

Generally, Federal law requires Federal-aid highway and roadway projects (apart from a few exceptions) to be awarded on the basis of competitive bidding.

The initiative announced in May 2021 was authorized under Section 199B of the Consolidated Appropriations Act, 2021, Public Law 116–260, Dec. 27, 2020, 134 Stat 1182, which allowed DOT-assisted contracts under Titles 49 and 23 of the U.S.C. to use geographic, economic, or any other hiring preference not otherwise authorized by law, with certain limitations including required certifications. The initiative was also based on FHWA’s Special Experimental Project No. 14 (SEP–14) authority for special experimental projects set forth at 23 U.S.C. 502(b)(2) to allow FHWA to continue to gather data and evaluate experimental contracting practices.

Under the May 2021 initiative FHWA required State and local recipients and subrecipients to request prior approval from FHWA to use a specific contracting requirement under SEP–14 by submitting work plans to the appropriate FHWA Division Office.

#### Transition From Pilot Program

Based on the statutory authority for local or other geographical or economic hiring preferences in Section 25019(a) of the BIL, FHWA is transitioning from its initiative announced in May 2021. Since Section 25019 authorizes the use of certain hiring preferences, the use of such preferences going forward are subject to Section 25019 of the BIL, not Section 199B of the Consolidated Appropriations Act, 2021. Also, while local hiring preferences have traditionally been disallowed in accordance with 23 CFR 635.117(b) and 636.107, given the statutory authority for local or other geographical or economic hiring preferences under the BIL, an experimental pilot program is no longer needed for labor hiring preferences that fall within the legislatively authorized parameters. Innovative contracting approaches or requirements, including those related to workforce development, falling outside of the parameters authorized by Section 25019(a) of the BIL may still be considered by FHWA under its experimental SEP–14 authority on a case-by-case basis.

Upon publication of this notice, and based on Section 25019(a) of the BIL, FHWA approval is no longer needed for authorized labor hiring preferences. As discussed in the **Federal Register** notice announcing the May 2021 initiative, DOT generally exercises discretion under 23 U.S.C. 112 to evaluate whether

a State or local law or policy is compatible with the competitive bidding requirement under the statute. The DOT has historically disallowed certain hiring preferences out of concern for their potential impact on competition. Based on the clear direction in Section 25019(a)(2) of the BIL that the use of a local or other geographical or economic hiring preference authorized by Section 25019(a)(1) shall not be considered to unduly limit competition, DOT will not engage in or have a role in evaluating the effects on competition, if any, of labor hiring preferences expressly authorized under the BIL. Although DOT evaluation is no longer required, State and local recipients and subrecipients remain responsible for ensuring that the establishment and implementation of a hiring preference is otherwise consistent with applicable Federal, State, and local laws as provided in Section 25019(a)(1).

State and local recipients and subrecipients may continue to administer any contracts authorized under the May 2021 initiative for the duration of these contracts per the requirements of their approved workplans. The FHWA may continue to use SEP–14 to authorize and evaluate contracting methods that are outside the scope of Section 25019(a) of the BIL.

*Authority:* Section 25019 of Pub. L. 117–58; 23 U.S.C. 502(b); Section 199B of the Consolidated Appropriation Act, 2021.

**Stephanie Pollack,**

*Deputy Administrator, Federal Highway Administration.*

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## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

[Docket No. FRA–2022–0002–N–3]

#### Proposed Agency Information Collection Activities; Comment Request

**AGENCY:** Federal Railroad Administration (FRA), U.S. Department of Transportation (DOT).

**ACTION:** Notice of information collection; request for comment.

**SUMMARY:** Under the Paperwork Reduction Act of 1995 (PRA) and its implementing regulations, FRA seeks approval of the Information Collection Request (ICR) abstracted below. Before submitting this ICR to the Office of Management and Budget (OMB) for

approval, FRA is soliciting public comment on specific aspects of the activities identified in the ICR.

**DATES:** Interested persons are invited to submit comments on or before April 12, 2022.

**ADDRESSES:** Written comments and recommendations for the proposed ICR should be submitted on regulations.gov to the docket, Docket No. FRA–2022–0002. All comments received will be posted without change to the docket, including any personal information provided. Please refer to the assigned OMB control number in any correspondence submitted. FRA will summarize comments received in response to this notice in a subsequent notice and include them in its information collection submission to OMB for approval.

**FOR FURTHER INFORMATION CONTACT:** Ms. Hodan Wells, Information Collection Clearance Officer, at email: [hodan.wells@dot.gov](mailto:hodan.wells@dot.gov) or telephone: (202) 493–0440.

**SUPPLEMENTARY INFORMATION:** The PRA, 44 U.S.C. 3501–3520, and its implementing regulations, 5 CFR part 1320, require Federal agencies to provide 60-days’ notice to the public to allow comment on information collection activities before seeking OMB approval of the activities. *See* 44 U.S.C. 3506, 3507; 5 CFR 1320.8 through 1320.12. Specifically, FRA invites interested parties to comment on the following ICR regarding: (1) Whether the information collection activities are necessary for FRA to properly execute its functions, including whether the activities will have practical utility; (2) the accuracy of FRA’s estimates of the burden of the information collection activities, including the validity of the methodology and assumptions used to determine the estimates; (3) ways for FRA to enhance the quality, utility, and clarity of the information being collected; and (4) ways for FRA to minimize the burden of information collection activities on the public, including the use of automated collection techniques or other forms of information technology. *See* 44 U.S.C. 3506(c)(2)(A); 5 CFR 1320.8(d)(1).

