

SUPPORTING JUSTIFICATION BAD ORDER AND HOME SHOP CARD

Summary of Submission

- This submission is a request for a three-year extension without change of the previous (temporary) approval granted by OMB on November 12, 2009, until June 30, 2010.
- The total number of burden hours requested for this submission is **15,750 hours**.
- Total number of responses is **270,000**.
- ******The answer to question **number 12** itemizes the hourly burden associated with each requirement of this rule (See pp. 5-7).
- Per the November 12, 2009, Notice of Action, FRA is providing the required supplementary document that belongs to that earlier submission in a separate Word file attachment.

1. Circumstances that make collection of the information necessary.

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 the Federal Railroad Administration (FRA) under the authority of this Act were Federal Freight Car Safety Standards (49 CFR 215). These 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 state inspectors.

The railroad industry has for years moved cars for their benefit with bad order tags for shifted loads, car body defects, and other conditions not subject to FRA Part 215 without penalty. Part 215 defects are specific in nature and relate to items that have or could cause accidents or incidents.

49 CFR 215.9 sets forth certain restrictions to be observed by the carrier when it is deemed necessary to move a defective car for repair purposes. Among these restrictions

are those requiring that a bad order tag describing each defect be attached to each side of the car.

In many instances, cars are determined to be defective at outlying points where material and personnel are not available to make repairs. Carriers have made considerable capital investments at strategic locations where quality work may be performed. FRA does not presently have data indicating that cars moved for repair have been a significant cause of accidents, injuries, or fatalities. Therefore, movement for repair is acceptable. However, it is of vital importance that the defective freight cars be identified by a tag on each side which contains the following information (as required under § 215.9):

- i. The reporting mark and car number;
- ii. The name of the inspecting railroad;
- iii. The inspection location and date;
- iv. The nature of each defect;
- v. Movement restrictions;
- vi. The destination for shopping or repair; and
- vii. The signature of a person designated under § 215.11."

"The tag or card required by this paragraph (a)(3) of this section may only be removed from the car by a person designated under § 215.11 of this part."

"A record or copy of each tag or card attached to or removed from a car shall be retained for 90 days and, upon request, shall be made available within 15 calendar days for inspection by FRA or State inspectors. Each tag or card removed from a car shall contain a notification stating the date, location, reason for its removal, and the signature of the person who removed it from the car."

It is necessary to place a tag on each side of the car because there are railroad locations where only one side of the train is observed while entering the yard. Therefore, a tagged car could continue in a through train and not receive required attention and repair.

2. **How, by whom, and for what purpose the information is to be used.**

The information is used by railroads and their employees (i.e., railroad crews) to safely move rail equipment that has been inspected and found defective according to FRA regulations (specifically freight cars) and to ensure that such freight cars removed for repair arrive at the correct destinations. It is crucial for safety that defective freight cars be tagged with essential information so that these cars may be readily identified and not moved beyond the designated repair point, or, if required, be removed from the train during subsequent inspections en route. Among the items of essential information that railroad crews need to know are the following: (1) The reporting mark and car numbers; (2) The name of the inspecting railroad; (3) The inspection location and date; (4) The nature of each defect; (5) Movement restrictions (maximum speed and other restrictions

necessary for safely conducting the movement); (6) The destination for shopping or repair; and (7) The name of the person, designated as qualified under § 215.11 to inspect railroad freight cars for compliance with this Part, who actually conducted the inspection and made the determination that the freight car had a defective component/components. At the prescribed destination, the tag is used by mechanics as a repair record, and is retained for 90 days to confirm to all concerned that proper repairs were made at the designated location.

FRA and State inspectors use the required record (tag) as an enforcement tool to ensure compliance with Federal and State safety regulations and laws. Further, this record is used by FRA to establish knowledge when necessary to assess penalties under 49 CFR 215.7. The records are also reviewed by FRA and certified State inspectors to determine if defective cars which are an immediate hazard are being moved in trains.

3. Extent of automated information collection.

FRA strongly encourages and highly endorses the use of advanced information technology, wherever possible, to reduce burden on respondents. However, in consideration of the specific use of the bad order tag, FRA has not been advised of improved information technology to reduce the burden of tagging defective cars that would ensure the car would safely reach its designated repair point and receive repairs.

