

**SUPPORTING JUSTIFICATION
BRIDGE WORKER SAFETY RULES
OMB No. 2130-0535**

Summary of Submission

- This submission is a request for an extension with change of the previous approval granted by OMB on **November 7, 2013**, which expires on **November 30, 2016**.
(Note: The only changes in this submission are the estimates for the number of Class III railroads from 719 to 695 and for the cost to the Federal Government based on the 2016 Federal Pay Scale. There are no other changes at this time.)
- FRA published the required 60-day Notice in the Federal Register on **September 23, 2016**, soliciting comment on this particular information collection. See 81 FR 65699. FRA received no comments in response to this notice.
- The total number of burden **hours requested** for this information collection submission is **one (1) hour**.
- The total number of burden **hours previously approved** for this information collection is **one (1) hour**
- Total number of **responses requested** is **six (6)**.
- Total number of responses **previously approved** is **six (6)**.
- ****The answer to question number 12 itemizes the hourly burden associated with each requirement of this rule (See pp. 5-7).**

1. Circumstances that make collection of the information necessary.

Background

The collection is mandated in Title 49 Code of Federal Regulations, Part 214 - Railroad Workplace Safety. (See also 49 U.S.C 20103 and 49 CFR 1.49).

§ 214.105 Fall protection systems standards and practices.

(c) Safety net systems. Use of safety net systems shall conform to the following standards and practices:

* * * * *

(4) Except as provided in this subsection, safety nets and net installations shall be drop-tested at the jobsite after initial installation and before being used as a fall protection system, whenever relocated, after major repair, and at six-month intervals if left in one place. The drop-test shall consist of a 400-pound bag of sand 30 inches, plus or minus two inches, in diameter dropped into the net from the highest (but not less than 3 ½ feet) working surface on which employees are to be protected.

When the railroad or railroad contractor demonstrates that a drop-test is not feasible and, as a result, the test is not performed, the railroad or railroad contractor, or designated competent person, shall certify that the net and its installation are in compliance with the provisions of this section by preparing a certification record prior to use of the net. The certification shall include an identification of the net, the date it was determined that the net was in compliance with this section, and the signature of the person making this determination. Such person's signature shall certify that the net and its installation are in compliance with this section. The most recent certification for each net installation shall be available at the jobsite where the subject net is located.

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

The information collected is used by railroad personnel when a competent person determines that a safety net used for fall protection at a work site on a railroad bridge cannot be tested by using the prescribed drop test. Drop-tests would occur after safety nets are initially installed and before being used as a fall protection system, whenever relocated, after major repair, and at six-month intervals if left in one place. When the determination is made that a safety net used for fall protection can not be drop-tested, it and its basis are recorded on a single sheet of plain paper and retained at the work site for the period during which the safety net is in use. When the net is removed or replaced, the record is no longer required, and may be destroyed.

FRA reviews the record at the work site when an inspection is conducted to determine whether the workplace safety provisions in effect meet Federal regulatory requirements. The agency uses the information to determine whether a safety net upon which no drop test has been made is safe for continued use, and whether the employer is in compliance with the applicable Federal safety regulations.

Note: In the event of an accident where a bridge worker is injured or killed, the required record may also be used by FRA to provide valuable investigatory details, including the identification of the net, the date it was determined that the net was in compliance with this section of the Federal safety regulations, and the signature of the person making the compliance determination. Although certification records are not required to be maintained by railroads/contractors in the regulation, railroads or railroad contractors would most likely keep them for liability reasons in the event one of their bridge workers was injured or killed on the job.

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

FRA highly encourages and strongly endorses the use of advanced information technology, wherever possible, to reduce burden. However, it should be noted that the burden for this information collection is already at the absolute minimum of one (1) hour.

The information is documented and retained by respondents. It is not collected by the Federal Government. The regulation prescribes the simplest manner possible for the documentation and retention of the information, i.e., a simple written statement on no prescribed form retained at the place where it was prepared.

4. Efforts to identify duplication.

The information to our knowledge is not duplicated anywhere.

Similar data are not available from any other source.

5. Efforts to minimize the burden on small businesses.

The entire information collection burden is already at the absolute minimum. Consequently, the burden on small businesses is at the absolute minimum now and cannot possibly be made any smaller unless FRA were to eliminate this section of Part 214.

