

## **SUPPORTING JUSTIFICATION**

### **Stenciling Reporting Mark on Freight Cars**

**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

On October 16, 1970, Congress enacted Public Law 96-458, the Federal Railroad Safety Act of 1970 (now 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.

The second standards promulgated by FRA under the authority of this Act were the Federal Freight Car Safety Standards (49 CFR 215). The standards require each railroad to inspect freight cars placed in a train and take the necessary remedial action when defects are found. FRA enforces the regulations by monitoring the railroad's compliance activities using FRA field personnel and/or qualified inspectors.

The railroad industry and private car owners have for years – for their own benefit – provided their reporting mark and car number to all cars of their ownership. Title 49 CFR Section 215.301 sets forth certain restrictions that have to be observed by railroad carriers and private car owners relative to identification marks on railroad equipment. Among these restrictions are those requiring that a reporting mark, car number, and built date shall be stenciled, or otherwise displayed, in clearly legible letters and numbers not less than seven inches high, except those of the built date which shall not be less than one inch on each side of each railroad freight car body. In the case of a tank car, the required information must be stenciled or otherwise displayed in any location that is visible to a person walking at track level beside the car. It is of vital importance that this requirement be complied with to provide identification of freight cars.

**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.**

This is not a true information collection activity per se. The stenciling is used by the railroad carriers, railroad employees, and FRA to identify railroad freight cars. The information is used by railroads to move trains safely and efficiently. The information is used by railroad workers to properly identify railroad freight cars so that they can take necessary safety measures to protect themselves while facilitating the daily movement of freight trains throughout this country. The information is used by FRA inspectors during the routine performance of their inspection and enforcement duties.

- 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.**

Over the years, FRA has strongly encouraged and highly endorsed the use of advanced information technology, wherever possible, to reduce burden on respondents. In consideration of the specific use of identifying freight cars by stenciling, FRA has not been advised of any improved technology that is currently available that would supersede stenciling to reduce the burden on respondents.

It should be mentioned that the burden for this information collection is already fairly 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 of this method of identifying freight cars. A car is stenciled when it is built or rebuilt, and this process is not repeated unless the car ownership changes or the stenciling becomes illegible or graffiti marked.

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.**

There are no known methods that are used, or can be used, at the present time to minimize burden. The burden varies considerably, based on the number of new cars purchased by railroads or older cars owned by them. The major or larger carriers purchase/own the great majority of freight cars and thus experience a greater burden, while smaller carriers will be less affected and have a much smaller burden.

Again, it should be noted that the burden for this collection of information is fairly 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.**

As noted earlier, this is not a true information collection activity per se. The stenciling is only required when a freight car is built or rebuilt, car ownership changes, or if the stencil becomes illegible or graffiti marked and needs to be repainted/stenciled. Without reporting marks on both sides, extra employees would be needed in order to identify cars entering trains yards. This would be costly and inefficient for railroads. The other option would be for an employee to attempt to identify entering freight cars on his/her own. It would be extremely dangerous to have anyone jump between cars in train yards just to identify cars. Thus, without this collection of information (the required reporting marks), railroad workers would be exposed to greater risk of injuries – perhaps even death – in trying to identify freight cars.

Presently, there is no other means available that can be used to properly mark freight cars with the required information and that would also reduce burden. The burden associated with this information collection is fairly minimal.

**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 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.**

As required by the Paperwork Reduction Act of 1995, FRA published a notice in the Federal Register on April 6, 2009, soliciting comment on this particular information collection. *74 FR 15588*. FRA received no comments in response to this notice.

#### Background

On January 5, 1979, a Notice of Proposed Rulemaking (NPRM) was published in the Federal Register (*44 FR 1419*) that FRA was considering a revision of Part 215 (49 CFR 215). The revised part contains FRA rules applicable to railroad freight cars. Public hearings were conducted, and interested persons were given the opportunity to comment. Most commenters expressed general support for the proposed rules. After considering all of the comments submitted in writing and made at the public hearing, FRA decided to adopt the rules as set forth in Vol. 44 No. 251 of the Federal Register.

**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 the Federal Railroad Administration 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, or information of a private nature is requested.

- 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: Burden estimates have been updated after consulting with the FRA specialist responsible for Part 215 compliance. According to the latest agency data, there are approximately 728 railroads now operating in the United States.*

215.301 - Stenciling - General

The railroad or private car owner reporting mark, the car number, and built date shall be stenciled, or otherwise displayed, in clearly legible letters and numbers not less than seven inches high, except those of the built date which shall not be less than one inch high: (a) On each side of each railroad freight car body; and (b) In the case of a tank car, in any location that is visible to a person walking at track level beside the car.

This is not an information collection per se. This stenciling requirement includes all freight cars; however, the stenciling is only applied when new cars are built or when cars are rebuilt, car ownership changes, or if the stenciling should become illegible.

Over the next three years, FRA estimates that an average of approximately 25,000 cars annually that are older where the reporting mark is illegible or that are graffiti marked will need to be repainted/stenciled. It is estimated that it takes approximately 45 minutes to repaint/apply the required stencils. Total annual burden for this requirement is 18,750 hours.

Respondent Universe:

728  
railroads

Burden time per response:

45  
minute  
s

Frequency of Response:

On Occasion

Annual number of Responses: 25,000 freight cars repainted/stenciled  
Annual Burden: 18,750 hours

**Calculation:** 25,000 freight cars repainted/stenciled x 45 min. = 18,750 hours

Total annual burden for this entire information collection is 18,750 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 other costs.

- 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 stenciling requirement of § 215.301. Compliance is monitored during routine inspection activity.

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

The total burden has increased by 3,750 hours from the previous submission. The increase is due solely to an **adjustment** in one estimate. Specifically, the increase in burden is due to the following:

(1) Under § 215.301, FRA raised its estimate of the number of freight cars annually that will need to have a reporting mark repainted/stenciled (from 20,000 cars to 25,000 cars). This change in estimate *increased* the burden by *3,750 hours* (from *15,000 hours* to *18,750 hours*).

The current OMB inventory shows a total burden of 15,000 hours for this collection, while the present submission exhibits a total of 18,750 hours. Hence, there is a total burden increase of 3,750 hours.

There is no change in costs to respondents from the last 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.**

There are no plans for publication involving these information collection requirements.

- 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, rail safety in the U.S. would be seriously hindered. Specifically, railroad workers would be exposed to greater risks if they had to jump between cars in train yards in order to identify freight cars. Such action could result in a higher number of injuries and, perhaps, in additional deaths to railroad employees. The collection of information – the required reporting marks or stenciling – serves to promote safety by making freight cars easily identifiable, and thus eliminating an unnecessary risk to railroad workers. The collection of information then supports FRA’s primary mission, which is to promote and enhance rail safety throughout the United States.

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.