It should be noted that the burden for this information collection is fairly minimal.

4. Efforts to identify duplication.

There is no known duplication of this method of identifying defective equipment. The tag is placed on the car when a defect is detected, and is removed after the defect is corrected. The tag is retained. In these instances, no other repair record is prepared.

There is no other information available. These tags are used en route for the sole purpose of moving defective freight cars safely to a location where they may be repaired.

5. Efforts to minimize the burden on small businesses.

The majority of the estimated burden for bad order tags will be experienced by the major railroads. FRA estimates that they will incur approximately 80 percent of the burden (i.e., approximately 12,600 hours) in writing bad order tags, and small railroads will incur approximately 20 percent of the burden (i.e., approximately 3,150 hours) in writing bad order tags involved in this collection of information.

Because of their greater financial resources and facilities, the list of designated inspectors almost exclusively falls on the major railroads. Again, as noted earlier, the burden for this information collection is fairly minimal.

6. Impact of less frequent collection of information.

If this information were not collected or collected less frequently, rail safety and the health of rail workers might be seriously jeopardized. Specifically, if this information were not collected or collected less frequently, railroad train and maintenance crews would not know what precautions they should take regarding defective cars and their movement. This could result in serious injuries to these employees. Also, without this collection of information, defective equipment might be put into service. This could lead to completely avoidable accidents/incidents – such as derailments or collisions – where both railroad passengers and railroad personnel become casualties. Furthermore, without this collection of information, defective cars might be moved beyond the established repair point, costing carriers additional time and expense to take the defective cars back to the earlier point or forward them to another repair facility.

Also, without this collection of information, FRA and State inspectors would be impeded in enforcing Federal and State rail safety regulations and laws. Specifically, they would be unable to access a record concerning the inspection and movement of a freight car (including necessary restrictions) that did not meet the requirements of Part 215. This information might prove critical in an investigation to determine the cause(s) or contributing cause(s) of an accident/incident where railroad workers experienced injuries or fatalities. Also, without this collection of information, specifically the list of designated inspectors under § 215.11, FRA would have no way to know whether a qualified railroad inspector made the determination that a freight car did not meet the requirements of Part 215 and was defective. This becomes a serious safety issue, since having unqualified personnel inspecting freight cars might cause an increase in accidents/incidents and corresponding casualties to railroad employees and possibly members of the public as well. Not having access to lists of designated inspectors would also prevent FRA from assessing responsibility in the event of an accident/incident and from imposing civil penalties under § 215.7 for violations of this Part. Being unable to conduct a thorough investigation, assess responsibility, and impose penalties because it did not have access to the information in this collection would deprive FRA of a useful enforcement tool necessary to promote and maintain rail safety.

In sum, without this collection of information, the safe movement of trains nationwide and the reduction of injuries and fatalities to U.S. railroad workers might be considerably hampered.

Regarding obstacles to reducing burden, the tagging requirement comes into play only when a carrier determines that it is necessary to move a defective car for repair. As noted in response to earlier questions, the burden is fairly minimal.

7. Special circumstances.

As noted in earlier responses, this is not a routine collection or reporting burden. The requirement must be performed only when a rail carrier moves a car under the provisions set forth in this Part (specifically, under § 215.9).

All information collection requirements are in compliance with this section.

8. Compliance with 5 CFR 1320.8.

As required by the Paperwork Reduction Act of 1995, FRA published a notice in the Federal Register on April 2, 2010, soliciting comment on this particular information collection. 75 FR 16896. 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 FR Vol. 44 No. 251.

9. Payments or gifts to respondents.

No payment or gift is made to respondents.

10. Assurance of confidentiality.

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

11. Justification for any questions of a sensitive nature.

This information collection does not contain any data of a personal or sensitive nature.

12. Estimate of burden hours for information collected.

Note: According to the latest agency data, there are approximately 728 railroads now operating in the United States.

