

**INFORMATION COLLECTION
FEDERAL RAILROAD ADMINISTRATION**

**SUPPORTING JUSTIFICATION
Capital Grants for Rail Line Relocation and Improvement Projects**

- 1. EXPLAIN THE CIRCUMSTANCES THAT MAKE THE COLLECTION OF INFORMATION NECESSARY. IDENTIFY ANY LEGAL OR ADMINISTRATIVE REQUIREMENTS THAT NECESSITATE THE COLLECTION. ATTACH A COPY OF THE APPROPRIATE SECTION OF EACH STATUTE AND REGULATION MANDATING OR AUTHORIZING THE COLLECTION OF INFORMATION.**

Much of the economic growth of the United States can be linked directly to the expansion of rail service. As the nation moved westward, railroads expanded to provide transportation services to growing communities. No event better illustrates this point than “golden spike” ceremonies at Promontory Point, Utah, in 1869 that ushered in transcontinental rail service. Travel times between the Atlantic and Pacific coasts were dramatically reduced, opening numerous new markets for both passenger and freight operations. Municipalities throughout the country knew that their economic success rested on being served by the railroad, and many offered incentives for the chance to be served. As a result, many communities’ land use patterns developed around the railroad lines that became an economic artery as important as “Main Street.” By 1916, rail expansion peaked as miles of road owned reached 254,251.

Soon after the end of the Second World War, the railroads’ competitors – the auto, truck, air plane, pipeline, and modern barge – proved technologically superior to the railroads in responding to the growing demands for speed, convenience, and service quality that characterized the evolving economy of the 20th century. Mired in stifling economic over-regulation, railroads were unable to respond effectively to the challenges facing them. These changes had a dramatic effect on rail’s market share. From nearly 80 percent of the intercity freight market in the early 1920s, rail share fell to less than 37 percent in 1975. The decline was even more dramatic with regard to passenger service. The industry responded by cutting excess capacity. By 1975, miles of road owned had fallen to 199,126 – a 22 percent decline from 1916. The most current data (2004) shows a further decline to 140,806 – 45 percent fewer miles than was available in 1916.

By the early years of the 21st century, the rail industry had made a significant turn around. Beginning with rate deregulation ushered in by the Staggers’ Act of 1980 and including a number of other favorable changes, railroads have introduced innovative services, incorporated modern pricing practices, become profitable, and recaptured market share. Between 1985 and 2004, revenue ton-miles nearly doubled from 876.9 billion to 1.7 trillion. Rail’s market share of intercity revenue freight is approaching 45 percent. This

growth is being accommodated on a system that shrank in response to conditions noted above. The smaller physical plant is handling greater and greater freight volumes. The clearest evidence of more intense use of the industry's plant is found in "traffic density." "Traffic density" is the millions of revenue ton-miles per owned mile of road. In 1985, this indicia stood at 6.02. By 2004, this figure had nearly tripled to 17.02 millions of revenue ton-miles per mile of road owned. This more intense use of rail infrastructure is especially challenging in communities that developed adjacent to or around rail lines, most built over a century ago on alignments appropriate to the times.

As a result, in many places throughout the country, the rail infrastructure that was once so critical to communities now presents problems as well as benefits. For example, the tracks that run down the middle of towns separate the communities on either side. Rail yard and tracks occupy valuable real estate. Trains parked in sidings may present attractive nuisances to children and vandals, and, in the case of tank cars containing hazardous materials, may present serious security or health risks. Grade crossings may present safety risks to the cars and pedestrians that must cross the tracks. These same crossings create inconveniences when long trains block crossings for extended periods of time and sound horns as they operate through crossings in neighborhoods. In some cases, trains operate over lines at speeds that are suited for the type of track but often present safety concerns to those in the surrounding community. In some cases, rail lines have become so congested that communities experience what they perceive as almost continuous train traffic. In short, rail lines, which once brought economic prosperity and social cohesion, are now sometimes viewed as factors in the decline of both.

In many cases, however, these same communities rely heavily on rail traffic. Local industries must be served and passengers, both long distance riders and daily commuters, need convenient access to population and employment centers. Thus, the presence of the railroad is not the problem. Instead, the physical location of the tracks creates tension between the need for the railroad and the problems the physical infrastructure of the railroad creates.

In an effort to satisfy all constituents, state and local governments are looking for ways to eliminate the problems created by the increased demand on the infrastructure while still maintaining the benefits the railroad provides. Many times, the solution is merely to relocate the track in question to an area that is better suited for it. For example, a recently completed relocation project in Greenwood, Mississippi, eliminated twelve at-grade highway-rail crossings, which greatly improved safety for motorists and eliminated blocked crossings. With that success in mind, Mississippi is currently looking to relocate two main lines that run through the heart of the Central Business District in Tupelo. Combined, these two lines cross 26 highways in the city, and all but one are at-grade crossings. One of the options the State is considering is laterally relocating the lines outside of the business district.

