

1FEDERAL RAILROAD ADMINISTRATION
Alleged Violation and Inquiry Form¹
Form FRA F 6180.151
SUPPORTING JUSTIFICATION
OMB Control No. 2130-0590

Summary of Submission

- This submission is a request for a revision of the last three-year approval granted by the Office of Management and Budget (OMB) on April 7, 2020, which now expires on April 30, 2023.
- The Federal Railroad Administration (FRA) published the required 60-day *Federal Register* Notice on December 1, 2020. See 85 FR 77337. FRA received one public comment in response to this Notice.
- Program changes increased the burden by 22 hours and 30 responses.
- The answer to question number 12 itemizes information collection requirements.
- The answer to question number 15 itemizes adjustments.
- There are no adjustment changes at this time.

1. Circumstances that make collection of the information necessary

Since its inception, FRA has worked diligently and persistently to develop and implement a comprehensive rail safety program with the goal of reducing rail accidents/incidents and corresponding injuries, fatalities, and property damage. To have an effective program, FRA collects, organizes, analyzes, and assesses data provided by railroads. The data collected from railroads are usually submitted in conjunction with agency safety regulations, since this is the best means of maximizing the agency's limited number of inspectors while promoting and maintaining a safe rail environment. FRA also collects data from outside contractors who conduct surveys and studies for the agency to gain a better understanding of specific aspects of rail operations in the United States.

The data collected allow FRA to target its resources in the most effective way possible and provide the means to both refine and improve rail safety programs and to develop new and warranted safety programs. Section 307(b) of The Rail Safety Improvement Act of 2008 (RSIA 2008) came about with this goal in mind. That law, Public Law 110-432, enacted on October 16, 2008, mandates FRA to "provide a mechanism for the public to submit written reports of potential violations of Federal railroad safety and hazardous materials transportation laws, regulations, and orders to the Federal Railroad Administration."

¹ FRA has revised the title of OMB Control Number 2130-0590 (formerly titled "Alleged Violation Reporting Form").

FRA has determined that the collection of information related to the submission of alleged violations is best received by means of this web inquiry agency form. The form's structured format allows FRA to track the progress of an alleged violation during the investigation process. This Congressionally-mandated form provides the public with a vehicle to report alleged railroad safety and hazardous materials violations to FRA and thereby allows the public to actively participate in FRA's vital safety mission to regulate and improve railroad safety throughout the United States.

FRA also has determined that using this web inquiry agency form to gather information and collect questions from the public about other issues (in addition to alleged violations) is an effective, efficient way for the public to engage with FRA and for FRA to provide information, answer questions, and address concerns.

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

The information collected by the FRA Alleged Violation and Inquiry Form² is used by FRA and railroads to identify problem areas and take necessary action to prevent potential accidents.

The FRA Alleged Violation and Inquiry Form allows the public to submit alleged violations, complaints, or inquiries directly to FRA. The form allows FRA to collect information necessary to investigate the alleged violation, complaint, or inquiry, and to follow up with the submitting party. FRA may share the information collected with partnering State departments of transportation and law enforcement agencies.

The information collected by the web inquiry agency form, besides alleged violations, will be used to assist FRA in addressing other possible safety violations or concerns and to provide information and answers to the public. Active public participation highlighting alleged safety and hazardous materials regulatory violations allows FRA inspectors to better focus their investigations and resolve reported problems that might prove harmful to rail safety.

The form will guide the public to existing Federal informational resources and allow them to submit questions to FRA in one centralized location. This should allow the public to access information and submit inquiries to the correct Federal or other entity. This also should assist FRA and DOT in collecting data on areas of interest and improving its public resources.

3. Extent of automated information collection

For many years, FRA has strongly endorsed and highly encouraged the use of advanced information technology, wherever possible, to reduce burden on respondents. In

² Formerly titled "Alleged Violation Reporting Form."

particular, FRA has strongly advocated electronic recordkeeping on the part of railroads and, where feasible, electronic reporting. Section 307(b) of the RSIA 2008 mandates that FRA provide the alleged violation submission process on the home page of the agency's Website.

To meet this requirement, FRA has automated the information collection instrument (agency form). Thus, the public submission process to the agency is completely electronic (100 percent of responses).