6. Impact of less frequent collection of information.

If the information collection were not conducted or conducted less frequently, FRA would be hampered in its enforcement of Federal regulations vital to the preservation of railroad worker safety, and human life. Specifically, without the required certification records, railroads and railroad contractors might choose not to take necessary precautions around railroad-bridge work sites. When it is not feasible to perform drop-tests, railroads and railroad contractors might choose and install nets that are not in compliance with Federal regulations. The use of substandard nets or substandard installation of nets could lead to a greater number of injuries and deaths for railroad employees working at these locations. The required certification records promote safety by providing FRA with a means of ensuring compliance with Federal safety regulations regarding fall protection for railroad employees. The most recent certification for each net must be available at the jobsite where the subject net is located. This serves as a necessary check on railroads and aids FRA in its efforts toward the elimination of railroad-related injuries and deaths. Also, without this collection of information, FRA would be deprived of a potentially extremely valuable investigatory resource in the event that a bridge worker is injured or killed on the job.

It should be noted that elimination of the certification requirement would necessitate amending a Federal regulation so as to make it less effective and put bridge workers at greater risk while they work. Representatives of railroad employees who would be subjected to more hazardous work places would naturally object to such a development – with good cause.

7. **Special circumstances.**

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 **September 23, 2016**, soliciting comment on this particular information collection. See 81 FR 65699.

FRA received no comments in response to this notice.

Background

In order to minimize the reporting burden on the respondents, the agency decided to instead consult with agency personnel who are intimately familiar with the practices used by the railroad industry to document the certification of safety nets not subjected to drop tests. These inspectors are responsible for knowing the location of major bridge work projects in their assigned territories, and the methods of fall protection being used at those sites. They are able to provide more accurate information regarding the number of instances in which this information is prepared and retained than would a small sample of fewer than ten respondents, most of whom will never have been required to prepare the information.

The inspectors reported that safety nets are used at no more than 10 locations of railroad bridge work in any one year throughout the Nation. At two of those sites during the past three years, nets were used that could not be drop tested. The estimates of burden and cost in items 12 and 13 are based on the absolute maximum number of instances that could occur in a year, allowing for the possibility that a few instances could have been undetected by FRA inspectors.

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.

There are no questions or information of a sensitive nature involved in this information collection.

12. Estimate of burden hours for information collected.

Note: Respondent universe is 695 railroads. Burden estimates remain unchanged from the previous submission.

214.105 - Safety Net Systems

Use of safety net systems must conform to the following standards and practices:

(1) Safety nets shall be installed as close as practicable to under the walking/working surface on which bridge workers are working, but shall not be installed more than 30 feet below such surface.

(2) If the distance from the working surface to the net exceeds 30 feet, bridge workers shall be protected by personal fall arrest systems.

(3) The safety net shall be installed such that any fall from the working surface to the net is unobstructed.

(4) Except as provided in this section, safety nets and net installations shall be drop-tested at the jobsite after initial installation and before being used as a fall protection system, whenever relocated, after major repair, and at six-month intervals if left in one place. The drop-test shall consist of a 400-pound bag of sand 30 inches, plus or minus two inches, in diameter dropped into the net from the highest (but not less than 3 ½ feet) working surface on which employees are to be protected.

(i) When the railroad or railroad contractor demonstrates that a drop-test is not feasible and, as a result, the test is not performed, the railroad or railroad contractor, or designated competent person, shall certify that the net and its installation are in compliance with the provisions of this section by preparing a certification record prior to the use of the net.

(ii) The certification shall include an identification of the net, the date it was determined that the net was in compliance with this section, and the signature of the person making this determination. Such person's signature shall certify that the net and its installation are in compliance with this section. The most recent certification for each net installation

shall be available at the jobsite where the subject net is located.

(5) Safety nets and their installations shall be capable of absorbing an impact force equal to that produced by the drop test specified in this section.

(6) The safety net shall be installed such that there is no contact with surfaces or structures below the net when subjected to an impact force equal to the drop test specified in this section.

(7) Safety nets shall extend outward from the outermost projection of the work surface as follows:

(i) When the vertical distance from the working level to the horizontal plane of the net is 5 feet or less, the minimum required horizontal distance of the outer edge of the net beyond the edge of the working surface is 8 feet.

(ii) When the vertical distance from the working level to the horizontal plane of the net is 5 feet, but less than 10 feet, the minimum required horizontal distance of the outer edge of the net beyond the edge of the working surface is 10 feet.

(iii) When the vertical distance from the working level to the horizontal plane of the net is more than 10 feet, the minimum required horizontal distance of the outer edge of the net beyond the edge of the working surface is 13 feet.

(8) Defective nets shall not be used. Safety nets shall be inspected at least once a week for mildew, wear, damage, and other deterioration. Defective components shall be removed permanently from service.