In some situations, vertical relocation may be the best solution. For example, Nevada has

undertaken the Reno Transportation Rail Access Project (ReTRAC), the purpose of which is to “sink” 33 feet below the ground in a trench the approximately 2.25 mile segment of track that runs through Reno. Both the Union Pacific Railroad Company (UP) and Amtrack operate over this line. The project will allow for the closing of 11 grade crossings, and will generally improve both highway efficiency and safety as well as the safety and efficiency of the trains that operate through Reno. Many of these relocation projects, like the ReTRAC project, are expensive, and state and local governments lack the resources to undertake them.

In addition to relocation projects, many communities are eager to improve existing rail infrastructure in an effort to mitigate the negative effects of rail traffic on safety in general, motor vehicle traffic flow, economic development, or the overall quality of life of the community. For example, in an effort to improve train speed and reduce the risk of derailments, rail lines that were built a century ago with sharp curves can be straightened. Furthermore, significant efficiencies can be gained and safety enhanced by, as examples, extending passing tracks and yard lead tracks, and adding track circuits and signal spacing changes.

On August 10, 2005, President George W. Bush signed SAFETEA-LU (Public Law 109-59) into law. Section 9002 of SAFETEA-LU amended chapter 201 of Title 49 of the United States Code by adding new § 20154, which establishes the basic elements of a funding program for capital grants for rail relocation and improvement projects. Subsection (b) of the new § 20154 mandates that the Secretary of Transportation issue “temporary regulations” to implement the capital grants program and then issue final regulations by October 1, 2006. Thus, this NPRM – and associated information collection – are intended to carry out the Congressional mandate stipulated in § 20154 of SAFETEA-LU.

2. INDICATE HOW, BY WHOM, AND FOR WHAT PURPOSE THE INFORMATION IS TO BE USED. EXCEPT FOR A NEW COLLECTION, INDICATE THE ACTUAL USE THE AGENCY HAS MADE OF THE INFORMATION RECEIVED FROM THE CURRENT COLLECTION.

Presently, no money has yet been appropriated to effectuate Section 9002 of SAFETEA-LU (P.L. 109–59) by Congress. There will be no collection of information unless Congress does so. If Congress follows through with funding, then this will be a new collection of information. The information collected will be used by FRA to carry out a Congressional mandate, and will enable FRA to determine whether or not it is appropriate to provide financial assistance to State and local governments looking to undertake either rail relocation or rail improvement projects. Specifically, FRA will review application information submitted under § 262.11 to ensure that only eligible State and local governments apply for the Congressional grant money, and that these States and local governments meet all stipulated criteria before FRA decides to award a grant. Grant money can only be awarded to a State or other non-Federal entity that is

able to pay at least 10 percent of the shared costs of a project funded under Section 9002 of SAFETEA-LU.

FRA will review the information submitted under § 262.13(c) to ensure that a State or local government submits a description of the anticipated public and private benefits associated with each proposed rail line relocation or improvement project seeking grant money. FRA will use this information to decide whether the anticipated benefits of the project are worth the expenditure of the grant money.

Finally, FRA will review the environmental assessment and historic preservation documentation required to be submitted by grantees under § 262.15 to ensure that all relevant Federal statutes are complied with. FRA will also use this additional information to determine whether it is safe and in the public interest to approve a proposed project for rail relocation or rail improvement. Moreover, FRA will use the information submitted under this section to fulfill its legal obligations under the National Environmental Policy Act (NEPA) and other statutes so that it can evaluate the effects on the local environment of the proposed project. NEPA mandates that before any “major” Federal action can take place, the Federal entity performing the action must complete a full environmental review detailing the impacts to the environment as a result of the action. A grantee may contract with private companies to perform the NEPA review, but the FRA Administrator must issue the final environmental review document. Thus, FRA will carefully scrutinize the environmental review document because the agency needs to be certain that severe environmental harm will not result if the proposed project is given a green light to begin construction.

3. DESCRIBE WHETHER, AND TO WHAT EXTENT, THE COLLECTION OF INFORMATION INVOLVES THE USE OF AUTOMATED, ELECTRONIC, MECHANICAL, OR OTHER TECHNOLOGICAL COLLECTION TECHNIQUES OR OTHER FORMS OF INFORMATION TECHNOLOGY, E.G. PERMITTING ELECTRONIC SUBMISSION OF RESPONSES, AND THE BASIS FOR THE DECISION FOR ADOPTING THIS MEANS OF COLLECTION. ALSO DESCRIBE ANY CONSIDERATION OF USING INFORMATION TECHNOLOGY TO REDUCE BURDEN.

