

**SUPPORTING JUSTIFICATION FOR  
IDENTIFICATION OF CARS MOVED IN ACCORDANCE WITH ORDER 13528**

- 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 this rule.

Background

On October 16, 1970, Congress enacted Public Law 96-458; the Federal Railroad Safety Act of 1970 (which is now positive law at 49 U.S.C. 20103). This Act gave the Secretary of Transportation the authority to prescribe as necessary appropriate rules, regulations, orders, and standards for all areas of railroad safety.

This paper refers to the identification of freight cars that may be moved in accordance with the provisions as set forth in 49 CFR, Part 232.3(d), formerly ICC Order 13528. The original Order 13528 was issued May 30, 1945, by the Interstate Commerce Commission (ICC) and was amended September 30, 1952 (17 FR 8653), October 7, 1952 (17 FR 8957), November 26, 1952 (17 FR 10738), and further amended November 3, 1953 (18 FR 6942). The provisions formerly contained in Interstate Commerce Commission Order 13528, of May 30, 1945, as amended, now revoked, are now codified in 49 CFR 232.3 (Jan. 17, 2001).

Prior to the formulation of Order 13528, the movements of cars without power brakes were handled within the provisions as set forth in the Safety Appliance Acts. These Acts are very binding and, without the benefit of Order 13528, it would be unlawful for any movement of freight equipment not equipped with air brakes from initial terminal locations or through interchange locations.

The card used to indicate that a freight car is being moved in accordance with Order 13528 is usually a carrier bad order form. These forms are readily available from all carrier repair facilities. The purpose of this form is to identify a freight car as being moved legally within the scope of Order 13528; otherwise, exception would be taken and the car would be set out of the train and not delivered.

Order 13528 sets forth specific restrictions that have to be complied with when it is deemed necessary to move equipment by this Order. The information mandated to be recorded is specified in 49 CFR 232.3(d). This Part requires that cars be properly identified by a card – signed by shippers stating that such movement is being made under authority of this Order – which must be attached to each side of the car. Order 13528 does not require that cards or tags be retained. When a car bearing tags for movement under Order 13528 arrives at its destination, the tags are simply removed.

It is necessary to place a tag on each side of the equipment because there are railroad locations where only one side of the train is visible while entering the yard. Therefore, if only one tag is applied, it could be missed and the equipment could continue en route beyond the destination, causing safety and other problems, including additional expense to the shipper.

**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 information collected is used by railroad employees to ensure that cars moved in accordance with Order 13528 arrive at the correct destination. These records are not maintained for the purpose of information collection per se. It is imperative that rolling stock being moved under this Order be properly tagged so that it may be readily observed and identified. If this tagging process were not complied with, freight cars/equipment without power brakes could possibly be put in service, causing injury to railroad workers and perhaps members of the public as well. Also, if this tagging process were not complied with, the affected freight equipment might be removed from the train during subsequent en route inspections. Thus, the tags serve both to enhance railroad employees' safety and reduce expenses to the railroads when rolling stock is moved to designated locations.

At destination, the tags are removed. The Federal Railroad Administration (FRA) does not have a retention requirement.

**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 and, wherever possible, to reduce burden on respondents. FRA has done so for many, many years now, and it has especially encouraged the use of electronic records. However, in consideration of the specific use of these tags, FRA believes the current practice best ensures that freight cars without power brakes will not inadvertently be put in service, and furthermore will reach their assigned locations as scheduled. As a matter of safety and efficient movement of trains, it is critical that this special equipment be marked in such a way that it is clearly visible to railroad workers on both sides of the car. Tags are an effective and inexpensive means to accomplish this goal.

It should be noted that the burden for this collection of information is 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.**

There is no known duplication concerning this method of identifying special equipment. The tags are placed on the car when it is placed in a train, and are removed at the designated destination point. There is no retention requirement for these tags.

No other similar information is available. These tags are used en route for the sole purpose of properly identifying special equipment so that it may reach its designated location.

**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.**

As noted previously, these tags are not used for the purpose of information collection per se, and are only used by railroads. They involve small businesses (i.e, small railroads) very little, if at all. It should be noted that the impact on all railroads, primarily large ones, is already minimal, since all that is required is filling out cards or tags and placing them on the special equipment.

Again, it should be noted that the estimated burden for this information collection is extremely minimal, since only a small number of cars (approximately 400) is moved each year under this provision.