4. Efforts to identify duplication

This collection of information is mandated by Congress and is, therefore, unique. Presently, no public or private entity collects information relating to violations of Federal rail safety and hazardous materials regulations provided by the public. Similar data are not available from any other source.

5. Efforts to minimize the burden on small businesses

The information to be collected does not involve small businesses.

6. Impact of less frequent collection of information

If FRA were unable to collect this information or were to collect it less frequently, the agency would be unable to fulfill an important Congressional mandate. As noted previously, the collection of information is required by Section 307(b) of the RSIA 2008. If FRA did not collect this information by providing a mechanism for members of the public to report alleged violations of Federal rail safety and hazardous materials regulations, FRA would be non-compliant with Section 307(b).

Further, without this collection of information, FRA would be deprived of a unique and important resource—previously untapped—to monitor rail safety throughout the nation. As noted earlier, FRA's limited number of inspectors can only cover small geographic areas and, thus, cannot be everywhere that their presence is needed. Having another resource—active public participation highlighting alleged safety and hazardous materials regulatory violations—allows these inspectors to better focus their investigations and resolve reported problems that might prove harmful to rail safety.

7. Special circumstances

All information collection requirements are in compliance with this section.

8. Compliance with 5 CFR 1320.8

As required by the Paperwork Reduction Act of 1995 (PRA) and 5 CFR 1320, FRA

published a notice in the *Federal Register* on December 1, 2020, soliciting comment on these information collection requirements from the public, railroads, and other interested parties. See 85 FR 77337. FRA received one public comment in response to this Notice.

On February 1, 2021, the Transportation Trades Department, AFL-CIO (TTD) commented on this ICR. On February 25, 2021, FRA staff met with TTD to discuss its comment. A summary of the discussion is available in the above listed docket. TTD explained its concerns with FRA's proposed revisions to form FRA F 6180.151, namely that the revised form would allow users to voluntarily self-identify as railroad employees. TTD noted that full consideration, and investigation if needed, of the alleged violation should be given to each report regardless of the user's affiliation. TTD questioned the benefits that FRA would receive from having this information and stated that users may not realize that this self-identification is optional. TTD expressed that railroad employees could potentially face employer retaliation by self-identifying as railroad employees when submitting information to FRA through this form. TTD requested that FRA add language to this form, clarifying that this field is voluntary.

On the proposed form, FRA makes clear that members of the public and rail employees are not required to identify themselves or their place or type of employment to report an alleged violation or other safety concern to FRA. Indeed, the form definitively states this at the top and reiterates that no identifying information is required to report, but that identifying information is helpful in assisting FRA staff in assessing the matter and then, if necessary, taking appropriate action. The proposed form provides the following instructions:

Your submission is voluntary and anonymous unless you choose to provide us with your contact information. Choosing not to provide your contact information may affect FRA's ability to follow up with you on the status of the investigation and may prevent FRA from adequately investigating the alleged violation, complaint, or inquiry.

On the proposed form, the optional field for the respondent to identify as a "Public Citizen" or "Railroad Employee" falls under these instructions that clearly state the following:

AVF Collection Questions

*Anonymous submissions are allowed, but FRA strongly encourages at least one type of contact information for follow-up communications.

The optional identifying fields are included to assist FRA in determining if, where, and when an alleged violation may have occurred and what appropriate follow-up actions are necessary to assess and investigate the matter. Further, this optional identifying information is helpful to FRA in assessing trends and patterns of safety violations or concerns over time. The information is not shared outside the agency and is protected to

the extent allowed under Federal law. The form can be submitted if any or all the identifying information fields are left blank, so respondents can share as much or as little information as they deem necessary.

FRA determined that its form and the data collection and management process afterward required improvement to assist FRA staff in assessing and then, if necessary, taking appropriate action on alleged violations and other safety inquiries. Further, FRA has reviewed its processes and determined that this form and its revisions would improve FRA's service to the public and assessment of alleged violations and other safety inquiries.

In response to internal feedback that it would be helpful if "Hours of Service" were a standalone category in the "Category of Alleged Violation, Complaint, or Inquiry" drop down menu, FRA has made this change to the form to allow FRA staff to better keep track of Hours of Service violations, complaints, or inquiries.

