

FEDERAL RAILROAD ADMINISTRATION
Report of Railroad Trespasser Form
FRA F 6180.178
SUPPORTING JUSTIFICATION
OMB Control No. 2130-NEW

Summary of Submission

- This submission is a new collection of information related to trespassing in the United States.
- The Federal Railroad Administration (FRA) published the required 60-day Federal Register Notice on March 15, 2021. See 86 FR 14359. FRA received 2 comments in response to this Notice.
- The total burden hours requested for this information collection submission is 550 hours.
- Total number of responses requested for this submission is 3,300.
- This entire information collection submission is a program change.
- The answer to question number 12 itemizes information collection requirements.
- There are no adjustment changes at this time.

1

1. Circumstances that make collection of the information necessary.

Trespassing along railroad rights-of-way and other railroad property is the leading cause of rail-related deaths in America. Nationally, more than 400 trespass fatalities and nearly as many injuries occur each year, the vast majority of which are preventable.

It is illegal to access private railroad property anywhere other than a designated pedestrian or highway-rail grade crossing. Trespassers are most often pedestrians who walk across or along railroad tracks as a shortcut to another destination. Some trespassers are loitering or engaged in recreational activities such as jogging, taking pictures, hunting, fishing, bicycling, or operating recreational off-highway vehicles.

FRA works in partnership with railroads, state governments, and other organizations to conduct outreach efforts to raise awareness about the inherent dangers and consequences of trespassing.

To address this serious issue, the railroad industry, governments (Federal, State, and local), and other interested parties must know more about the individuals who trespass. With such knowledge, effective education programs, materials, and messages concerning the hazards and consequences of trespassing on railroad property can be developed and effectively disseminated. Also, law enforcement efforts can be targeted more efficiently and constructively. Since the overall goal is to reduce the number of deaths and injuries among trespassers, developing summaries and generic trespasser profiles from specific individuals and incidents will provide essential information regarding the precise audience to be targeted with future education and enforcement efforts.

Since 2018 FRA has awarded more than half a million dollars in Railroad Trespassing Enforcement Grants to law enforcement agencies to support life-saving anti-trespass activities in multiple states. The objective of the grant program is to deter trespassing on railroad property in areas with high numbers of observed trespassing incidents through law enforcement activities.

For this information collection request, FRA's roll out plan for this form will be to distribute 100 percent of these forms to all law enforcement agency grantees awarded funding pursuant to the Notice of Funding Opportunity released on August 8, 2021. FRA expects to provide funding to twenty-five (25) or fewer law enforcement agencies. As a result, the burden will remain the same since FRA does not intend to have a slow roll out.

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

The overall goal of this collection is to prevent trespassing on railroad rights-of-way and reduce the number of deaths and injuries among trespassers. Due to the lack of available root cause data, FRA proposes to collect data from law enforcement agencies (grantees and non-grantees) to develop general profiles of root causes. Accordingly, recipients of FRA grant funding are required to provide this data to FRA and to fill out FRA F 6180.178. Other law enforcement agencies not receiving grant funding may voluntarily provide this data to FRA. These general profiles will allow FRA, railroads, governments (Federal, State, and local), and other interested parties, such as Operation Lifesaver, to target audiences with appropriate education and enforcement campaigns that will reduce the annual number of injuries and fatalities.

For convenience to the respondents, FRA proposes an electronic option where the respondents can respond via a web-based form. The web-based form also will facilitate FRA's ability to maintain the data collected in a more useful and uniform manner, as the dropdown boxes will assist FRA in receiving more standardized responses.

Completion and submission of form FRA F 6180.178 will be required for law enforcement agency grantees, as a condition of FRA's Railroad Trespassing Enforcement Grant. The grantees will complete the form for each trespasser incident in their jurisdiction, recording the trespassers' race/ethnicity, gender and age as provided by the

trespasser. For law enforcement agencies not receiving FRA's Railroad Trespassing Enforcement grants, completion and submission of this form is voluntary.

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. The collection of information will be completed through electronic means over the internet. The website portal will contain form questions to be answered and submitted online by law enforcement agencies. FRA's Railroad Trespassing Enforcement Grant recipients will be provided with a unique user name and password to submit their forms. Having a unique user name and account will ease the burden on grantees, as some required fields will auto-populate (i.e., agency name, agency email address, and agency city/state information).