FRA strongly supports and highly encourages the use of advanced information technology, wherever possible, to reduce burden on respondents. FRA has championed the use of advanced information technology, particularly electronic recordkeeping for many years now. In compliance with both the requirements of the PRA and GPEA, FRA provides for electronic submission of application information under § 262.11. In fact, all grant applications submitted under this program must be submitted to FRA through the Internet at <http://www.grants.gov>. Thus, approximately 50 percent of all responses (74 percent of the total burden) can be submitted electronically.

It should be noted that the burden of this information collection will be very minimal – if

Congress does indeed decide to appropriate funding.

4. **DESCRIBE EFFORTS TO IDENTIFY DUPLICATION. SHOW SPECIFICALLY WHY ANY SIMILAR INFORMATION ALREADY AVAILABLE CANNOT BE USED OR MODIFIED FOR USE FOR THE PURPOSES DESCRIBED IN ITEM 2 ABOVE.**

The information collection requirements to our knowledge are not duplicated anywhere.

Similar data are not available from any other source.

5. **IF THE COLLECTION OF INFORMATION IMPACTS SMALL BUSINESSES OR OTHER SMALL ENTITIES (ITEM 5 OF OMB FORM 83-I), DESCRIBE ANY METHODS USED TO MINIMIZE BURDEN.**

This collection of information is completely voluntary, and will only affect those entities that voluntarily elect to apply for capital grants under Section 9002 of SAFETEA-LU. FRA views it as unlikely that a small entity, such as a local government, would be disproportionately impacted by the proposed rule and its associated information collection. The cost to governmental entities of applying for the program would be minimal, since applicants will normally have available most of the information needed to prepare applications for a grant under Section 9002. In the event that small entities or jurisdictions were disproportionately impacted by the cost of the application process, FRA would likely work with these entities/jurisdictions to reduce these costs. It should be noted that the cost to small entities has been minimized to the extent possible while complying with the Congressional mandate.

The capital grants for rail line relocation could certainly provide benefits to small entities, such as local governments. The funds being made available through this program could provide economic, safety, and environmental benefits. Again, participation in the local rail line relocation and improvement projects capital grants program is completely voluntary. The statute requires a state or other non-Federal entity to provide at least ten percent of the shared cost of a project funded under this program. To the extent a small entity was providing that non-Federal share, the impact would be calculated by the small entity in deciding whether to file the application under the program.

Also, it should be pointed out that the burden for this proposed collection is very minimal, and will only be incurred if Congress appropriates funding. No funds to implement the program were appropriated for fiscal year 2006, and no funds were requested in the Administration's Fiscal Year 2007 budget request.

6. **DESCRIBE THE CONSEQUENCE TO FEDERAL PROGRAM OR POLICY ACTIVITIES IF THE COLLECTION IS NOT CONDUCTED OR IS CONDUCTED LESS FREQUENTLY, AS WELL AS ANY TECHNICAL OR LEGAL OBSTACLES TO REDUCING BURDEN.**

If this information were not collected or collected less frequently after Congress appropriates necessary funding, then FRA would be unable to fulfill a Congressional mandate (Section 9002 of SAFETEA-LU). Specifically, without this collection of information, FRA would be unable to determine eligibility for Capital Grants funds and would be unable evaluate rail line relocation and improvement projects that are proposed by any of the 50 States. Without this collection of information, FRA would be unable to ensure that all requirements for Capital Grants are met, particularly the requirement that a State or other non-Federal entity pay 10 percent of the shared costs of a project.

If this information were not collected, FRA would have no way to ensure that all applicable Federal statutes, such as the National Environmental Policy Act (NEPA), the National Historic Preservation Act, and the Endangered Species Act, are complied with by States seeking rail line relocation and improvement project funds. Without this collection of information, FRA would be unable to fulfill its obligations under NEPA. The use of Federal funds in a project triggers the NEPA process. A grantee may have its own personnel conduct the required environmental assessment or may contract with private parties to perform the NEPA review, but FRA's Administrator must issue the final review document.

In sum, the collection of information helps FRA to promote and enhance safe rail transportation throughout the United States. In this, it furthers both DOT's and its missions.