FRA believes that soliciting public comment may reduce the administrative and paperwork burdens associated with the collection of information that Federal regulations mandate. In summary, FRA reasons that comments received will advance three objectives: (1) Reduce reporting burdens; (2) organize information collection requirements in a “user-friendly” format to improve the use of such information; and (3) accurately assess the resources

expended to retrieve and produce information requested. See 44 U.S.C. 3501.

The summary below describes the ICR that FRA will submit for OMB clearance as the PRA requires:

*Title:* State Safety Participation Regulations and Reporting of Remedial Actions.

*OMB Control Number:* 2130-0509.

*Abstract:* The collection of information is set forth under 49 CFR

part 212, and requires qualified State inspectors to provide various reports to FRA for monitoring and enforcement purposes concerning State investigative, inspection, and surveillance activities regarding railroad compliance with Federal railroad safety laws and regulations. Additionally, under 49 CFR part 209, subpart E, railroads are required to report to FRA actions taken to remedy certain alleged violations of law.

*Type of Request:* Extension without change (with changes in estimates) of a currently approved collection.

*Affected Public:* Businesses.

*Form(s):* FRA F 6180.33/61/67/96/96A/109/110/111/112/144.

*Respondent Universe:* States and railroads.

*Frequency of Submission:* On occasion.

*Reporting Burden:*

Section <sup>1</sup>	Respondent universe	Total annual responses (A)	Average time per response (B)	Total annual burden hours (C) = A * B	Total cost equivalent (D) = C * wage <sup>2</sup>
49 U.S.C. 20105—Railroad Safety State Participation Agreement—Annual updates or amendments including workplans, training plans and schedules to existing agreements. —Inspector travel planning and reimbursement .....	32 States .....	32 updates .....	1 hour .....	32	\$2,615
	32 States .....	600 vouchers .....	1.5 hours .....	900	73,539
212.107—Certification—State to file annual certification in the event that FRA and the State agency do not agree on terms for the participation under §212.105.	FRA anticipates zero submissions.				
212.109—Joint planning of inspections—Annual work plan for the conduct of investigative and surveillance activities by the State agency.	The burden associated with this requirement is covered above under 49 U.S.C. 20105.				
212.113—Program termination—30-day notice provided by State agency of its intent to terminate its participation.	FRA anticipates zero submissions.				
—Inspection Report (Form FRA F 6180.96)—All disciplines submitted by State inspectors.	32 States .....	19,400 forms .....	15 minutes .....	4,850	396,294
—Violation Report—Motive, Power, and Equipment Regulations (Form FRA F 6180.109).	19 States .....	360 reports .....	4 hours .....	1,440	117,662
—Violation Report—Operating Practices Regulations (Form FRA F 6180.67).	19 States .....	180 reports .....	4 hours .....	720	58,831
—Violation Report—Hazardous Materials Regulations (Form FRA F 6180.110).	17 States .....	420 reports .....	4 hours .....	1,680	137,273
—Violation Report—Hours of Service Law (F 6180.33) .....	19 States .....	2 reports .....	4 hours .....	8	654
—Violation Report—Accident/Incident Reporting Rules (Form FRA F 6180.61).	19 States .....	2 reports .....	4 hours .....	8	654
—Violation Report—Track Safety Regulations (Form FRA F 6180.111).	26 States .....	110 reports .....	4 hours .....	440	35,952
—Violation Report—Signal and Train Control Regulations (Form FRA F 6180.112).	14 States .....	80 reports .....	4 hours .....	320	26,147
209.405(a)—Reporting of remedial actions—Completion of Form FRA F 6180.96 including selection of railroad remedial action code.	754 railroads .....	2,400 reports .....	30 minutes .....	1,200 hours	92,928
—(b) Violation report challenge by the railroads—Remedial action reports.	754 railroads .....	240 challenges .....	45 minutes .....	180	13,939
209.407—Delayed reports .....	754 railroads .....	240 reports .....	45 minutes .....	180	13,939
Total .....	32 States and 754 railroads.	24,066 responses .....	N/A .....	11,958	970,427

<sup>1</sup> The current inventory exhibits a total burden of 9,346 hours while the total burden of this notice is 11,958 hours.

<sup>2</sup> For State respondents, the dollar equivalent cost is derived from the Bureau of Labor Statistics data for management occupations, NAICS 99920—State Government, excluding schools and hospitals, for State government employees. To calculate the mean hourly wage of \$46.69 for this category of workers, FRA included a 75-percent charge for overhead costs. The calculation is \$46.69 per hour \* 1.75 = \$81.71. The Web address for this data is: [https://www.bls.gov/oes/current/naics4\\_999200.htm#11-0000](https://www.bls.gov/oes/current/naics4_999200.htm#11-0000). Additionally, for railroad respondents, the dollar equivalent cost is derived from the Surface Transportation Board's 2020 Full Year Wage A&B data series for railroad workers. The wage rate of \$77.44 per hour includes a 75-percent overhead charge.

*Total Estimated Annual Responses:* 24,066.

*Total Estimated Annual Burden:* 11,958 hours.

*Total Estimated Annual Burden Hour Dollar Cost Equivalent:* \$970,427.

Under 44 U.S.C. 3507(a) and 5 CFR 1320.5(b) and 1320.8(b)(3)(vi), FRA informs all interested parties that a respondent is not required to respond to, conduct, or sponsor a collection of information that does not display a currently valid OMB control number.

*Authority:* 44 U.S.C. 3501–3520.

**Brett A. Jortland,**

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