Overall, the submission process to the agency is completely electronic (99 percent of responses).

4. Efforts to identify duplication.

To our knowledge, the information collected is not duplicated anywhere.

5. Efforts to minimize the burden on small businesses.

There are no impacts on small businesses in this data collection.

6. Impact of less frequent collection of information.

Along with the fast and efficient movement of people and goods throughout the United States, FRA's core mission is to improve safety by reducing the number of rail accidents/incidents that occur annually and the injuries, property damage, and fatalities that accompany them. Both missions may be compromised by trespassing.

Without accurate data on the locations, times, and frequency of trespassing, FRA cannot effectively target audiences with the appropriate education and enforcement campaigns that will reduce the annual number of injuries and fatalities.

In sum, this collection of information serves to further FRA's primary mission, which is to promote rail safety, save lives, and reduce injuries and property damage.

FRA will collect the information from FRA's Railroad Trespassing Enforcement Grant recipients on a monthly basis to ease the burden. If FRA collected these forms on a quarterly basis, FRA believes the burden will increase and will not allow FRA to observe trends and identify trespasser hot spots in real time. FRA will use the information

collected monthly to observe trends and make necessary recommendations based on those trends to grantees.

7. Explain any special circumstances that would cause an information collection that would be inconsistent with the guidelines in 5 CFR 1320.5(d)(2)(i) - (viii).

There are no special circumstances related to the information being collected for this data.

8. Compliance with 5 CFR 1320.8.

FRA published the required 60-day Notice in the Federal Register on March 15, 2021, requesting public comment on the proposed study pertaining to this new information collection. See 86 FR 14359. FRA received two comments in response to this Notice.

The Vermont Rail Action Network expressed its concerns to FRA about the accuracy of the law enforcement agency data proposed to be collected on FRA F 6180.178, specifically the data on race, ethnicity, and to a lesser extent, age. The advocacy group argues that problematic policing practices will result in FRA having an inaccurate picture of those who trespass along railroad rights-of-way in the United States because it asserts that the law enforcement data will be distorted towards a higher proportion of trespassers who are African American.

FRA has considered Vermont Rail Action Network's feedback, but believes that collecting demographic information is important to its goals of reducing the annual number of injuries and fatalities arising from trespassing activities. FRA plans to utilize the information collected primarily to develop targeted outreach campaigns to dissuade individuals from trespassing. Prior to the creation of FRA F 6180.178, FRA conducted extensive interviews with law enforcement agencies and determined that this standard demographic data would allow FRA and its partners to create more impactful educational anti-trespassing campaigns through outreach to demographic groups that have been observed by law enforcement personnel trespassing along railroad rights-of-way.

The collection of this demographic information may also allow FRA to better carry out the goals of the Biden-Harris Administration's Executive Order 13985 on Advancing Racial Equity and Support for Underserved Communities through the Federal Government¹ and DOT's commitments in its Equity and Access Policy Statement. By gathering more demographic data, FRA will be better able to determine whether communities that are underserved, marginalized, or adversely affected by persistent poverty and inequality have a disproportionate number of observed trespassing incidents that necessitate new or enhanced outreach efforts. Utilizing the information collection as

¹ See Executive Order 13985 directing the Federal Government to pursue a comprehensive approach to advance equity, civil rights, racial justice, and equal opportunity to strengthen communities that have been historically underserved, marginalized, and adversely affected by persistent poverty and inequality.

a whole, FRA can then, with its outreach partners, such as Operation Lifesaver and Safe Kids Worldwide, direct future trespasser prevention campaigns to all communities with a high number of observed trespassing incidents and fashion these efforts to maximize their effectiveness.

FRA received another comment in response to this 60-day notice from Dr. Rapik Saat, expressing his support for this ICR and suggesting that FRA collect information related to trespassers' socioeconomic conditions such as occupation and income level. At the present time, FRA does not plan to collect this socioeconomic data from law enforcement agencies because this information is not part of the agencies' standard data collection practices and would create an undue paperwork burden on them.

FRA also wishes to inform the public that it has made two changes to FRA F 6180.178 based on internal feedback. FRA added a clarifying footnote noting that railroads must continue to submit any and all forms for an accident/incident that are required under 49 CFR part 225. FRA also added a data field in which law enforcement agencies can indicate whether the trespasser appears intoxicated. This field was inadvertently excluded on the original proposed form. FRA will work with its outreach partners to develop educational outreach initiatives and public service announcement campaigns targeted to establishments that are located near railroad tracks if intoxication is deemed to be a contributing factor to railroad trespassing.