7. EXPLAIN ANY SPECIAL CIRCUMSTANCES THAT WOULD CAUSE AN INFORMATION COLLECTION TO BE CONDUCTED IN A MANNER:

-REQUIRING RESPONDENTS TO REPORT INFORMATION TO THE AGENCY MORE OFTEN THAN QUARTERLY;

-REQUIRING RESPONDENTS TO PREPARE A WRITTEN RESPONSE TO A COLLECTION OF INFORMATION IN FEWER THAN 30 DAYS AFTER RECEIPT OF IT;

-REQUIRING RESPONDENTS TO SUBMIT MORE THAN AN ORIGINAL AND TWO COPIES OF ANY DOCUMENT;

-REQUIRING RESPONDENTS TO RETAIN RECORDS, OTHER THAN HEALTH, MEDICAL, GOVERNMENT CONTRACT, GRANT-IN-AID, OR TAX RECORDS FOR MORE THAN THREE YEARS;

-IN CONNECTION WITH A STATISTICAL SURVEY, THAT IS NOT DESIGNED TO PRODUCE VALID AND RELIABLE RESULTS THAT CAN BE GENERALIZED TO THE UNIVERSE OF STUDY;

-REQUIRING THE USE OF A STATISTICAL DATA CLASSIFICATION THAT HAS NOT BEEN REVIEWED AND APPROVED BY OMB;

-THAT INCLUDES A PLEDGE OF CONFIDENTIALITY THAT IS NOT SUPPORTED BY AUTHORITY ESTABLISHED IN STATUE OR REGULATION, THAT IS NOT SUPPORTED BY DISCLOSURE AND DATA SECURITY POLICIES THAT ARE CONSISTENT WITH THE PLEDGE, OR WHICH UNNECESSARILY IMPEDES SHARING OF DATA WITH OTHER AGENCIES FOR COMPATIBLE CONFIDENTIAL USE; OR

-REQUIRING RESPONDENTS TO SUBMIT PROPRIETARY TRADE SECRET, OR OTHER CONFIDENTIAL INFORMATION UNLESS THE AGENCY CAN DEMONSTRATE THAT IT HAS INSTITUTED PROCEDURES TO PROTECT THE INFORMATION'S CONFIDENTIALITY TO THE EXTENT PERMITTED BY LAW.

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

- 8. IF APPLICABLE, PROVIDE A COPY AND IDENTIFY THE DATE AND PAGE NUMBER OF PUBLICATION IN THE FEDERAL REGISTER OF THE AGENCY'S NOTICE, REQUIRED BY 5 CFR 1320.8(d), SOLICITING COMMENTS ON THE INFORMATION COLLECTION PRIOR TO SUBMISSION TO OMB. SUMMARIZE PUBLIC COMMENTS RECEIVED IN RESPONSE TO THAT NOTICE AND DESCRIBE ACTIONS TAKEN BY THE AGENCY IN RESPONSE TO THOSE COMMENTS. SPECIFICALLY ADDRESS COMMENTS RECEIVED ON COST AND HOUR BURDEN.**

DESCRIBE EFFORTS TO CONSULT WITH PERSONS OUTSIDE THE AGENCY TO OBTAIN THEIR VIEWS ON THE AVAILABILITY OF DATA, FREQUENCY OF COLLECTION, THE CLARITY OF INSTRUCTIONS AND RECORDKEEPING, DISCLOSURE, OR REPORTING FORMAT (IF ANY), AND ON THE DATA ELEMENTS TO BE RECORDED, DISCLOSED, OR REPORTED.

CONSULTATION WITH REPRESENTATIVES OF THOSE FROM WHOM INFORMATION IS TO BE OBTAINED OR THOSE WHO MUST COMPILE RECORDS SHOULD OCCUR AT LEAST ONCE EVERY 3 YEARS--EVEN IF THE COLLECTION OF INFORMATION ACTIVITY IS THE SAME AS IN PRIOR PERIODS. THERE MAY BE CIRCUMSTANCES THAT MAY PRECLUDE CONSULTATION IN A SPECIFIC SITUATION. THESE CIRCUMSTANCES SHOULD BE EXPLAINED.

FRA is publishing this Notice of Proposed Rulemaking (NPRM) in the Federal Register on January 17, 2006, and is soliciting comments from the public and interested parties. FRA will respond to any NPRM comments in the final rule and its associated collection of information.

Background

In SAFETEA-LU (The Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for User; P.L. 109-59), Congress directed FRA to issue “temporary regulations” by April 1, 2006. Under the Administrative Procedure Act and Executive Orders governing rulemaking, FRA could comply with Congress’s deadline only by issuing a direct final rule or an interim final rule by April 1, 2006. However, FRA cannot use either a direct final rule or an interim final rule because the legal requirements for using those instruments cannot be satisfied. The case law is clear that a statutory deadline does not suffice to justify dispensing with notice and comment prior to issuing a rule on grounds that notice and comment are “impracticable, unnecessary, or contrary to the public interest” under Section 553(b)(B) of the Administrative Procedure Act. Because, as of this date, no funding has been appropriated for the program and no projects can be funded at this time, FRA believes the purposes of SAFETEA-LU can best be met by proceeding with an NPRM (in lieu of an interim final rule). This satisfies the requirements of the Administrative Procedure Act and allows for greater public participation in the rulemaking process.

