

SUPPORTING JUSTIFICATION
49 CFR, Part 215
Designation of Qualified Persons

- 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.**

This collection of information is a request for an extension of a currently approved submission. FRA has revised the information in this collection – where appropriate and necessary – to reflect the most current data, and FRA’s experience over the past three years in implementing the requirements of Part 215.

Background

Under the Federal Railroad Safety Act of 1970, the Federal Railroad Administration promulgated the Freight Car Safety Standards -- 49 CFR Part 215. These standards require each railroad to conduct regular inspections and take necessary remedial action relative to repairs or movement for repairs of defective railroad freight cars. Under Part 215.11, railroads are required to designate persons qualified to inspect freight cars for compliance with Part 215 and persons who shall determine restrictions on movements of defective cars. Inspectors are designated as qualified to inspect freight cars to ensure that the cars receive a full and accurate inspection for compliance with Part 215. Under "Movement of Defective Cars for Repair," designated inspectors are necessary to determine what repairs are necessary for defective freight cars. Repairs to railroad freight cars are divided into two categories. "Running" or light repairs are confined to defects to freight cars requiring movement of equipment and repair personnel to the freight car's location. The freight car's defect or damage repairs can be performed at that location. The second category is specialized or heavy repairs. The freight car must be moved to a location where specialized equipment is located. This type of movement for repairs involves freight cars that may not be safely moved without precaution. The movement must be authorized by an employee knowledgeable about equipment limitations, which might include speed, track structure, curvature or other conditions that normally would not be of concern.

- 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.**

The collection of information is used by FRA to verify that all freight car inspections are conducted by persons qualified to do the following: (1) Identify defective equipment; (2) Determine necessary remedial action; and (3) Authorize, when necessary, the safe movement of defective equipment. Each person designated under this section must have demonstrated to the railroad a knowledge and ability to inspect railroad freight cars for compliance with the requirements of this Part, in particular to make the determinations required by § 215.9 of this Part relating to the movement of defective freight cars for repair. Careful review of railroads written records ensures that railroad personnel are properly designated and qualified, and prevents the creation of unsafe conditions by improper or unnecessary movement of defective equipment for repairs.

- 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 endorses and highly encourages the use of advanced information technology, wherever possible, to reduce burden. This is especially true of electronic recordkeeping, which FRA has encouraged the railroads to adopt for many years now. Although the current regulation specifies that railroads keep written records of designated persons who are qualified to inspect freight cars for compliance with Part 215 and persons who shall determine restrictions on movements of defective cars, FRA is fully cognizant both of the requirements of the Paperwork Reduction Act of 1995 and the Government Paperwork Elimination Act of 1998. As a result, FRA is currently developing a Notice of Proposed Rulemaking on electronic recordkeeping that it hopes to publish later this year.

It should be noted that the information collection requirements of this rule and the resulting burden are already extremely minimal.

- 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.**

To our knowledge, this information is 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.

FRA believes the impact on small railroads will be very slight. In fact, the turnover of inspectors on small railroads is so small that it is almost unnecessary to make changes to the qualified inspector list.

Again, it should be noted that the burden for this information collection is already extremely minimal.

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, national rail safety could be jeopardized. In particular, unqualified persons might not identify defective freight cars and consequently permit the movement of defective equipment. This could lead to increased numbers of accidents/incidents, particularly derailments and collisions, with corresponding injuries, deaths, and property damage.

It should be noted that the information is collected only when there is a change in the list of qualified inspectors. Collecting it less frequently would mean not collecting the information at all. This would have a negative impact on the safe movement of freight cars, as well as a negative impact on FRA's overall rail safety program.

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.

This is not a routine submission that must be regularly submitted to FRA. As noted above, the requirement must be performed only after the carrier has designated persons qualified to inspect railroad freight cars for defects, or when the carrier seeks to make a change in the list of qualified inspectors.

All information collection requirements 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.