Consultations outside of agency to obtain other views:

On January 29, 2021, FRA conducted public outreach for this information request by speaking with grant analysts from four law enforcement agencies. These grant analysts, who currently oversee FRA's 2020 Railroad Trespassing Enforcement Grant for their respective agencies, were asked if this information request would be a burden. The grant analysts estimated that it would take about 6 to 10 minutes to complete the Report of Railroad Trespasser Form, per incident.

9. Payments or gifts to respondents.

There are no payments or gifts for the respondents of this collection. For the grantees, there is an obligation to complete and submit the proposed form FRA F 6180.178 for each trespasser incident in their jurisdiction on a monthly basis in order to obtain or retain FRA's Railroad Trespassing Enforcement Grant.

10. Assurance of confidentiality.

As noted on the Report of Railroad Trespasser Form, no Personally Identifiable Information is required, asked for, or retained. Therefore, there are no concerns with confidentiality.

11. Justification for any questions of a sensitive nature.

The questions on the form include items such as age, gender, and race/ethnicity for the purpose of developing general descriptions of trespassers in specific geographic locations in order to develop targeted education efforts and enforcement activities to reduce trespassing on railroad property and resulting casualties. However, there are no questions or information of a sensitive nature, or data that would normally be considered private, contained in this proposed information collection.

12. Estimate of burden hours for information collected.

Completion and submission of form FRA F 6180.178 will be required for law enforcement agency grantees, as a condition of FRA’s Railroad Trespassing Enforcement Grant. The grantees will complete the form for each trespasser incident in their jurisdiction, recording the trespassers’ race/ethnicity, gender and age as provided by the trespasser. For law enforcement agencies not receiving FRA’s Railroad Trespassing Enforcement grants, completion and submission of this form is voluntary.

Form	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)
Report of Railroad Trespasser Form (New Form FRA F 6180.178)	Law enforcement agencies, grantees	2,800 forms	10 minutes	467 hours	\$22,229
	Law enforcement agencies, non-grantees	500 forms	10 minutes	83 hours	\$3,951
Total ²	Law enforcement agencies ³	3,300 responses	N/A	550 hours	\$26,180

13. Estimate of total annual costs to respondents.

There are no capital costs anticipated with this collection.

² Totals may not add due to rounding.

³ The hourly wage rate to calculate the dollar cost equivalent for law enforcement employees amounts to \$47.60 per hour (an hourly wage rate of \$27.40 plus an hourly benefit of \$20.20). FRA obtained this information from the Department of Labor, Bureau of Labor Statistics (BLS), Occupational Employment Statistics (OES) 11-3011, classified within NAICS 999200, State Government—excluding schools and hospitals. See https://www.bls.gov/oes/current/naics4_999200.htm.

14. Estimate of cost to Federal Government.

The cost to the Federal government mainly results from designing the data collection tool for form FRA F 6180.178 which will occur on year one.

- Data Collection Tool Design: \$20,000
- Web Design: One FRA Staff, Washington GS-13/5, 10 hours x \$56.31 per hour * 1.75 overhead cost= \$985⁴
- Total = \$20,985
- Average cost per year (year one to year three): \$6,995

There is no additional cost to the Federal Government in connection with these information collection requirements in year two and year three. Reports of trespassing are investigated by FRA staff as part of their regular work activities.

15. Explanation of program changes and adjustments.

This is a new collection of information. The total requested burden for this information collection is 550 hours and 3,300 responses. By definition, this entire submission is a program change.

16. Publication of results of data collection.

At this time, there are no plans to publish the collected data in a report or on a public website. The information will be used internally at FRA to identify trends and “hot spot” locations. The information will also be shared as needed with State and local governments, railroads, and inquiring parties.

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

Once OMB approval is received, FRA will list the approval number and expiration date on the website forms.

18. Exception to certification statement.

No exceptions are taken at this time.

⁴ To calculate the government administrative cost, the 2021 Office of Personnel Management wage rates for the locality pay area of Washington, DC, was used. The average wage, step 5, was used as a midpoint. Wages were considered at the burdened wage rate by multiplying the actual wage rate by an overhead cost of 75 percent. Totals may not add due to rounding.