9. EXPLAIN ANY DECISION TO PROVIDE ANY PAYMENT OR GIFT TO RESPONDENTS, OTHER THAN ENUMERATION OF CONTRACTORS OR GRANTEES.

There are no monetary payments provided or gifts made to respondents in connection with this information collection.

10. DESCRIBE ANY ASSURANCE OF CONFIDENTIALITY PROVIDED TO RESPONDENTS AND THE BASIS FOR THE ASSURANCE IN STATUTE, REGULATION, OR AGENCY POLICY.

Information collected is not of a confidential nature, and FRA pledges no confidentiality.

11. PROVIDE ADDITIONAL JUSTIFICATION FOR ANY QUESTIONS OF A SENSITIVE NATURE, SUCH AS SEXUAL BEHAVIOR AND ATTITUDES, RELIGIOUS BELIEFS, AND OTHER MATTERS THAT ARE COMMONLY CONSIDERED PRIVATE. THIS JUSTIFICATION SHOULD INCLUDE THE REASONS WHY THE AGENCY CONSIDERS THE QUESTIONS NECESSARY, THE SPECIFIC USES TO BE MADE OF THE INFORMATION, THE EXPLANATION TO BE GIVEN TO PERSONS FROM WHOM THE

INFORMATION IS REQUESTED, AND ANY STEPS TO BE TAKEN TO OBTAIN THEIR CONSENT.

There are no questions or information of a sensitive nature or data that would normally be considered private contained in this information collection.

12. PROVIDE ESTIMATES OF THE HOUR BURDEN OF THE COLLECTION OF INFORMATION. THE STATEMENT SHOULD:

-INDICATE THE NUMBER OF RESPONDENTS, FREQUENCY OF RESPONSE, ANNUAL HOUR BURDEN, AND AN EXPLANATION OF HOW THE BURDEN WAS ESTIMATED. UNLESS DIRECTED TO DO SO, AGENCIES SHOULD NOT CONDUCT SPECIAL SURVEYS TO OBTAIN INFORMATION ON WHICH TO BASE HOUR BURDEN ESTIMATES. CONSULTATION WITH A SAMPLE (FEWER THAN 10) OF POTENTIAL RESPONDENTS IS DESIRABLE. IF THE HOUR BURDEN ON RESPONDENTS IS EXPECTED TO VARY WIDELY BECAUSE OF DIFFERENCES IN ACTIVITY, SIZE, OR COMPLEXITY, SHOW THE RANGE OF ESTIMATED HOUR BURDEN, AND EXPLAIN THE REASONS FOR THE VARIANCE. GENERALLY, ESTIMATES SHOULD NOT INCLUDE BURDEN HOUR FOR CUSTOMARY AND USUAL BUSINESS PRACTICES

-IF THIS REQUEST FOR APPROVAL COVERS MORE THAN ONE FORM, PROVIDE SEPARATE HOUR BURDEN ESTIMATES FOR EACH FORM AND AGGREGATE THE HOUR BURDENS IN ITEMS 13 OF OMB FORM 83-I.

-PROVIDE ESTIMATES OF ANNUALIZED COST TO RESPONDENTS FOR THE HOUR BURDENS FOR COLLECTIONS OF INFORMATION, IDENTIFYING AND USING APPROPRIATE WAGE RATE CATEGORIES. THE COST OF CONTRACTING OUT OR PAYING OUTSIDE PARTIES FOR INFORMATION COLLECTION ACTIVITIES SHOULD NOT BE INCLUDED HERE. INSTEAD, THIS COST SHOULD BE INCLUDED IN ITEM 14.

Note: As mentioned above, there will be no collection of information and associated paperwork burden on States unless and until Congress decides to appropriate money to fulfill Section 9002 of SAFETEA-LU. The hourly burdens listed below are estimates that assume grant funding by Congress. Based on the 2005 edition of the Association of American Railroads (AAR) publication titled Railroad Facts, FRA has used the following labor rate for railroad hourly wages in its cost calculations: \$70 per hour for railroad executives/officials; \$40 per hour for professional/administrative employees. Only the burden costs not included in the Regulatory Impact Analysis (RIA) accompanying this

rule are included below.

§ 262.11 Application Process

A All grant applications for opportunities funded under this section must be submitted to FRA through www.grants.gov. Opportunities to apply will be posted by FRA on www.grants.gov only after funds have been appropriated for Capital Grants for Rail Line Relocation Projects. The electronic posting will contain all of the information needed to apply for the grant, including required supporting documentation.