Prior to receiving this comment, on December 2, 2020, FRA conducted public outreach relating to this information collection request. FRA leadership held its trimester meeting with organized labor, and this information collection was discussed. Participants included representatives of the American Train Dispatchers Association, Brotherhood of Locomotive Engineers and Trainmen, Brotherhood of Maintenance of Way Employees, Brotherhood of Railroad Signalmen, International Association of Machinists and Aerospace Workers, International Brotherhood of Electrical Workers, SMART Transportation, Transport Workers Union of America, Transportation Communications International Union, Brotherhood of Railway Carmen, and Transportation Trades Division of the AFL-CIO.

On January 28, 2021, FRA conducted a TEAMs meeting with senior leadership of the SMART-TD Transportation Union reviewing the published 60-Day notice for the information collection request.

9. Payments or gifts to respondents

There are no monetary payments provided or gifts made to respondents associated with this proposed collection of information.

10. Assurance of confidentiality

FRA fully complies with the Privacy Act of 1974 and other laws pertaining to privacy and the security of privacy data. Information collected as part of this information collection is used by FRA staff and government contractors to ensure all submissions of alleged violations, complaints, or inquiries are responded to in a timely manner and that FRA can gather appropriate details about the alleged violation, complaint, or inquiry for its investigation process.

All information submitted through Form FRA F 6180.151, including any identifying information, will be protected and will only be used to contact the submitters if FRA has any follow up questions.

11. Justification for any questions of a sensitive nature

There are no questions or information of a sensitive nature, or data that would normally be considered private matters contained in this proposed collection of information. However, FRA notes that submitters can voluntarily provide their names, email addresses, phone numbers, and addresses on the form. All information submitted through Form FRA F 6180.151, including any identifying information, will be protected and will only be used to contact the submitters if FRA has any follow up questions.

12. Estimate of burden hours for information collected

CFR Section	Respondent universe	Total annual responses (A)	Average time per response (B)	Total annual burden hours (C = A * B)	Total cost equivalent (D = C * wage rate) ³
FRA Alleged Violation and Inquiry Form (Revised Form FRA F 6180.151)	Public	600 forms	7 minutes	70 hours	\$1,890

13. Estimate of total annual costs to respondents

Other than the cost associated in question number 12 above, there will be no additional cost to the respondents of this form.

14. Estimate of cost to Federal Government

There is no additional cost to the Federal Government in connection with these information collection requirements. Reports of alleged violations, complaints, or inquiries are investigated by FRA inspectors as part of their regular enforcement activities.

15. Explanation of program changes and adjustments

This submission is a revision to a current collection of information associated with Form FRA F 6180.151.

Currently, the OMB inventory for this collection of information shows a total burden of 48 hours and 570 responses, while this submission reflects a total burden of 70 hours and

³ FRA used an hourly rate of \$27 for the value of the public's time. FRA obtained this data from the Department of Labor, Bureau of Labor Statistics.

600 responses. Overall, the revision increased by 22 hours and increased by 30 responses from the last approved submission due to a program change.

FRA’s revisions to the form include: (1) adding several dropdown menus for form elements (e.g., type, title, preferred method of contact, position, category of submission, date, time, city, state, and entity involved) so that users can quickly provide complete contact and incident information while having to hand-enter less information; (2) adding a question requesting the users identify if they are members of the public, a railroad employee, or other; and (3) informing users that they will receive an automated response from FRA after the form is submitted. The revisions are designed to make the existing form easier to use and more understandable, and to simplify the collection of information.

Table of Program Change

Requirement	Responses & Avg. Time (Previous Submission)	Responses & Avg. Time (This Submission)	Burden Hours (Previous Submission)	FRA Burden Hours (This Submission)	Difference (plus/minus)
Form FRA F 6180.151	570 forms 5 minutes	600 forms 7 minutes	48 hours	70 hours	+22 hours + 30 resp.

16. Publication of results of data collection

The results of this information collection will not be published. The information is collected only for the purpose of investigating alleged violations, complaints, or other inquiries submitted by the public.

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

FRA is not seeking exemption from displaying the expiration date for OMB approval.

18. Exception to certification statement

No exceptions are requested at this time.