

SUPPORTING JUSTIFICATION DEDICATED SERVICE

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 24, 2009, which now expires on October 31, 2010.
- The total number of burden hours requested for this submission is **four (4) hours**.
- Total number of responses is **four (4)**.
- ******The answer to question **number 12** itemizes the hourly burden associated with each requirement of this rule (See pp. 5-6).
- Per the November 24, 2009, Notice of Action, FRA has rewritten and republished the collection's abstract so that it is clearer and more detailed to enable the average person reading it to fully understand it.

1. Circumstances that make collection of the information necessary.

Background

On October 16, 1970, Congress enacted Public Law 91-458 (now 49 U.S.C. 20103), the Federal Railroad Safety Act of 1970. 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.

On March 23, 1978, the President issued Executive Order 12044. In that Order, he directed all executive agencies to adopt procedures to improve future regulations.

On December 31, 1979, the FRA issued the final notice of rulemaking relative to revision of Part 215 (49 CFR Part 215). This paper refers to the identification of freight cars that are assigned to dedicated service. The purpose of the dedicated service provision is to permit the continued use of certain qualifying railroad freight cars that are not in strict compliance with Part 215. The qualifications are as follows:

215.5(d) "Dedicated Service" means the exclusive assignment of cars to the transportation of freight between specified points under the following conditions:

- (1) The cars are operated -
 - (i) Primarily on track that is inside an industrial or other non-railroad installation; and
 - (ii) Only occasionally over track of a railroad;
- (2) The cars are not operated –
 - (i) At speeds of more than 15 miles per hour, and
 - (ii) Over track of a railroad -
 - (a) For more than 30 miles in one direction; or
 - (b) On a round trip of more than 60 miles;
- (3) The cars are not freely interchanged among railroads;
- (4) The words "Dedicated Service" are stenciled, or otherwise displayed, in clearly legible letters on each side of the car body;
- (5) The cars have been examined and found safe to operate in dedicated service; and
- (6) The railroad must -
 - (i) Notify the FRA in writing that the cars are to be operated in dedicated service;
 - (ii) Identify in that notice -
 - (a) The railroads affected;
 - (b) The number and type of cars involved;
 - (c) The commodities being carried; and
 - (d) The territorial and speed limits within which the cars will be operated; and
 - (iii) File the notice required by this paragraph not less than 30 days before the cars operate in dedicated service.

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

This record is not maintained for the purposes of information collection per se. The information is used by both FRA and railroad carriers. The information provided is used by FRA to determine the railroads affected, the number and type of cars involved, the commodities being carried, and the territorial and speed limits within which the cars will be operated. FRA reviews this information to determine if the equipment is safe to operate and if the operation qualifies for dedicated service. The required information is used by the railroads to provide identification and control for carriers so that dedicated cars remain in the prescribed service. In addition, it indicates to Federal inspectors that the particular car is in special service and certain exceptions have been provided for, with respect to Part 215.3.

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

In consideration of the specific use of the initial written report and the stenciling of a freight car, FRA is unaware of improved information technology to reduce the above burden that would insure that the car was being operated in compliance with the dedicated service requirements.

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

4. Efforts to identify duplication.

There is no known duplication of this method of identifying cars in Dedicated Service. Only one written notice is sent to the FRA, and stenciling is performed one-time unless it becomes illegible.

Similar data are not available for any other source.

5. Efforts to minimize the burden on small businesses.

This collection of information does not involve small businesses other than railroads.

The burden for this information collection is already extremely minuscule.

6. Impact of less frequent collection of information.

As noted earlier, this is not an information collection activity per se. The written notice and stenciling is only required when a carrier determines that there is a definite need for Dedicated Service. If this information were not collected, railroad safety might be adversely impacted. First, train crews would not know which cars have been designated for dedicated service. As a result, these cars might be operated at unsafe speeds, or operated on the general system of transportation for more than 30 miles in one direction

or 60 miles round trip. This could lead to accidents/incidents, which result in serious injuries – possibly even fatalities – to train crews and significant damage to rail cars and train cargo.

Second, without this collection of information, FRA inspectors would be hindered in their ability to oversee the safe operation of trains, and less able to enforce Federal safety regulations. Specifically, FRA inspectors would have no way of knowing that a particular car is in special service, and thus would be unable to monitor it to ensure that the car was being operated in compliance with the dedicated service requirements.

