected.

- *Note: According to FRA’s current data, the estimated number of railroads operating in the United States is 746. Since the estimate of the number of railroads (from 755 to 746) is the only item that has changed in this submission, this information collection request is for an **extension** to the previous OMB approval.*

CFR Section ⁴	Respondent universe	Total Annual responses	Average time per responses	Total annual burden hours	Total cost equivalent ⁵
229.137(d)—Defective, unsanitary toilet facility; use in trailing position—Tagging	746 railroads	11,700 tags	90 seconds	293 hours	\$22,268
229.137(e) Defective, sanitary toilet facility; use in switching, transfer service—Tagging	746 railroads	7,956 tags	90 seconds	199 hours	\$15,124
229.139(d) Switching or transfer service—defective locomotive toilet facility—Notation on daily inspection report	746 railroads	93,600 notations	30 seconds	780 hours	\$59,280
Total	746 railroads	113,256 responses	N/A	1,272 hours	\$96,672

13. Estimate of total annual costs to respondents.

Respondents will incur costs for tags/tape. FRA estimates the cost for each tag at \$.75, or a total of \$23,400 for 31,200 tags.

Number of tags/tap	Cost per tag/tape	Total cost
19,656	\$0.75	\$14,742

⁴ The burden for § 229.21(a)-(b) is covered under OMB No. 2130-0004 and under sections 229.137 and 229.139.

⁵ The dollar equivalent cost is derived from the Surface Transportation Board's Full Year Wage A&B data series using the appropriate employee group hourly wage rate that includes a 75-percent overhead charge.

14. Estimate of Cost to Federal Government.

The cost to the federal government includes employing Railroad Safety Inspectors, MP&E, Job Classification (GS-2121-12, Step 5) who will inspect the safety and working conditions of locomotive cabs throughout the railroad industry. The FRA employee hourly rate is \$82.50, which includes 75 percent overhead. Annually, as shown in the following table, FRA employees are expected to spend 200 hours fulfilling these duties for a total cost of \$16,500.

Number of FRA burden hours	FRA employee hourly burden rate ⁶	Total cost
200	\$82.50	\$16,500

15. Explanation of program changes and adjustments.

FRA is requesting an extension without change to the last approved submission. The total burden requested for this collection of information is *1,272 hours* and the total number of *responses* requested is *113,256*. Thus, there is **no** change in the number of burden hours and burden responses previously approved for this information collection.

As mentioned in the summary on page 1 of this document, the only item that has changed is the estimate for the total number of railroads (from 755 to 746).

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

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

⁶ Office of Personal Management, Pay & Leave, Salaries & Wages, SALARY TABLE 2020-DCB, GS-12 Step 5. <https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/20Tables/html/DCB.aspx>