§ 215.9 - Movement of defective cars for repair

(a) A railroad freight car which has any component described as defective in this Part may be moved to another location for repair only after the railroad has complied with the following: (1) A person designated under § 215.11 shall determine: (i) That it is safe to move the car; (ii) The maximum speed and other restrictions necessary for safely conducting the movement; (2)(i) The person in charge of the train in which the car is to be moved shall be notified in writing and inform all other crew members of the presence of the defective car and the maximum speed and other restrictions determined under paragraph (a)(1)(ii) of this section; (2)(ii) A copy of the tag or card described in paragraph (a)(3) of this section may be used to provide the notification required by paragraph (a)(2)(i) of this section; (3) A tag or card bearing the words “bad order” or “home shop for repairs” and containing the following information shall be securely attached to each side of the car: (i) The reporting mark and car number; (ii) The name of the inspecting railroad; (iii) The inspection location and date; (iv) The nature of each defect; (v) Movement restrictions; (vi) The destination for shopping or repair; and (vii) The signature of a person designated under § 215.11.

(b)(1) The tag or card required by paragraph (a)(3) of this section may only be removed from the car by a person designated under § 215.11 of this part.

(2) A record or copy of each tag or card attached to or removed from a car must be retained for 90 days and, upon request, must be available within 15 calendar days for inspection by FRA or State inspectors

This record is only used when a freight car has an FRA defect, and movement is necessary to facilitate repairs. FRA estimates that approximately 75,000 cars a year will receive bad order tags or cards (a total of 150,000 tags/cards since both sides of the freight car must be tagged in order to be visible to railroad workers) because of agency type defects. It is estimated that it takes approximately five (5) minutes to list the required information on the tag, place the tag on each side the car, and remove and file the card at the repair facility. Total annual burden for this requirement is 12,500 hours.

Respondent Universe:

728
railroads

Burden time per response:

5
minute

s (per
side/tag)

Frequency of Response: On Occasion

Annual number of Responses: 150,000 tags/cards

Annual Burden: 12,500
hours

Calculation: 150,000 tags/cards x 5 min. = 12,500 hours

(3) Each tag or card removed from a car must contain a notification stating the date, location, reason for its removal, and the signature of the person who removed it from the car.

In keeping with its estimate of 75,000 defective freight cars, FRA estimates that there will be approximately 75,000 notifications made under the above requirement. It is estimated that each notification will take approximately two (2) minutes. Total annual burden for this requirement is 2,500 hours.

Respondent Universe:

728
railroads

Burden time per response:

2
minutes

Frequency of Response: On Occasion

Annual number of Responses: 75,000 notifications

Annual Burden: 2,500 hours

Calculation: 75,000 notifications x 2 min. = 2,500 hours

Total annual burden for this entire requirement is 15,000 hours (12,500 + 2,500).

§ 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 shall 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.

FRA estimates that there are approximately 45,000 car men who are empowered to make the determinations required under § 215.9. Railroads must maintain a record for each of these individuals. It is estimated that each record will take approximately one (1) minute to compose. Total annual burden for this requirement is 750 hours.

Respondent Universe:

728
railroads

Burden time per response:

1
minute

Frequency of Response:

On Occasion

Annual number of Responses: 45,000 records

Annual Burden: 750 hours

Calculation: 45,000 records x 1 min. = 750 hours

Total annual burden for this entire information collection is 15,750 hours (12,500 + 2,500 + 750).

13. Estimate of total annual costs to respondents.

\$4,500 - Printing of 150,000 tags @ 3 cents each.

14. Estimate of Cost to Federal Government.

There is no cost to the Federal Government in connection with the tagging and recordkeeping required under § 215.9. The carrier's records are examined as part of FRA routine enforcement activities.

15. Explanation of program changes and adjustments.

There is no change in burden or in responses from the last approved (temporary) submission granted by OMB on November 12, 2009.

There is no change in cost to respondents.

16. Publication of results of data collection.

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

17. Approval for not displaying the expiration date for OMB approval.

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

18. Exception to certification statement.

No exceptions are taken at this time.

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 impeded. Specifically, train and maintenance crews would not know what precautions to take concerning the movement of defective cars. Consequently, they might put these cars into service, which could result in an accident/incident where both railroad passengers and train crews are seriously injured, or possibly killed. Also, there could be significant damage to train property and cargo. Additionally, this collection of information promotes safety by ensuring that only designated personnel make the determinations required by this Part to move defective cars. Thus, unqualified personnel cannot inspect freight cars, and make erroneous determinations which could have harmful, perhaps even disastrous, consequences.

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.