As far as the frequency of the information collection, it is already extremely minimal, since the information only needs to be provided if a car is being operated in Dedicated Service.

7. Special circumstances.

This is not a routine reporting or collection activity. The requirement must be performed only when the carrier has a need to use cars under the provisions as set forth in Part 215.5(d).

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 21, 2010, soliciting comment on this particular information collection. *See 75 FR 20875.* 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 FRA 1419) that the 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.

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

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: FRA has carefully scrutinized the burden estimate for the requirement below based on review and discussion with the agency's Part 215 program specialist who handles freight car and related issues on a daily basis.

Based on the number of notices received over the last three years, FRA's program specialist has determined that the current estimate is still valid. Older, well-established railroads with older equipment will continue to file these current notices with FRA.

According to the latest agency data, the total number of railroads now operating in the United States is 728.

§ 215.5(d) - Dedicated Service

Dedicated service means the exclusive assignment of cars to the transportation of freight between specified points under the following conditions: (1) The cars are operated – (i) primarily on track that is inside an industrial or other non-railroad installation; and (ii) only occasionally over track of a railroad; (2) The cars are not operated – (i) at speeds of more than 15 miles per hour; and (ii) over track of a railroad – (A) for more than 30 miles in one direction; or (B) on a round trip of more than 60 miles; (3) The cars are not freely interchanged among railroads; (4) The words “Dedicated Service” are stenciled, or otherwise displayed, in clearly legible letters on each side of the car body; and (5) The cars have been examined and found safe to operate in dedicated service; (6) The railroad must (i) notify the FRA in writing that the cars are to be operated in dedicated service; (ii) identify in that notice (A) the railroads affected, (B) the number and type of cars involved, (c) the commodities being carried, and (D) the territorial and speed limits within which the cars will be operated; and (iii) file the notice required by this paragraph not less than 30 days before the cars operate in dedicated service.

This record is only used when a carrier has a need to place cars in dedicated service. The potential respondent universe is 687 railroads. However, in consideration of the existing rate of business, FRA receives approximately four (4) notices a year. It is estimated that approximately one (1) hour is required to stencil the equipment, prepare the notice, and send it to FRA. Total annual burden for this requirement is four (4) hours.

Respondent Universe: 728 railroads

Burden time per response: 1 hour

Frequency of Response: On Occasion

Annual number of Responses: 4 notices
Annual Burden: 4 hours

Calculation: 4 notices x 1 hr. = 4 hours

Total annual burden for this entire information collection burden is four (4) hours.

13. Estimate of total annual costs to respondents.

There is no additional cost associated with this information collection requirement.

14. Estimate of Cost to Federal Government.

FEDERAL COST

There is no cost to the Federal Government relative to the stenciling requirement of freight cars assigned to Dedicated Service. The carriers involved in operation of dedicated cars are monitored for compliance with Federal requirements as part of FRA's enforcement activities. Therefore, the only cost to the Federal Government would involve time spent in review and filing of the carriers' notification, or \$100.00. This represents a total burden of two (2) hours annually by the Federal Government. (Four (4) notices multiplied by 30 minutes = 120 minutes divided by 60 = 2 hours annually.)

15. Explanation of program changes and adjustments.

As mentioned above in the submission summary and in the note following question number 12, this is a request without change of a currently approved information collection. Thus, there are no program changes or adjustments at this time.

There is also no change in costs 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.

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 considerably impaired. Specifically, the safety of train crews would be jeopardized because they would not know which cars have been designated for Dedicated Service. Consequently, they might operate these cars at unsafe speeds, or operate them on the general system of transportation for more than 30 miles in one direction or 60 miles round trip. This could lead to increased numbers of rail accidents/incidents which result in serious injuries – possibly even fatalities – to themselves and other railroad workers, and also to significant property damage to rail cars and train cargo. Without this collection of information, FRA inspectors would be hindered in their ability to oversee the safe operation of trains and in their ability to enforce Federal safety regulations. In particular, FRA inspectors would have no way of knowing that a given car is in special service and thus monitoring it to ensure that the car was being operated safely and in compliance with Dedicated Service requirements. In sum, this collection of information provides another tool FRA and its inspectors can use to ensure that Federal regulations are complied with. This promotes rail safety and aids FRA in fulfilling its primary mission.

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.