In addition to the information required with an individual application, a state must submit a description of the anticipated public and private benefits associated with each rail line relocation or improvement project described in § 262.7(a)(1) and (2). The determination of such benefits shall be developed in consultation with the owner and user of the rail line being relocated or improved or other private entity involved in the project. The state should also identify any financial contributions or commitments it has secured from private entities that are expected to benefit from the proposed project.

If money is indeed appropriated by Congress, FRA estimates that approximately seven (7) applications (with supporting documentation) will be submitted per year under the above requirement. It is estimated that it will take approximately 580 hours to prepare and electronically transmit each grant application to the agency. Total annual burden for this requirement is 4,060 hours.

Respondent Universe:

50
States/
Local
govern
ments

Burden time per response:

580
hours

Frequency of Response:

On occasion

Annual number of Responses: 7 grant applications
 Annual Burden: 4,060 hours
 Annual Cost: \$0 (Cost included in RIA)

Calculation: 7 grant applications x 580 hrs. = 4,060 hours
 \$0 (Cost included in RIA)

- B. Potential applicants may request a meeting with the FRA Associate Administrator for Railroad Development or his designee to discuss the nature of the project being considered.

FRA estimates that approximately five (5) of the states/local governments submitting applications will request a meeting with the FRA Associate Administrator for Railroad Development or his designee under the above requirement. It is estimated that it will take approximately 30 minutes to complete each request/letter for a meeting. Total annual burden for this requirement is three (3) hours.

Respondent Universe:

50
 States/
 Local
 govern
 ments

Burden time per response:

30
 minute
 s

Frequency of Response:

On occasion

Annual number of Responses: 5 requests/letters

Annual Burden: 3 hours
Annual Cost: \$120

Calculation: 5 requests/letters x 30 min. = 3 hours
3hrs. x \$40 = \$120

Additionally, FRA estimates that each of the five (5) face-to-face meetings with the FRA Associate Administrator for Railroad Development or his designee will take approximately two (2) hours to complete. Total annual burden for this requirement is ten (10) hours.

Respondent Universe:

50
States/
Local
govern
ments

Burden time per response:

2 hours

Frequency of Response:

On occasion

Annual number of Responses: 5 project meetings
Annual Burden: 10 hours

Annual Cost: \$700

Calculation: 5 project meetings x 2 hrs. = 10 hours
10hrs. x \$70 = \$700

Total annual burden for this entire requirement is 4,073 hours (4,060 + 3 + 10).

§ 262.15 Environmental Assessment

The provision of grant funds by FRA under this Part is subject to a variety of environmental and historic preservation statutes and implementing regulations including,

but not limited to, the National Environmental Policy Act (NEPA) (42 U.S.C. § 4332 *et. seq.*), Section 4(f) of the Department of Transportation Act (49 U.S. C. § 303(c)), the National Historic Preservation Act (16 U.S.C. § 470(f)), and the Endangered Species Act (16 U.S.C. § 1531). Appropriate environmental and historic documentation must be completed and approved by the Administrator prior to a decision by FRA to approve a project for construction. Applicants will be expected to fund costs associated with FRA NEPA compliance. Those costs will be considered allowable costs should FRA and the state enter into a grant agreement.

If Congress does appropriate funding for rail line relocation and improvement projects, an environmental assessment will have to be completed by grantees. FRA estimates that approximately seven (7) environmental and historic documents will be submitted to the agency under the above requirement. Depending on the type and complexity of the project, the environmental and historic documentation required will vary. On average, it is estimated that it will take approximately 200 hours to complete the required documentation and send it to FRA. Total annual burden for this requirement is 1,400 hours.

Respondent Universe:

50
States/
Local
govern
ments

Burden time per response:

200
hours

Frequency of Response:

On occasion

Annual number of Responses:

7 environmental documents

Annual Burden:

1,400 hours

Annual Cost:

\$0 (Cost included in

RIA)

Calculation: 7 environmental documents x 200 hrs. = 1,400 hours

\$0 (Cost included in RIA)

§ 262.19 Close-Out Procedures

- A. Within 90 days after the expiration or termination of the grant, the state must submit to FRA any or all of the following information, depending on the terms of the grant: (1) Final performance or progress report; (2) Financial Status Report (SF-269) or Outlay Report and Request for Reimbursement for Construction Programs (SF-271); (3) Final Request for Payment (SF-270); (4) Patent disclosure (if applicable); (5) Federally-owned Property Report (if applicable).

FRA estimates that all seven (7) states/local governments will complete the necessary close-out documents stipulated under the above requirement. It is estimated that it will take approximately six (6) hours to complete all (each set) of the prescribed forms/reports. Total annual burden for this requirement is 42 hours.