(9) Safety nets shall be inspected after any occurrence that could affect the integrity of the safety net system.

(10) Tools, scraps, or other materials that have fallen into the safety net shall be removed as soon as possible, and at least before the next work shift.

(11) Each safety net shall have a border rope for webbing with a minimum breaking strength of 5,000 pounds.

(12) The maximum size of each safety net mesh opening shall not exceed 36 square inches and shall not be longer than 6 inches on any side measured center-to-center of mesh ropes or webbing. All mesh crossing shall be secured to prevent enlargement of the mesh opening.

(13) Connections between safety net panels shall be as strong as integral net components and shall be spaced not more than 6 inches apart.

The respondent universe consists of approximately 612 railroads that have an estimated 101,000 railroad bridges. Written certification that safety nets are in compliance with safety net standards and practices must be made when it is not possible to perform a drop-test but at the same intervals when drop-tests would occur. Drop-tests would occur after safety nets are initially installed and before being used as a fall protection system, whenever relocated, after major repair, and at six-month intervals if left in one place.

FRA estimates that the number of respondents (persons or organizations preparing and retaining the information) in any given year is three (3). It is estimated that there will be two (2) responses per year from each respondent, or a total of six (6) certification records completed per year. It is further estimated that each written certification will take approximately two (2) minutes. Total annual burden for this requirement is one (1) hour (rounded off).

Respondent Universe:

695
railroads

Burden time per response:

2
minutes

Frequency of Response:

twice
per year

Annual number of Responses:

6 written certification records

Annual Burden:

1 hour (rounded off)

Calculation: 6 written certification records x 2 min. = 1 hour

Total annual burden for this entire information collection is one (1) hour.

13. Estimate of total annual costs to respondents.

Estimate of total annual cost burden to respondents:

A. Total annual and start-up cost:

6 pens @ \$.39 = \$2.34 (consumable in one year)

12 sheets of lined paper @ \$.02 = \$.24 (assuming an error might be made on first sheet, and second sheet is necessary for correction) (paper is a consumable)

Total annual and start-up cost = \$2.58 (including capitalization of start up cost of pens over their depreciated life using the method of double declining digits).

14. Estimate of Cost to Federal Government.

Estimated annual cost to the Federal government:

- a. Cost associated with collecting or receiving the information:
There is no cost to the Federal government associated with collecting or receiving the information because the information is only seen if the inspector visits the work site at which the information is retained, for the purpose of inspecting the safety of the workplace.
- b. Cost associated with preparation of this Supporting Justification for Information Collection Budget Item (*using 2016 Federal Pay Scale + 75% overhead*):
 - (1) 72 FRA Track Safety Inspectors @ 15 minutes per inspector every 3 years = 360 minutes (6 hours) per year at loaded rate of \$74 / hour = **\$444**
 - (2) 8 FRA Regional Track Safety Specialists @ 3 hours every 3 years = 8 hours per year at a loaded rate of \$88 / hour = **\$704**
 - (3) One FRA Bridge Engineer @ 3 hours per every 3 years = 1 hour per year at a loaded rate of \$104.00 per hour = **\$104.00**

Total cost to Federal government = **\$1,252** per year.

15. Explanation of program changes and adjustments.

There is **no change** in burden or in responses from the last approved submission granted by OMB on November 7, 2013. The total burden for this collection of information remains one (1) hour. (*Again, as noted in the Summary on page 1 of this document, the only changes in this submission are the estimates for the number of Class III railroads (from 719 to 695) and for the cost to the Federal Government based on the 2016 Federal Pay Scale.*)

There are no program changes or **adjustments** to previous burden estimates at this time.

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.

Meeting Department of Transportation (DOT) Strategic Goals

This information collection supports the top DOT strategic goal, namely transportation safety. Without this collection of information, railroad workers might be exposed to considerably more dangerous conditions at job sites. Specifically, without the required certification records, railroads and railroad contractors might choose not to take necessary precautions around railroad-bridge work sites. When it is not feasible to perform drop-tests, railroads and railroad contractors might choose and install nets that are not in compliance with Federal regulations. The use of substandard nets or substandard installation of nets could lead to a greater number of injuries and deaths for railroad employees working at these locations. The required certification records promote safety by providing FRA with a means of ensuring compliance with Federal safety regulations regarding fall protection for railroad employees. The most recent certification for each net must be available at the jobsite where the subject net is located. This serves as a necessary check on railroads and aids FRA in its efforts toward the elimination of railroad-related injuries and deaths.

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.

