

decision to extend the exemption of each driver.

The issues raised by Advocates were addressed at length in 66 FR 17994 (April 4, 2001). The FMCSA continues to find its exemption process appropriate to the statutory and regulatory requirements.

Issued on: March 20, 2003.

**Pamela M. Pelcovits,**

*Acting Associate Administrator, Policy and Program Development.*

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BILLING CODE 4910-EX-P

## DEPARTMENT OF TRANSPORTATION

### Notice and Request for Comments

**AGENCY:** Federal Railroad Administration, DOT.

**ACTION:** Notice and request for comments.

**SUMMARY:** In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Requirement (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected burden. The **Federal Register** notice with a 60-day comment period soliciting comments on the following collection of information was published on January 14, 2003 (68 FR 61884).

**DATES:** Comments must be submitted on or before April 28, 2003.

**FOR FURTHER INFORMATION CONTACT:** Mr. Robert Brogan, Office of Safety, Planning and Evaluation Division, RRS-21, Federal Railroad Administration, 1120 Vermont Ave., NW., Mail Stop 17, Washington, DC 20590 (telephone: (202) 493-6292), or Ms. Debra Steward, Office of Information Technology and Productivity Improvement, RAD-20, Federal Railroad Administration, 1120 Vermont Ave., NW., Mail Stop 35, Washington, DC 20590 (telephone: (202) 493-6139). (These telephone numbers are not toll-free.)

**SUPPLEMENTARY INFORMATION:** The Paperwork Reduction Act of 1995 (PRA), Pub. L. 104-13, section 2, 109 Stat. 163 (1995) (codified as revised at 44 U.S.C. 3501-3520), and its implementing regulations, 5 CFR part 1320, require Federal agencies to issue two notices seeking public comment on information collection activities before OMB may approve paperwork packages. 44 U.S.C. 3506, 3507; 5 CFR 1320.5, 1320.8(d)(1), 1320.12. On January 14,

2003, FRA published a 60-day notice in the **Federal Register** soliciting comment on ICRs that the agency was seeking OMB approval. See 68 FR 1884. FRA received no comments after issuing the 60-day notice referenced earlier. Accordingly, DOT announces that these information collection activities have been re-evaluated and certified under 5 CFR 1320.5(a) and forwarded to OMB for review and approval pursuant to 5 CFR 1320.12(c).

Before OMB decides whether to approve these proposed collections of information, it must provide 30 days for public comment. 44 U.S.C. 3507(b); 5 CFR 1320.12(d). Federal law requires OMB to approve or disapprove paperwork packages between 30 and 60 days after the 30 day notice is published. 44 U.S.C. 3507 (b)-(c); 5 CFR 1320.12(d); see also 60 FR 44978, 44983, Aug. 29, 1995. OMB believes that the 30 day notice informs the regulated community to file relevant comments and affords the agency adequate time to digest public comments before it renders a decision. 60 FR 44983, Aug. 29, 1995. Therefore, respondents should submit their respective comments to OMB within 30 days of publication to best ensure having their full effect. 5 CFR 1320.12(c); See also 60 FR 44983, Aug. 29, 1995.

The summaries below describe the nature of the information collection requirements (ICRs) and the expected burden. The revised requirements are being submitted for clearance by OMB as required by the PRA.

**Title:** U.S. DOT Crossing Inventory Form.

**OMB Control Number:** 2130-0017.

**Type of Request:** Extension of a currently approved collection.

**Affected Public:** Railroads.

**Abstract:** Form FRA F 6180.71 is a voluntary form and is used by States and railroads to periodically update certain site specific highway-rail crossing information which is then transmitted to FRA for input into the National Inventory File. This information has been collected on the U.S. DOT-AAR Crossing Inventory Form (previous designation of this form) since 1974 and maintained in the National Inventory File database since 1975. The primary purpose of the National Inventory File is to provide for the existence of a uniform database which can be merged with accidents data and used to analyze information for planning and implementation of crossing safety programs by public, private, and governmental agencies responsible for highway-rail crossing safety. Following the official establishment of the National Inventory

in 1975, the Federal Railroad Administration (FRA) assumed the principal responsibility as custodian for the maintenance and continued development of the U.S. DOT/AAR National Highway-Rail Crossing Inventory Program. The major goal of the Program is to provide Federal, State, and local governments, as well as the railroad industry, information for the improvement of safety at highway-rail crossings. Good management practices necessitate maintaining the database with current information. The data will continue to be useful only if maintained and updated as inventory changes occur. FRA previously cleared the reporting and recordkeeping burden for this form under Office of Management and Budget (OMB) Clearance Number 2130-0017. OMB approved the burden for this form through March 31, 2003. FRA is requesting a new three year approval from OMB for this information collection.

**Annual Estimated Burden Hours:** FRA estimates that the revised burden for these ICRs is 1,487 hours. The total recordkeeping and reporting burden for this information collection will actually decline by 1,617 hours from the previous total of 3,104 hours. The reduction in burden is due to a large increase in the estimated number of electronic records which will be kept over the next three years.

**Addressee:** Send comments regarding this information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 Seventeenth Street, NW., Washington, DC, 20503, Attention: FRA Desk Officer.

**Comments are invited on the following:** Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this notice in the **Federal Register**.

**Authority:** 44 U.S.C. 3501-3520.

Issued in Washington, DC on March 21, 2003.