Respondent Universe:

50
States/
Local
govern
ments

Burden time per response:

6 hours

Frequency of Response:

On occasion

Annual number of Responses: 7 sets of close-out documents

Annual Burden: 42 hours

Annual Cost: \$1,680

Calculation: 7 sets of close-out documents x 6 hrs. = 42 hours

42 hrs. x \$40 = \$1,680

- B. If the project is completed, within 90 days after the expiration or termination of the grant, the state must complete a full inspection of all construction work completed under the

grant and submit a report to FRA. If the project is not completed, the state must submit a report detailing why the project was not completed.

FRA estimates that all seven (7) states/local governments will complete the reports prescribed under the above requirement. It is estimated that it will take approximately 80 hours to complete the construction and necessary report. Total annual burden for this requirement is 560 hours.

Respondent Universe:

50
States/
Local
govern
ments

Burden time per response:

80
hours

Frequency of Response:

On occasion

Annual number of Responses: 7 reports

Annual Burden: 560 hours

Annual Cost: \$39,200

Calculation: 7 reports x 80 hrs. = 560 hours

560 hrs. x \$70 = \$39,200

Total burden for this information collection requirement is 602 hours.

The total burden for this entire information collection is 6,075 hours.

13. **PROVIDE AN ESTIMATE OF THE TOTAL ANNUAL COST BURDEN TO RESPONDENTS OR RECORDKEEPERS RESULTING FROM THE COLLECTION OF INFORMATION. (DO NOT INCLUDE THE COSTS OF ANY HOUR BURDEN SHOWN IN ITEMS 12 AND 14).**

-THE COST ESTIMATES SHOULD BE SPLIT INTO TWO COMPONENTS: (A) A TOTAL CAPITAL AND START-UP COST COMPONENT (ANNUALIZED OVER IT EXPECTED USEFUL LIFE); AND (B) A TOTAL OPERATION AND MAINTENANCE AND PURCHASE OF SERVICES COMPONENT. THE ESTIMATES SHOULD TAKE INTO ACCOUNT COSTS ASSOCIATED WITH GENERATING, MAINTAINING, AND DISCLOSING OR PROVIDING THE INFORMATION. INCLUDE DESCRIPTIONS OF METHODS USED TO ESTIMATE MAJOR COSTS FACTORS INCLUDING SYSTEM AND TECHNOLOGY ACQUISITION, EXPECTED USEFUL LIFE OF CAPITAL EQUIPMENT, THE DISCOUNT RATE(S), AND THE TIME PERIOD OVER WHICH COSTS WILL BE INCURRED. CAPITAL AND START-UP COSTS INCLUDE, AMONG OTHER ITEMS, PREPARATIONS FOR COLLECTING INFORMATION SUCH AS PURCHASING COMPUTERS AND SOFTWARE; MONITORING, SAMPLING, DRILLING AND TESTING EQUIPMENT; AND RECORD STORAGE FACILITIES.

-IF COST ESTIMATES ARE EXPECTED TO VARY WIDELY, AGENCIES SHOULD PRESENT RANGES OF COST BURDENS AND EXPLAIN THE REASONS FOR THE VARIANCE. THE COST OF PURCHASING OR CONTRACTING OUT INFORMATION COLLECTION SERVICES SHOULD BE A PART OF THIS COST BURDEN ESTIMATE. IN DEVELOPING COST BURDEN ESTIMATES, AGENCIES MAY CONSULT WITH A SAMPLE OF RESPONDENTS (FEWER THAN 10), UTILIZE THE 60-DAY PRE-OMB SUBMISSION PUBLIC COMMENT PROCESS AND USE EXISTING ECONOMIC OR REGULATORY IMPACT ANALYSIS ASSOCIATED WITH THE RULEMAKING CONTAINING THE INFORMATION COLLECTION, AS APPROPRIATE.

-GENERALLY, ESTIMATES SHOULD NOT INCLUDE PURCHASES OF EQUIPMENT OR SERVICES, OR PORTIONS THEREOF, MADE (1) PRIOR TO OCTOBER 1, 1995, (2) TO ACHIEVE REGULATORY COMPLIANCE WITH REQUIREMENTS NOT ASSOCIATED WITH THE INFORMATION COLLECTION, (3) FOR REASONS OTHER THAN TO PROVIDE INFORMATION OR KEEP RECORDS FOR THE GOVERNMENT, OR (4) AS PART OF CUSTOMARY AND USUAL BUSINESS OR PRIVATE PRACTICES.

There are no additional costs to respondents other than the cost above and the costs included in the Regulatory Impact Analysis (RIA) accompanying this proposed rule.