**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 collection were not conducted or conducted less frequently, the safety of railroad workers might be seriously jeopardized because special equipment would not be appropriately marked and readily visible. As a result, railroad workers would not know the appropriate actions to take, the necessary procedures to follow, or the proper destination for cars moved under this Order. Therefore, they might then put freight cars without power brakes into service, which could lead to an increased number of accidents/incidents and injuries to these railroad workers. Additionally, railroads would incur increased business expenses if this special equipment were not marked and then mistakenly sent to undesignated/improper destinations.

This collection of information assists FRA in its main mission, which is to promote and enhance rail safety throughout the United States.

**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 information collection requirements are in full compliance with this section.

It should be noted that this is not a routine collection of information or reporting requirement. The requirement must be performed only when the carrier has a need to move equipment under the provisions set forth by 49 CFR Part 232.3(d) (which codified ICC Order 13528).

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, FRA published a Notice in the Federal Register on November 3, 2008, soliciting comment on this particular information collection. *See 73 FR 65441*. FRA received no comments either from the public or respondents regarding the activities involved in this information collection, or on the agency hour burden estimates contained in the Notice.

## Background

As noted earlier, this Order was issued on May 30, 1945, and Order 13528 has now been codified in 49 CFR 232.3(d). The changes were made following the prescribed rulemaking procedures with public comment from the industry and interested parties.

**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.**

This is not an information collection per se, and no confidentiality is promised/implied to any respondent. The information is not of a sensitive or confidential nature.

**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.**

As noted above, there is no information of a sensitive nature or data that would normally be considered private contained in this information collection. Specifically, the reporting/recordkeeping requirement pertains solely to railroad cars, and does not involve information of a personal nature.

**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 latest agency data, FRA estimates that there are presently 718 railroads in the United States.*

§ 232.3(d) Identification of Cars Moved in Accordance with Emergency Order 13528

The provisions formerly contained in Interstate Commerce Commission Order 13528, of May 30, 1945, as amended, now revoked, are codified in this paragraph. This part is not applicable to the following equipment: (1) Scale test weight cars; (2) Locomotive cranes, steam shovels, pile drivers, and machines of similar construction, and maintenance machines built prior to September 21, 1945; (3) Export, industrial, and other cars not owned by a railroad which are not to be used in service, except for movement as shipments on their own wheels to given destinations. Such cars shall be properly identified by a card attached to each side of the car, signed by the shipper, stating that such movement is being made under authority of this paragraph; (4) Industrial and other than railroad-owned cars which are not to be used in service except for movement within the limits of a single switching district (i.e., within the limits of an industrial facility); (5) Narrow-gauge cars, and (6) Cars used exclusively in switching operations and not used in train movements within the meaning of the Federal safety appliance laws (49 U.S.C. 20301-20306).

This requirement/record comes into play only when a railroad finds it necessary to move equipment as specified above. FRA estimates that approximately 400 cars per year are

moved under this Order. As stipulated above, equipment must be tagged on both sides. FRA estimates that it takes approximately five (5) minutes to record the necessary information on each tag and attach the tags to the equipment. There is no retention requirement relative to the tags at destination. Total annual burden for this requirement is 67 hours.

Respondent Universe:

718  
railroads

Burden time per response:

5  
minutes

Frequency of Response:

On occasion

Annual number of Responses: 800 tags

Annual Burden: 67 hours

**Calculation:** 800 tags x 5 min. = 67 hours

Total annual burden for this entire information collection is 67 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.**

Total Additional Cost to Respondents

\$40.00 -- Printing of 800 tags at approximately \$.05 cents each.

- 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 in connection with the tagging of equipment moved under Order 13528. Carriers are examined on a somewhat routine basis in conjunction with regular enforcement activities that monitor their compliance with inspection and testing requirements.

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

There is no change in burden from the last submission. After a complete and careful review, FRA believes that the burden hour estimates that it submitted previously are still valid. Thus, there are no program changes or adjustments at this time.

There is no change in cost to respondents from the previous submission.

**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.**

This is not an information collection activity per se, and the agency does not intend to publish anything in connection with the requirements of § 215.103.

**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, special train equipment would not be appropriately marked as required by 49 CFR 232.3(d), which codified ICC Order 13528. As a result, railroad workers would not know the proper action to take or the necessary procedures to follow concerning this type of equipment. Railroad workers might then put freight cars without power brakes into service. This could lead to increased accidents/incidents where serious injuries occurred to railroad workers and, possibly, members of the general public as well. Moreover, in the event of an accident/incident, there could be considerable property damage, which would translate in to high dollar losses to the affected railroad(s). Proper marking also prevents removal of this special equipment from the train during en route inspections and thus ensures delivery to the correct destination. This not only serves the cause of enhancing rail safety, but it also serves the cause of promoting rail efficiency by ensuring special rail equipment is not sent beyond the designated destination point.

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.