In accordance with the Paperwork Reduction Act of 1995, Pub.L. No.104-13, § 2, 109 Stat. 163 (1995) (codified as revised at 44 U.S.C. §§ 3501-3520), and its implementing regulations, 5 C.F.R. Part 1320, FRA published a notice in the Federal Register on January 17, 2007, soliciting public comments on these information collection requirements. *See* 72 FR 2084. FRA received no comments in response to this notice.

Background

On January 28, 1974, a Notice of Proposed Rulemaking (NPRM) was published in the Federal Register (*see* 34 FR 3567) and written comments were requested.

Persons outside the agency were consulted prior to the final rule on July 11, 1974, (*see* 39 FR 35496), as amended, December 31, 1979, (*see* 44 FR 77340), and on April 21, 1980, (*see* 45 FR 26710).

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

There are no monetary payments or gifts made to respondents associated with the information collection requirements contained in this regulation.

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.

No sensitive information is requested, or provided.

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: Based on the American Association of Railroads (AAR) 2006 publication Railroad Facts, FRA has used the following labor rates for railroad hourly wages in its cost calculations: \$40 per hour for professional/administrative staff. This rate include 40% overhead.

§ 215.11 - Designated Inspectors

(a) Each railroad that operates railroad freight cars to which this part applies must designate persons qualified to inspect railroad freight cars for compliance with this part and to make the determinations required by § 215.9 of this part.

(b) Each person designated under this section must have demonstrated to the railroad a knowledge and ability to inspect railroad freight cars for compliance with the requirements of this part and to make the determinations required by § 215.9 of this part.

(c) With respect to designations under this section, each railroad must maintain written records of: (1) Each designation in effect; and (2) The basis for each designation.

There are approximately 687 railroads that comprise the respondent universe. The record consists of the names of those persons qualified to inspect freight cars and the basis for that designation. The requirement is complied with by most railroads by use of a seniority roster that shows the names and promotion dates for the inspectors from training or apprenticeship programs. Turnover rate for these inspectors is not more than five (5) percent per year. FRA estimates that there are approximately 25,000 total inspectors in the rail industry. Turnover or new designations are no more than 1,200 per year. It is estimated that it takes approximately two (2) minutes per response to make the proper designation. Total annual burden for this requirement is 40 hours.

| | |
|-----------------------------|---------------|
| Respondent Universe: | 687 railroads |
| Burden time per response: | 2 minutes |
| Frequency of Response: | On occasion |
| Annual number of Responses: | 1,200 records |
| Annual Burden: | 40 hours |
| Annual Cost: | \$1,720 |

Calculation: 1,200 records x 2 min. = 40 hours
40 hrs. x \$43 = \$1,720

Total annual burden for this entire requirement is 40 hours.

Total annual burden for this entire information collection is 40 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 is no additional cost to the respondents outside of the hourly rate mentioned above under Item 12.

- 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.

There is no cost to the Federal Government involving this information collection activity as inspectors perform records review as part of their routine duties.

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

There has been no change in the total burden hours from the last submission. Consequently, there are no adjustments or program changes to account for.

Additionally, there is no change in cost to respondents.

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 is no tabulation, collection, or publication of responses.

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 the top DOT strategic goal, namely transportation safety. Without this collection of information, national rail safety might be significantly jeopardized. Specifically, unqualified persons might be placed in positions where they did not properly inspect and identify defective equipment and, as a consequence, defective freight cars were left unrepaired and allowed to be moved. This could lead to increased numbers of accidents/incidents, particularly derailments and collisions, with corresponding injuries, deaths, and property damage. The records required to be kept by railroads provide the basis for an employee's designation and ensure that only persons who are qualified inspect railroad freight cars. These records are updated whenever there is a change in the list of qualified inspectors. Thus, this information collection furthers both the top DOT strategic goal and FRA's primary mission of rail safety.

In this information collection and indeed in all its other information collection activities, FRA seeks to do its utmost to fulfill DOT Strategic Goals and to be an integral part of One DOT.