14. PROVIDE ESTIMATES OF ANNUALIZED COST TO THE FEDERAL

GOVERNMENT. ALSO, PROVIDE A DESCRIPTION OF THE METHOD USED TO ESTIMATE COSTS, WHICH SHOULD INCLUDE QUANTIFICATION OF HOURS, OPERATIONAL EXPENSES SUCH AS EQUIPMENT, OVERHEAD, PRINTING, AND SUPPORT STAFF, AND ANY OTHER EXPENSE THAT WOULD NOT HAVE BEEN INCURRED WITHOUT THIS COLLECTION OF INFORMATION. AGENCIES ALSO MAY AGGREGATE COST ESTIMATES FROM ITEMS 12, 13, AND 14 IN A SINGLE TABLE.

As noted in the Regulatory Impact Analysis accompanying this Notice of Proposed Rulemaking, FRA estimates the cost to the Federal government to review each grant application at approximately \$4,200 per application. FRA estimates that two agency employees, one an operations person at the GS-13 Step 5 level (\$63.23 per hour including overhead costs) and one an environmental engineer at the GS-14 Step 5 level (\$74.70 including overhead costs), will typically review each application. The review will take 30 hours for each of the agency employees to complete. In addition to the labor cost, there is an estimated cost of \$50 for supplies. Thus, the cost to the Federal government is \$4,188 or \$4,200 per application (rounded off). The total cost for the seven (7) applications are as follows:

TOTAL COST

7 applications @ \$4,200 = \$29,400

15. EXPLAIN THE REASONS FOR ANY PROGRAM CHANGES OR ADJUSTMENTS REPORTED IN ITEMS 13 OR 14 OF THE OMB FORM 83-I.

The information collection requirements listed above are new (provided Congressional funding is appropriated). Therefore, there are no program changes or adjustments to account for at this time.

16. FOR COLLECTIONS OF INFORMATION WHOSE RESULTS WILL BE PUBLISHED, OUTLINE PLANS FOR TABULATION, AND PUBLICATION. ADDRESS ANY COMPLEX ANALYTICAL TECHNIQUES THAT WILL BE USED. PROVIDE THE TIME SCHEDULE FOR THE ENTIRE PROJECT, INCLUDING BEGINNING AND ENDING DATES OF THE COLLECTION OF INFORMATION, COMPLETION OF REPORT, PUBLICATION DATES, AND OTHER ACTIONS.

There are no plans for publication of this submission. The information will be used exclusively for purposes of determining compliance with U.S. laws and FRA safety regulations.

17. IF SEEKING APPROVAL TO NOT DISPLAY THE EXPIRATION DATE FOR

OMB APPROVAL OF THE INFORMATION COLLECTION, EXPLAIN THE REASONS THAT DISPLAY WOULD BE INAPPROPRIATE.

Once OMB approval is received, FRA will publish the approval number for these information collection requirements in the Federal Register.

18. EXPLAIN EACH EXCEPTION TO THE CERTIFICATION STATEMENT IDENTIFIED IN ITEM 19, "CERTIFICATION FOR PAPERWORK REDUCTION ACT SUBMISSIONS," OF OMB FORM 83-I.

No exceptions are taken at this time.

Meeting Department of Transportation (DOT) Strategic Goals

This information collection supports several of DOT's strategic goals. First, it supports transportation safety. Assuming that Congress appropriates funding, this collection of information will promote safety by allowing states/local governments to submit applications for grants for rail line relocation and improvement projects. Thus, for example, under a grant approved by FRA, dangerous railroad crossings or other poorly situated track that presents a hazard to motorists for a particular state/local government can be moved to an area better suited for it. This could significantly reduce and possibly eliminate serious injuries and fatalities at such crossings and thereby improve overall rail/motorist safety.

This information collection also supports the DOT goal of fostering economic growth and trade. Moving rail lines to a more suitable location can theoretically free up commerce in towns where a waterfront is blocked by rail lines or where the flow of commerce to a downtown section is cut off from residential communities by rail lines. Moving rail lines can also conceivably improve railroad operations – and thus commerce – by relieving congestion or allowing more efficient operation of the railroad.

Finally, this collection of information supports the DOT goal of human and natural environment. This collection of information requires an environmental assessment. Thus, it provides a means to ensure that all applicable Federal statutes, such as the National Environmental Policy Act (NEPA), the National Historic Preservation Act, and the Endangered Species Act, are complied with by States/local governments seeking rail

line relocation and improvement project funds. Compliance by States/local governments will enhance their natural environment and increase the desirability to live in the affected communities. Without this collection of information, FRA would be unable to fulfill its obligations under NEPA. The use of Federal funds in a project triggers the NEPA process. A grantee may have its own personnel conduct the required environmental assessment or may contract with private parties to perform the NEPA review, but FRA's Administrator must issue the final review document. FRA will carefully scrutinize the environmental review document because the agency needs to be certain that severe environmental harm will not result if the proposed project is given the green light.

In this information collection, as 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.