**Kathy A. Weiner,**

*Director, Office of Information Technology and Support Systems, Federal Railroad Administration.*

[FR Doc. 03-7296 Filed 3-26-03; 8:45 am]

**BILLING CODE 4910-06-P**

## **NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION**

### **Public Health Authority Notification**

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

**ACTION:** Notice.

**SUMMARY:** NHTSA is publishing this notice to inform hospitals and other health care organizations of its status as a "public health authority" under the medical privacy requirements of the Health Insurance Portability and Accountability Act of 1996.

**FOR FURTHER INFORMATION CONTACT:**

Tyler Bolden, NHTSA, Office of Chief Counsel, 400 7th Street, SW Suite 5219, Washington, DC 20590. 202-366-1834.

**SUPPLEMENTARY INFORMATION:** The Health Insurance Portability and Accountability Act of 1996 ("HIPAA") was enacted to improve the portability and continuity of health insurance coverage, to improve access to long-term care services and coverage, to simplify the administration of health insurance, and for other purposes (Pub. L. No. 104-191, 110 Stat. 196 (1996)). The Administrative Simplification subtitle of HIPAA authorized the Department of Health and Human Services ("HHS") to promulgate medical privacy regulations to protect the privacy of individually-identifiable electronic health information. These regulations (the "Privacy Rule") were published by HHS on December 28, 2000 and established the standards to identify the rights of individuals who are the subjects of "protected health information," which is defined as individually-identifiable health information; provide procedures for the exercise of those rights; and define the general rules for permitted and required uses and disclosures of protected health information (45 CFR Parts 160-164).

Beginning April 14, 2003, the Privacy Rule prohibits health plans, health care clearinghouses and selected health care providers from using or disclosing protected health information, except as permitted by certain exceptions (45 CFR 164.502). Under one exception, the Privacy Rule permits the disclosure of protected health information to public

health authorities authorized to "collect or receive such information for the purpose of preventing or controlling disease, injury, or disability . . ." (45 CFR 164.512(b)(1)(i)). A "public health authority" includes "an agency or authority of the United States . . . that is responsible for public health matters as part of its official mandate" (45 CFR 164.501). Examples of public health matters include the reporting of disease, injury, or vital events; and public health surveillance, public health investigations or public health interventions (45 CFR 164.512(b)(1)(i)).

Guidance issued by HHS on December 2, 2002 further addressed the issue of disclosures to public health authorities. Specifically, the guidance stated that:

The HIPAA Privacy Rule recognizes the legitimate need for public health authorities and others responsible for ensuring public health and safety to have access to protected health information to carry out their public health mission . . . the [Privacy] Rule permits covered entities to disclose protected health information without authorization for specified public health purposes.

NHTSA's mission is to prevent and reduce deaths, injuries and economic losses resulting from automotive travel on our nation's roadways. To accomplish this mission, NHTSA has statutory authority to conduct crash injury research and collect relevant data in the interest of public health. Specifically, NHTSA is authorized to: (1) Engage in research on all phases of highway safety and traffic conditions; (2) undertake collaborative research and development projects with non-Federal entities for the purposes of crash data collection and analysis; and (3) conduct research and collect information to determine the relationship between motor vehicles and accidents, and personal injury or deaths resulting from such accidents (See 23 U.S.C. 403(a)(1), 23 U.S.C. 403(f) and 49 U.S.C. 30168(a)). The term "safety" is defined as "highway safety and highway safety-related research and development, including research and development relating to highway and driver characteristics, crash investigations, communications, emergency medical care, and transportation of the injured" (23 U.S.C. 403(a)(3)).

In light of the above-referenced statutory authority, which demonstrates a responsibility for public health matters as part of the agency's mandate, NHTSA has determined that it is a public health authority within the meaning of the Privacy Rule. As a public health authority, NHTSA is entitled to receive protected health

information from hospitals and other health care organizations, without written consent or authorization, because disclosures of protected health information to a public health authority are permitted disclosures under the Privacy Rule (45 CFR 164.502(a)(1)(vi)).

Issued on: March 21, 2003.

**Jeffrey W. Runge,**

*Administrator, National Highway Traffic Safety Administration.*

[FR Doc. 03-7301 Filed 3-26-03; 8:45 am]

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## **DEPARTMENT OF THE TREASURY**

### **Departmental Offices; Interim Guidance Providing Procedure for Rebuttal of Presumption of Control of an Insurer for Purposes of the Terrorism Risk Insurance Program**

**AGENCY:** Departmental Offices, Treasury.

**ACTION:** Notice.

**SUMMARY:** This notice provides interim guidance to insurers that wish to rebut a presumption of control by the Department of Treasury as administrator of the Terrorism Risk Insurance Program.

**DATES:** This notice is effective immediately and will remain in effect until superceded by regulations or by subsequent notice.

**FOR FURTHER INFORMATION CONTACT:**

Mario Ugoletti, Deputy Director, Office of Financial Institutions Policy 202-622-2730; Martha Ellett, Attorney-Advisor, Office of the Assistant General Counsel (Banking and Finance) 202-622-0480.

**SUPPLEMENTARY INFORMATION:** This notice provides interim guidance to assist insurers that wish to rebut a presumption of controlling influence for purposes of the Terrorism Risk Insurance Program (the Program) established by Title I of the Terrorism Risk Insurance Act of 2002 (Pub. L. 107-297) prior to the issuance by the Department of Treasury (Treasury) of regulations incorporating a procedure for rebuttal of a controlling influence presumption. This interim guidance remains in effect until superceded by regulations or subsequent notice.

### **I. Background**

On November 26, 2002, the President signed into law the Terrorism Risk Insurance Act of 2002 (the Act). The Act became effective immediately. It establishes a temporary federal program of shared public and private compensation for insured commercial property and casualty losses resulting